



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156

WASHINGTON, WEDNESDAY, APRIL 21, 2010

No. 57

Senate

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

PRAYER

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

Let us pray.

Eternal God, thank You for being our strength and shield, for we trust You to guide our steps. Bring unity to our lawmakers so they will be a force for good for the American people and the world. Refresh their faith, renew their vision, and rekindle their courage so that they can find common ground and glorify You in the living of their days. Lord, stir their hearts with the presence of Your spirit, preparing them to be instruments of Your will.

We pray in Your sacred 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, April 21, 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 be in a period of morning business for 1 hour. During that time, Senators will be able to speak for up to 10 minutes each. The majority will control the first 30 minutes; the Republicans will control the final 30 minutes.

Following morning business, the Senate will turn to executive session to debate the nomination of Christopher Schroeder to be an Assistant Attorney General. There will be up to 3 hours for debate prior to a vote on confirmation of this nomination.

Upon disposition of the Schroeder nomination, the Senate will consider the nomination of Thomas Vanaskie to be U.S. circuit judge for the Third Circuit. There will be 3 hours of debate prior to a vote on confirmation of the Vanaskie nomination.

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. REID. 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.

HONORING ROBERT J. O'MALLEY

Mr. REID. Mr. President, every one of our servicemembers deserves the unqualified appreciation and admiration

of the Senate and our entire Nation. Today, I wish to salute the service of one such soldier, a man who first answered his country's call in World War II and has not stopped.

Bob O'Malley served our Nation with distinction in the 10th Mountain Division in combat in Europe. He was a sergeant and a squad leader who led his men bravely and with honor. He put his life on the line on many occasions to protect his men and to fight for freedom against Nazi Germany and was recognized with his squad's admiration, the Combat Infantry Badge and, because he was wounded, a Purple Heart.

But he has not stopped serving his country. Bob came to Washington in 1965 and worked for Congressman Robert Sweeney before starting a 27-year career with the Doorkeeper of the House of Representatives. That is where I first met him, as a young Member of Congress. The Doorkeeper, Mr. Molloy, and Mr. O'Malley, had a suite of offices and it was kind of a hangout for Democratic Members of the House; especially it was a way for new Members of the Congress to become acquainted with what was going on over there. They were very caring about new Members and always pointed us in the right direction. I have always remembered those two men for all the good deeds they did on my behalf.

His was a 27-year career with the Doorkeeper. As I indicated, that is where I met him. By the time the war in Afghanistan started in 2002, Bob had retired from service in the House of Representatives. Most retirees are content to seek a well-earned life of leisure, but Sergeant O'Malley did not. He signed up for a new and worthy mission, waking every day to serve our Nation's wounded warriors. When the war started, he went back to work as a volunteer—again a volunteer—supporting and caring for the men and women of the 10th Mountain Division, his old unit. He has made countless visits to Walter Reed, this great medical center

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



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where these wounded warriors come to recuperate. On all these visits to Walter Reed, he spent countless hours talking and sharing stories about the Division and taking his fellow veterans to ball games and other events, including the sharing of meals on many occasions. When many of these wounded warriors could not make it home for the holiday, Bob would reach into his own pocket and pay for Thanksgiving, Christmas, and New Years dinners for soldiers and their families at some of the finest eateries in the Washington, DC, area. Bob says that helping soldiers recover from their war injuries has added years to his life. We know it has added years to the lives of those he helps.

Bob O'Malley would be the first to tell you this is not a one-man mission. He has had help from many different areas. When he decided to help those wounded on the battlefield, for example, he enlisted the help of another veteran, Dom Visconsi, Sr., an original member of the 10th Mountain Division in World War II. He asked Dom to help and Dom was happy to help entertain and support these troops. Many of Bob's friends soon joined the cause as well, and they are a constant presence for the soldiers, whether here or at home. Our Army would not be the best place in the world without the work of veterans such as Sergeant O'Malley, whose life has been synonymous with service, sacrifice, and selflessness.

He is an inspiration to me, our Armed Forces, and our country. He is a hero, and I am proud to call him a friend.

Would the Chair announce morning business now.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the majority controlling the first 30 minutes and the Republicans controlling the final 30 minutes.

The Senator from Rhode Island is recognized.

SALUTING OUR WOUNDED WARRIORS AND BOB O'MALLEY

Mr. REED. Mr. President, first, let me join Majority Leader REID in saluting these incredible Americans who are with us today, wounded warriors and Bob O'Malley. As someone who served 12 years in the U.S. Army, my appreciation is profound for what you have done and continue to do. Thank you very much.

I have a circuitous connection with the 10th Mountain Division. My classmate, Buster Hagenbeck, commanded the 10th Mountain Division in Afghanistan, and I was there to visit those great soldiers several times. Thank you for your service and thank you for your inspiration.

FINANCIAL REGULATORY REFORM

Mr. REED. Mr. President, I am here today not only to salute these great Americans but also to talk about the urgency of bringing the issue of Wall Street reform to the Senate for open debate and final passage. We have weathered and witnessed the worst financial crisis in the history of the country. We have seen wealth, trillions of dollars of wealth, evaporate because of this financial crisis. To hear people now talking about, well, this is not a good bill—the question is not whether we should delay further or go forward. The question is going forward with purpose, amending the bill on the floor, if necessary, in an open and transparent way so the American public can see we are moving forward on perhaps their No. 1 priority related to the economy, and economic recovery and financial reform are integrated key elements. We cannot have long-run economic success without fundamental financial reform.

We are here today essentially to urge that the anticipated vote on Monday to proceed to the bill be affirmed overwhelmingly to send a message to the American people we are on the job for them, we are doing the work we have to do. We have to deal with a complex and significant legislative measure—but we have to do it now. The time for discussion, the time for consideration privately, has passed. Now we have to act.

I think we have to act because we should recognize the status quo is unacceptable. Those on the other side who have been saying: Not now, not now, not now, essentially are defending the status quo. We have to ask several questions. Who does the status quo favor? It favors the remaining big banks and other financial institutions. We have seen, over the last several days, that these banks are reporting record profits, mostly based on trading. Here is another irony. Because of the system we have today, we are in desperate need of economic activity at the local level, the infusion of capital, lending—all those things. Where are the banks making their huge profits? On trading, essentially taking their money and other people's money and not investing in new productive capacity, but betting on financial products. That is not, in my view, what we should be doing at this moment. We have to recognize that if we do nothing, the banks will continue to operate as they have.

That, I think, has to be corrected. The second question is, what activities are protected by the status quo? I will

tell you. Exotic derivative trading. We saw this week where the Securities and Exchange Commission has made allegations against Goldman Sachs. Now, that will be determined in a court of law.

However, the complexity of the transaction engaged in by Goldman and others, the creation of a synthetic collateralized debt obligation, to translate, was essentially picking out some representative mortgage funds and then betting on them. Somebody took the side that said they would still pay; some would take the side that they would default.

What did that add to our economic capacity? In fact, one of the ironies of this whole crisis is there was such a proliferation of these toxic mortgage bonds that they no longer could sell them at a profit, so they started essentially creating virtual or synthetic securities.

Again, what has it added to the economic productivity of the United States? Not much. In fact, some would argue nothing at all. We have to have a financial sector which performs one of the essential functions of any financial sector, the allocation of capital to productive uses: highways, buildings, education support, all of those things that not only return a profit to the investors but also build up our economic capacity and build up our wealth over the long term.

Other activities that will be protected by the status quo include not only derivatives trading, but dark pools of capital, huge private equity funds that are shadowy in terms of their investment strategy, even to regulators, and the credit rating agencies. They are continuing to operate, and, frankly, we have to say their performance in the last several years was disappointing, and that is being very diplomatic. But they will continue to operate as they have in the past because we will not get the reform that is so necessary.

Of course, the Wall Street salary structure, the incentive compensation, also will continue to be unaffected. So for all of these activities, if you are comfortable with them, then vote against the motion to proceed on Monday evening. If you are uncomfortable with them, if you do not want to see the remaining banks continue to operate as they have, then you have to vote, in my view, to move forward to debate this bill and engage on this issue.

Now, the third question we have to ask is, what does the status quo do for consumers and taxpayers? The answer is very little, if anything at all. We saw in this whole situation consumers who were in some cases misled. In some cases it was obvious they could not afford the credit arrangement they were signing on to, but the incentive on the other side was not to look behind the veneer of the borrower but simply to get the loan closed and then sell it off for securitization profits.

We have to change those incentives, and if we do not proceed to this legislation, we do not have a chance of doing that. So we have to move forward. Some have claimed, the Republican leader and others, that this is just a partisan exercise. It has not been a partisan exercise. We have been, under the leadership of Chairman DODD, engaged in this effort for months and months and months.

Some people might have forgotten around here, but we started the markup of the financial reform bill November 19 of last year. We had a bill. Senator DODD brought it to the committee. We started opening statements, and then everyone said: We have not had time enough to do this. We want more discussion.

Senator DODD, even with the urgency of moving on this measure, said: Fine. I respect my colleagues. I respect the process. We will stop. We will start talking.

Well, the negotiations went on and on and on. It was clear there was no sense of urgency on the other side to move to a decisive vote. Then he engaged other Members. Senator CORKER and others entered the discussion. I have been discussing derivatives in a very thoughtful way with Senator GREGG for months. But we have reached the point now where we have to take deliberate action and make some decisions.

We have to move to the floor, to debate and votes and final passage. This is something we have to continue to move forward. The way to move forward is to vote on the motion to proceed on Monday evening.

We have heard claims that this is a bailout bill, which I think would be a huge shock to many of my colleagues on the committee who have been working on this for months and months, Senator CORKER and Senator WARNER particularly, who crafted many of the provisions in this area.

The reality is, if we do nothing, which is the effect of voting against the cloture motion—if we do nothing, we could have a crisis next week. Greek sovereign debt—there is huge turmoil in Europe about Greek bonds, the ability of the Greek Government to pay, the need for support. If those talks collapse and suddenly throughout the financial system there is a rush away from sovereign debt, not just Greek debt but other countries, what will happen? We do not quite know, I suspect, who is holding all of this debt and what are the systemic effects. We have to be prepared for something like that.

The notion that this crisis has passed and we can go about our merry way without dealing with these issues is naive. The way to deal with it is to establish a resolution mechanism. Senator WARNER and Senator CORKER have done a remarkable job of crafting one. One of the questions they struggled with the most is who is going to pay for the resolution.

Frankly, they stepped up to the plate today and said: Let's put the banks on

the line for the first \$50 billion. That makes sense to me because it is clear who is going to pay: not the taxpayer but the banks. But, in any case, we cannot engage in this discussion of the mechanism and how it will finally come out until we bring the bill to the floor, debate it, and vote upon amendments or changes. That is what we have to do. But this legislation is clearly not a bailout for the banks. If it was, they would be supporting it.

Frankly, all the newspapers I read suggest the intense lobbying effort against the bill is by the banks, which, coincidentally, seems to favor the position of those who do not want to proceed to the bill. So I think we are in a situation where we have to proceed forward. As I said, if we do not move forward, we are going to have a significant issue of confidence by the American people and others in the stability of our financial system. These are complex, intricate issues. They require debate and discussion. I do not think anyone should be presumptuous enough to stand here and say: We know exactly what to do, and we are going to do it without the consent and without the input of all of our colleagues. But that consent and input comes, ultimately, on the Senate floor through debate, discussion, and voting.

Now, again, where are we if we do not take up this measure next week? Well, the \$600 trillion market in derivatives will remain opaque, complex, confusing, and a potential vulnerability for our financial system. I say \$600 trillion because when we talk about derivatives markets, billions are—you know, that is a rounding error. It is trillions of dollars, and a miscalculation, a mistake, a misjudgment in that market has huge consequences.

The big banks who sell complex, toxic instruments to pension plans, essentially taking savings and trading them, gambling with them, in some respects, they will continue to do that. They will not only take pension savings, but they will take municipalities' money in fancy bond arrangements that the municipalities never needed.

All of these things will continue.

Unregulated mortgage lenders will continue to go out and operate under the originate-and-sell model, which has led to so many problems. Payday lenders that are charging, in some cases, 900 percent interest will continue to be unregulated. Credit card companies, even after our efforts with the credit card legislation, will continue to try to circumvent the rules to maximize their profit.

The bottom line is, the people who benefit from delay, from taking the course of action of delay and denial, I would say, because this urge to suggest this is a bailout bill is denying the facts of the bill, will be financial institutions and not consumers and not taxpayers.

So, as a result, I would urge all of my colleagues on Monday to vote to proceed to this bill. Again, we have to ask

three questions. This will be decided on Monday evening. The status quo favors the banks. If you want to favor the banks, then vote against cloture. The status quo operates to allow all sorts of arcane and exotic activities which we know have posed significant threats to our financial system.

If you want these activities to continue unimproved, uncorrected, vote against cloture. The status quo disfavors consumers and taxpayers. So if you want to see them continue to be on the short side of the sale, vote against cloture. I would urge we vote for cloture, we move forward to debate real ideas about how to improve our financial system, protect consumers, and strengthen our economy.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

ISRAEL'S 62ND ANNIVERSARY

Mr. CARDIN. Mr. President, I rise today to express my congratulations to Israel on the 62nd anniversary of its independence.

This week, America's closest ally in the Middle East, Israel, commemorated its Independence Day, Yom Ha'atzmaut, 1 day after its Memorial Day, Yom Hazikaron, and 1 week after Holocaust Remembrance Day, Yom HaShoah.

While Independence Day is about celebration for the people of Israel, this Memorial Day was marked by somber ceremonies and national grief over the loss of their soldiers. Nationwide sirens and moments of silence emphasize the sacrifices all Israelis have made living in their thriving, free and democratic state. These intensely personal losses in such a small country underscore the continuing threats faced by Israelis, the scale of their efforts and the importance of a Jewish homeland.

I commemorated last week's observance of Yom HaShoah in Baltimore, where I joined fellow community members to view a movie marking the 50th anniversary of Adolf Eichmann's capture and trial. Eichmann was a premier architect of the Holocaust. Rather than dealing with such a war criminal through forceful vengeance that would have been understandable, Israel prosecuted Eichmann by following the rule of law and his trial was a model of transparency and justice. This display of our shared values of law, justice, and fairness help to illustrate why the United States and Israel have continued to build upon our "special relationship" for six decades.

I observed Israel Independence Day at an event focused on the growing threat of a nuclear Iran. If Iran acquired this capability, it would be an unequivocal "game changer" in the Middle East and, indeed, throughout the world. An undeniable threat to Israel and the United States, a nuclear Iran cannot become a reality. We therefore must do all in our power to

prevent Iran from acquiring nuclear capabilities. One of our first steps should be immediate enactment of powerful and effective economic sanctions against Iran, and the foreign companies that do business with this rogue nation.

While we work to minimize the key threats to Israel's security, we must also focus on opportunities for peace in the Middle East. Israel has always been prepared to pursue those opportunities and make peace with its neighbors. Over the past six decades, despite diplomatic gestures, multiple Arab countries have repeatedly attacked Israel. We should not forget that it was the Palestinian's leaders who walked away from the negotiation table at Camp David in 2000, on the eve of what would have been a historic breakthrough for peace.

Today, it is Israel who continues to acknowledge the necessary framework for any peace agreements, a two-state solution. While Israel has shown willingness for direct negotiations, the Palestinians continue to be, an unreliable partner in moving forward towards peace. How can Israel make peace with any partner whose so-called "moderate" Fatah leaders are not willing to meet directly with Israeli's leaders and whose Parliament is controlled by Hamas, an organization still sworn to the destruction of Israel?

I am proud to have joined with 75 of my colleagues in reaching out to Secretary of State Clinton in a recent letter which included a reaffirmation of this fact as well as a reminder, that not only do the U.S. and Israel share common values but also common interests. Top among these interests is restarting the peace process and preventing Iran from becoming a nuclear state.

This is precisely why the role of the United States in this process must be one of an honest broker. President Obama must not place wrongful or unreasonable pressure on Israel or, worse, to put forward a proposal without Israel's consent.

Since Israel's founding 62 years ago, every American administration has worked to strengthen the bonds between the U.S. and Israel. This has been vital for Israel, as the nation is under constant threat of military and terrorist attacks, economic boycotts and diplomatic hostility, often merely due to the fact of its very existence. At this critical moment, when Iran is moving forward with its nuclear program and simultaneously strengthening Hezbollah's capacity to attack Israel, it is imperative the Obama administration say in clear and unambiguous language that we stand with the people of Israel and will do all in our power to protect our shared values and national bonds.

As Israel celebrates its anniversary, let us all proclaim that the U.S. continues its unbreakable alliance with our closest ally in the Middle East.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. I ask unanimous consent that the order for the quorum call be rescinded.

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

TRIBUTE TO SENATOR DENNIS CHAVEZ

Mr. UDALL of New Mexico. Mr. President, I rise today to pay tribute to a man who served New Mexico and the entire country with distinction for more than three decades in Washington, a man who dedicated his life to being a champion for the least of us. That man is Senator Dennis Chavez, the Nation's longest serving Hispanic U.S. Senator. This month we mark the 122nd anniversary of his birth. In everything he did, Senator Chavez showed his concern for the underdog. He fought for public education because he knew what it could do to help the children of struggling families become successful adults. He supported farmers because he knew how difficult life can be in the small communities where the trains don't stop and the roads don't go. And he fought for civil rights because Senator Chavez believed equality of opportunity is the core of the American creed.

Dennis Chavez fought for the underdog because he was an underdog. Born into poverty in Valencia County, NM, Chavez walked along a difficult road to the pinnacle of political power. A child of an isolated small town, he would see the world and help to shape it. A high school dropout, he earned a law degree and became a lawmaker. A victim of ethnic discrimination, he wrote legislation that would eventually make employment discrimination illegal and, then, unthinkable.

Dennis Chavez was a man of conviction. He also was a man of courage. At the height of anti-Communist sentiment in the 1950s, Senator Chavez was one of the first to denounce the activities of Joseph McCarthy. Here is what he said on the Senate floor during the McCarthy hearings in 1950:

I should like to be remembered as a man who raised a voice . . . and I devoutly hope not a voice in the wilderness . . . at a time in the history of this body when we seem bent upon placing limitations on the freedom of the individual. I would consider all of the legislation which I have supported meaningless if I were to sit idly by, silent, during a period which may go down in history as an era when we permitted the curtailment of our liberties, a period when we quietly shackled the growth of men's minds.

My father, who died last month, served in the U.S. Congress with Dennis Chavez in the late 1950s and early 1960s. He always said what he saw in Senator Chavez was a visionary and a man of courage. When Senator Chavez left this world in 1962, he was eulogized by Vice President Lyndon Johnson. In

that eulogy, Vice President Johnson remembered Senator Chavez as "a man who recognized that there must be a champion for the least among us."

Four years later, when the U.S. Congress placed Senator Chavez's statue in Statuary Hall, Rev. John Spence summed up the man nicely. Spence said Senator Chavez was "ever a champion of the underdog, the poor and oppressed."

But it is the quote inscribed at the bottom of the statue that best reveals the legacy of Senator Dennis Chavez. Written in three languages, Spanish, English and Navajo, it reads simply:

He left a mark that will never be forgotten in the hopes that others would follow.

El Senador makes me proud to be a New Mexican and humble to follow in his footsteps as a Senator representing the great State of New Mexico. America is a better place because of Senator Chavez. For that, we honor him today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FINANCIAL REGULATORY REFORM

Mr. DEMINT. Mr. President, good morning.

I rise in opposition to the piece of legislation that Chairman DODD is calling financial reform. All Republicans want to reform our financial system and fix the things that have caused so much financial distress in our country. But rather than address the underlying causes of the 2008 financial crisis, this bill would institutionalize government bailouts for those it chooses are too big to fail. If Democrats were serious about financial reform, they would work with Republicans to permanently end too big to fail, to curb the power of the Federal Reserve, and to address the government distortions in the mortgage market that led to the financial meltdown. This bill does none of these.

Instead of focusing on solving these problems, the Democrats have eagerly crafted another massive bill designed to increase centralized government planning, and they are vilifying anyone who dares to oppose it.

Without bringing any more accountability to the government actors who contributed to the causes of the financial crisis, this bill simply represents additional regulation without real reform. Despite a recent Pew poll stating that more than 80 percent of Americans support ending bailouts, this bill ensures they will continue. The bill requires the government to keep a list of financial companies it considers too big to fail, and it provides these companies with a \$50 billion slush fund to help them when they get in trouble.

In one respect the Democrats may be right in saying they would not let the bailouts take place like they did in the past. If their bill passes, the next TARP bailout would not even be voted on by Congress. That is because this slush fund empowers the Treasury, the Federal Reserve, and the FDIC to pump money to ailing banks without asking for any permission from Congress.

There have been rumors that this slush fund could be removed. I hope it will be. But even if that is done, the bill will still perpetuate too-big-to-fail policies.

Additional programs in the bill will still allow the FDIC to guarantee the debts of financial companies in trouble, and they will also allow the Treasury to still selectively bail out the creditors of failing institutions. The bill also fails to stop the Federal Reserve from propping up financial companies as it did AIG. It additionally expands the Fed's reach by creating a new consumer protection bureau inside the Federal Reserve. With its extensive jurisdiction and its unchecked ability to micromanage lending, it should be considered the anticonsumer bureau. This new bureau will have sweeping authority to regulate almost anything it regards as financial activity. From car dealers to other companies that offer financing for their products, to software companies that help people manage their money, this massive new bureaucracy is certain to increase regulatory burdens on community banks, credit unions, and many others who had no role whatsoever in the financial crisis, as well as to raise consumer costs and kill jobs.

Before we rush to give the Fed more control over our economy, we need more information about its activities surrounding the 2008 financial crisis. Even to this day, the Fed refuses to provide information about the extent to which they have used taxpayer money for the bailouts, and it is unacceptable to keep this kind of secrecy. Legislation to fully audit the Fed continues to enjoy widespread support, and I will continue to champion this audit of the Federal Reserve.

I would also like to see this bill bring some much needed accountability to Fannie Mae and Freddie Mac. These government entities that dominate the mortgage market and hold \$5 trillion in debt were ringleaders in the chain of buying, securitizing, and spreading toxic subprime mortgages that led to the financial collapse. Since the government took them over in 2008, taxpayers have been forced to give them \$127 billion so far, and there is no end in sight. The Obama administration handed them a blank check last Christmas Eve by lifting the \$400 billion cap on government aid, ensuring endless bailouts in the future.

Real reform would address the ongoing crisis at Fannie Mae and Freddie Mac. Although the Democratic bill is completely silent on this issue, I intend to see that we find a way to re-

duce their holdings and divorce them from government ownership. We cannot deny the fact that these two government entities were a major cause of the financial crisis. Yet they are not even mentioned in this so-called financial reform.

Reform would not be complete without also addressing the underwriting issues that led to the explosion of risky lending that fueled the housing bubble. This bill leaves the Community Reinvestment Act and Fannie Mae's and Freddie Mac's affordable housing goals untouched. Each required significant increases in mortgage lending to lower income borrowers, which led to a decrease in the underwriting standards to make more loans to folks who could not afford to pay them back. These bad practices became contagious in the industry.

If we do not deal with these housing policy problems that led to unsafe lending, as well as Fannie Mae's and Freddie Mac's sizable ability to sustain demand for such loans by still buying them, we risk continuing a boom-or-bust housing cycle that saddles taxpayers with the consequences of mortgages given to borrowers who likely cannot afford to pay them back.

Meanwhile, Fannie Mae and Freddie Mac keep getting bailed out by the taxpayers. That is the kind of impervious backing a reckless bank could only dream of getting, and that is the same kind of deal Democrats are now offering to the big banks they pretend to despise.

Despite all the rhetoric coming from my Democratic colleagues, this bill does not crack down on Wall Street. In fact, Wall Street loves it. It turns the relationship between Wall Street and Washington into a freeway. The best way to get tough on Wall Street would be to make sure those banks have the same freedom to fail as the banks who did not get bailed out by the government in the last few years.

Ruling out special treatment for these big banks would be the harshest punishment possible. So instead of ending too big to fail, Democrats are constantly inventing new ways to break down barriers between Washington control and Wall Street. That is not how you stand up to big banks; that is how you deal them in.

It is important we fix the problems that caused our financial meltdown. But it is even more important to recognize that this political vehicle that is being called financial reform is just a lot more government control, a lot more government takeovers, an overreach by the Obama administration, with very little financial reform.

This is not fair to the American people. It perpetuates too big to fail. It essentially guarantees future bailouts. It does not fix the core causes of the problems, and, again, it expands big government control over thousands of community banks, credit unions, and businesses that had nothing to do with this financial crisis. I am afraid it is just

another crisis being used as an excuse to expand government without solving real problems.

Republicans are standing by and eager to work with Chairman DODD and other Democrats to fix the problems in this bill so we can present real reform to the American people. I urge my colleagues on the other side to stop trying to stick another bill down our throats and down the throats of the American people and work with us to do what the American people expect.

With that, I yield back and suggest the absence of a quorum.

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

Mr. DEMINT. Yes.

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

HEALTH CARE

Mr. BARRASSO. Mr. President, I come to the floor as a physician who has practiced orthopedic surgery in Casper, WY, for 25 years.

I come to offer a second opinion on the health care bill that was recently passed and signed into law. My opinion on this bill is very different than what I have heard from the administration, from the Speaker of the House, and from the majority leader because my opinion is that this bill—now law—is going to be bad for patients, bad for patients all around this country, bad for health care providers: The doctors, the nurses, the folks who work in our hospitals, the therapists. I believe it is going to be bad for the taxpayers—people who are going to be left with this large bill to pay for a bill that is not to save a health care system but to create new entitlements and new obligations.

As I have looked at this, it struck me last week when they were having the debate in England. They are having an election, and the candidates for Prime Minister were having a debate. It was the first nationally televised debate ever in England in an election. They compared it to the Kennedy-Nixon debate when people were up there debating and discussing.

The question presented to the Prime Minister of England was: What about the national health service? Those of us on my side of the aisle have been very concerned that with this new law we are going to be seeing a nationalization of our health care in a way like we are seeing in other countries, whether it is Canada, whether it is England—a system I think is not what the American people want.

But I wish to read to you from the transcript of the debate because they asked the Prime Minister, Gordon Brown, about the National Health Service. He said:

My priorities for the health service are that we give people personal guarantees—

So this is what he is promising—that every individual patient will know they will get a cancer specialist seen within two

weeks if [they] need it. They'll get a diagnostic test within one week, and the results to them. They will also be able to know that their operation—

So now they know they have cancer—will be in 18 weeks if you're any patient in need of an operation.

So here you are, you have had your opportunity to see a cancer doctor, you have had your test, you have your diagnosis. What is the best the people of England are being promised by their Prime Minister? The best they can expect is to have an operation within 18 weeks.

The question here is, How many Americans, how many Members of this body, how many people across this country are going to see that as satisfactory? Because that is where we are heading with this health care bill that is now signed into law. How many people want that: You will have your operation in 18 weeks.

So here you are, if you are diagnosed next week in the United States—if this were the situation they have now in Britain—you would be looking at having your operation in September. See you in September. Come back for your operation. Now you can worry about it. You can worry about your diagnosis of cancer the rest of April, all of May, all of June, all of July, all of August. That is what the candidate for Prime Minister and the current Prime Minister of England is promising the people of that country with their national health system—a system that is the model of many people on the other side of the aisle of what they want American medicine to be like.

This story, once again, demonstrates that coverage does not equal care. Because everyone in Britain has coverage, but they sure cannot get care. Then you ask yourself: Does it truly matter? Does 4½ months—18 weeks—of waiting for your cancer surgery truly matter? There is not just the emotional worry of: Is that cancer spreading within my body? Should I leave the county of England and go to the United States where I can get immediate care? You have to worry because the statistics back up the fact that the care in the United States is much better than it is in England—not that the doctors are any better here than they are in England but that the timing of when you can receive the care from those qualified professionals is much better in the United States.

So if you take a look at the statistics behind this from the researchers who look at this—and I will just go through it because my wife is a breast cancer survivor. She has had a series of three operations. She has been through chemotherapy twice, and she is now surviving 6 years after her diagnosis. I am grateful she was treated in the United States, where the day after the diagnosis was made they wanted to get in immediately to do the operation.

So let me tell you, it says that today the United States leads the world in treating cancer. These are scientific

studies. For breast cancer, for instance, the survival rate, after 5 years, among American women—a woman who is diagnosed in the United States with breast cancer and is treated—83 percent are still alive 5 years later. For the women in Britain, 69 percent. Where do you want to get your care? The bigger question is, When do you want to get your care?

For men with prostate cancer, the survival rate is 92 percent in the United States; 74 percent in France; 51 percent in Britain. American men and women are more than 35 percent more likely to survive colon cancer than their British counterparts.

In an article from the August 2008 edition of *Lancet Oncology*, the cancer journal there, the United States is No. 1 again. In almost every category, Americans survive cancer at higher rates than patients in other developed countries. American cancer patients have a higher survival rate for every major form of cancer than patients in Canada and Britain.

American women have a 35-percent better chance of surviving colon cancer than British women. American men have an 80-percent better survival rate for prostate cancer. American survival rates are also better than survival rates in France.

You can go on and on with this, but it is evidently clear—evidently clear—that the timing on when one gets their care is critical.

It is interesting to me that just this week—just this very week—the President made his nomination for a new Director of the portion of the Health and Human Services Department that deals with Medicare and Medicaid. The President has been in office for 15 months. We have had a debate and discussion in this body for almost all that time on health care. In this body, the Democrats have voted to cut Medicare by \$500 billion from our seniors who desperately depend upon Medicare.

Why is it the President has waited 15 months to finally nominate someone to be the head of the part of government that oversees Medicare and Medicaid? The President has put 15 million to 16 million more people on Medicaid, has cut Medicare, has told us we can trust him on this. Yet he would not put somebody up to go through the confirmation process to head Medicare and Medicaid? Why? Because, in my opinion, he did not want anybody to answer the questions because they are tough questions. Why wouldn't you nominate somebody for all that time and leave the post open, essentially, and not have somebody to come to Congress and say what are the implications to the American people of dumping another 16 million people onto Medicaid, of cutting \$500 billion from Medicare?

Well, because the person he has put in has a long history of a love of rationing care. It is a Dr. Donald Berwick. He has a history of support for government rationing of government health care resources on the grounds of

cost—not on the grounds of quality, not on the grounds of survivability but on the grounds of cost.

He has said, as recently as last June:

The decision is not whether or not we will ration care—the decision is whether we will ration with our eyes open.

So here we are, the newly nominated person has basically said: I am going into this to ration care. He is a big supporter of what they have going on in Britain right now. In Britain, they call it NICE. It stands for National Institute for Health and Clinical Excellence. Well, this is what Dr. Berwick has said about it. He said:

Those organizations are functioning very well and are well respected by clinicians, and they are making their populations healthier and better off.

Well, let me tell you what a London doctor, a colon cancer specialist, had to say. This doctor said:

A lot of my colleagues also face pressure from managers not to tell patients about new drugs.

He said:

There is nothing in writing, but telling patients opens up a Pandora's box for health services trying to contain costs.

He further went on—this now being again Dr. Berwick saying about this British group:

NICE is an extremely effective and conscientious, valuable and—importantly—knowledge-building system.

What did the BBC, the British broadcast group, say? They say:

Doctors are keeping cancer patients in the dark about expensive new drugs that could extend their lives . . . A quarter of the specialists—

one in four specialists—

polled by Myeloma UK said they hid facts about treatments for bone marrow cancer that may be difficult to obtain from the National Health Service. Doctors said they did not want to “distress, upset, or confuse” patients if drugs had not yet been approved by the National Health Service drugs watchdog NICE.

So when we take a look at the British health care system: 18 weeks of a wait—which is the promise from the Prime Minister in the debate last week—18 weeks from when you are diagnosed with cancer until you have your operation. That is their aspirational goal. It makes you wonder what it is now. It has to be a lot longer than 18 weeks. So I would tell my colleagues it is no surprise that in the latest polls that were out this morning, the Quinnipiac poll, polling done this past week: Do you support passage of the health care reform bill? Less than 4 in 10 Americans, only 39 percent, approve of what this body crammed down the throats of the American people, whereas over half of all Americans disapprove of what this administration—this President, HARRY REID, NANCY PELOSI, and this Congress—has now forced upon the American people.

The American people have great cause to worry about what they are going to face in their health care, in their health care decisions; if they are going to be able to keep the doctor

they like seeing. Those are the questions, and those are the concerns of the American people. My colleagues know my second opinion on the health care bill that we were told by NANCY PELOSI: You have to pass it before you get to find out what is in it.

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

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

ORDER OF PROCEDURE

Mr. CORKER. Mr. President, could I make an inquiry as to the time remaining? I see Senator HUTCHISON is here.

The ACTING PRESIDENT pro tempore. The Republican side has 8 minutes 27 seconds.

Mr. CORKER. I need about 4 minutes, but if the Senator from Texas wishes to go first, that is fine.

Mrs. HUTCHISON. Then I will split the remaining time, unless—is there any further time? What is the order of business after the 8 minutes?

The ACTING PRESIDENT pro tempore. After the expiration of morning business, the Senate will proceed to executive session.

Mr. CORKER. I understand we might extend, with permission, for 10 more minutes, is that correct?

The ACTING PRESIDENT pro tempore. That is correct. If there is unanimous consent, that is correct.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to extend morning business for 10 minutes, and that the added time be split between Senator CORKER and myself; and if a Member of the majority comes forward, we will certainly agree to allow the equal time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, if there were 4 minutes and we added 10, I would have 9 minutes and Senator CORKER would have 9 minutes?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Tennessee.

FINANCIAL REGULATORY REFORM

Mrs. HUTCHISON. Mr. President, I rise today to speak on financial regulatory reform. During the current economic downturn, we have seen far too many Americans lose their jobs, homes, and their savings. Today, 15 million of our citizens are still out of work, and national unemployment continues to hover near 10 percent.

It is this uncertain climate in which we consider financial reform legislation. The crisis is going to remain in the forefront of our national consciousness for years to come, mainly due to the immense government intervention that was pushed through over the past year and a half, attempting to stabilize our frozen credit markets but instead accumulating massive debt that

threatens to harm our economy much worse than the original problems.

The current legislation continues the government's failed "too big to fail" policy. Too big to fail perverts free market capitalism and suggests that entities can privatize their profits, yet socialize their risks, and taxpayers foot the bill. The American taxpayer should not be forced to pay the gambling debts of risky bets made by large financial institutions.

Republicans and Democrats alike agree that we must end too big to fail, but the bill that is being proposed does not do that. Chairman DODD's bill provides both the FDIC and the Treasury Department emergency authority to provide broad debt guarantees in times of "economic distress" to "struggling firms." As written, it is foreseeable that the FDIC or Treasury could step in to prop up a firm under any circumstance, all without seeking to resolve and unwind the firm.

The chairman's bill authorizes continued emergency lending authority for the Federal Reserve, but conceivably only for large banks. Under the Dodd bill, the Federal Reserve would retain supervisory authority over bank holding companies with assets over \$50 billion. The Federal Reserve supervision essentially predesignates the firms that are too big to fail. These banks would have the implicit backing of the government and the taxpayers and, with it, the competitive advantage, giving it access to cheaper credit from lenders expecting to be made whole. This puts our Nation's community and independent banks at a severe competitive disadvantage.

I will offer an amendment, if this bill comes to the floor, to permit community banks to remain under the supervision of the Federal Reserve. If the Fed supervises only the largest firms, it will gear monetary policy toward these large financial institutions, effectively leaving out the voice and real-time experience of community bankers in my State and across the country.

While the large financial institutions were making bad bets on subprime mortgage markets, community banks were making home and business loans to local customers. Local community banks provide the lending and deposit services for our Nation's small businesses so they can operate, invest, create jobs, and drive our economy. It is this business lending that will help create jobs and grow our economy.

Tom Hoenig, President of the Federal Reserve Bank of Kansas City, said recently that our Nation's largest banks would be well served to take lessons from our community banks. Why? Because community banks have been committed to providing the credit and services needed for small business. They know their customers, and they can make good, solid loans that are supportable.

In Texas, Richard Fisher, President of the Dallas Federal Reserve Bank,

said the provision in the bill would leave the Dallas Federal Reserve jurisdiction with only one or two bank holding companies, down from 36 member banks, for \$74 billion in assets that he now has supervisory authority over. The Fed should know the needs and the economic conditions throughout the country, not just New York and Washington, DC.

It is precisely the ability to foster bottom-up growth through small businesses that sets community banks apart from other financial institutions. Unlike the big financial institutions we see in the headlines for bailouts and bonuses, community banks don't have a systemic risk to our financial system and they are not identified as primary contributors to our latest crisis.

However, community banks would soon be subjected to a considerable amount of new costs and regulatory burdens as a result of this legislation. Community banks are already regulated. They are well regulated. Adding additional layers of Federal bureaucracy with limitless authority would be a burden that would only serve to hamper the ability of community banks to effectively provide depository and lending services to America's consumers and small businesses.

Community banks should not be punished as a result of this legislation. We should preserve and enhance our dual banking system, not impose additional Federal regulations that stifle their ability to serve their communities.

I am also concerned about the direction of the regulation of over-the-counter derivatives. In the wake of the collapse of the mortgage market where the use of derivatives and even derivatives of derivatives helped cause great losses to banks and nearly brought our economy to its knees, it is important that Federal regulators have a greater understanding of this derivatives market. We have Members on both sides of the aisle who are negotiating these terms. Republicans and Democrats have the same goal. We want to end too big to fail. We want to end bailouts. We want to assure that our community banks still have the capability to serve Main Street customers.

The bill before us that is not being brought to the floor because it did not have any input from the Republican side does not achieve those goals. So we are now meeting in small groups. We are meeting with the Secretary of the Treasury and others within the administration to try to come to terms that would do the right thing and meet the goal that we all agree is the goal. That is what is going on right now in the Senate.

It is my great hope—and I see my colleague from Tennessee who is also on the Banking Committee with me, and he too is a part of the negotiations and wants to bring this bill to the floor—we can do something good for our economy. Passing the bill or letting it come to the floor and roll out of here in its present form would not

achieve that objective. So I welcome my colleague from Tennessee, who has been a major player in this debate. He has been a major reason that we are coming to a point at which I think we can have a successful bipartisan bill.

I will say that our chairman and ranking member, Chairman DODD and Senator SHELBY, have been meeting for weeks to try to come to terms. So I think everyone is sincere at this point that we want a bipartisan bill. Financial regulation is not political. The consequences of passing a bad bill are huge for our country, for every American. We can do this.

I welcome the comments of my colleague from Tennessee and I look forward to his continuing leadership so we can have a bill that will help the consumers in our country, stabilize our economy and, most of all, will bring the unemployment rate down from 10 percent so that more Americans can go to work.

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

The ACTING PRESIDENT pro tempore, The Senator from Tennessee.

Mr. CORKER. Mr. President, typically when we come to the floor to speak, we don't like to wait for another Senator who wants to speak; we want to speak and go back to what we were doing, but today I am so glad I had the opportunity to hear the remarks of the Senator from Texas.

Both of the Federal Reserve leaders in Kansas City and Dallas have added tremendously to this debate. No one has been more of a supporter for community banks than the Senator from Texas. I could not agree more with everything the Senator said regarding the Fed keeping community banks. My sense is that by the time the bill comes to the floor, it will either have that in it, or let me say to my colleague right now that I will cosponsor the amendment the Senator brings forth, because I think the Senator is absolutely right, that the Federal Reserve should keep the smaller State-chartered Fed members. The fact is this rearranging the deck chairs serves no purpose, so I could not agree more.

I also agree with the Senator regarding derivatives. I notice the Senator from Texas has a microphone if she wishes to comment. I am going to speak based on what the Senator said on derivatives, but if it is OK, I would like the Senator from Texas to be able to respond.

Mrs. HUTCHISON. Mr. President, I appreciate the remarks of the Senator from Tennessee and, of course, I welcome his cosponsorship of the amendment. It is essential. I couldn't support this bill if we shut the Fed off from Tennessee and Texas and California. Then we might as well all move to New York.

New York doesn't want any more people, I am sure. They are well populated. But most of all, I want to make sure that the Main Street bankers and the small businesses of all of our

States are known to the Fed, and the way they are known to the Fed, of course, as the Senator knows, is that their local Federal Reserve bank knows their issues and problems and needs, because they have the ability to serve those banks, which is not allowed in the bill before us.

I thank the Senator from Tennessee for his leadership. I look forward to coming up with something we can all support.

Mr. CORKER. Mr. President, that brings me back to where I want to be. The fact is, there are a lot of people coming to the floor and a lot of things are being said in the press. First, I think we are going to end up with a bipartisan bill before the actual vote to proceed takes place. I believe that is being led by Senators DODD and SHELBY. They are the point people. You cannot have eight negotiators. I believe that is where we are headed. So when I hear a lot of the rhetoric on the floor and other places, I think it is just rhetoric; but at the end of the day, I think we will end up with a solid bipartisan bill. I hope it is one I can support. Obviously, I am giving input on that.

That leads me to this. There have been folks who have come to the floor talking about the Republicans supporting Wall Street by not supporting the Dodd bill in its present form. That is ridiculous. What is happening—some reporter made comments yesterday about Republicans and that I slammed the Dodd bill. That is not true. I was emphatic about two things: One, Republicans are not representing Wall Street. Candidly, when I look at the bill—and my friend from Delaware will actually agree with this—there is not much in this bill that is very offensive to Wall Street, to be candid.

This bill focuses on three topics. What I have said to my colleagues is this: Whenever we have regulations, the big guys get bigger, right? The small guys are the ones who bear the brunt of regulation. What we are all trying to do, as Senator HUTCHISON laid out, on our side of the aisle is make sure this legislation deals appropriately with community bankers and manufacturers in Iowa, Texas, and other places. In fact, there are issues with the bill that we need to work out.

Candidly, to say that Republicans are representing Wall Street could not be further from the truth. There is not much in this bill that is very offensive to Wall Street, to be candid. I am not saying we should go out of our way to be offensive, but anybody who looks at what this bill says would know there is not much in the bill that is that offensive. The fact is, we are putting derivatives on clearinghouses, which I hope happens. I think that is a good thing. I think we need to get as much of that done as possible, where if somebody's money is bad, they have to put money up that day. It alleviates some of the systemic risk. We deal with resolving a firm that fails. I think that is appropriate.

Hopefully, we will get consumer protection back into the middle of the road. By the way, that is a section of the bill that, if it is not handled properly, won't affect the JPMorgans and Citigroups and Banks of America. It will affect community bankers. All we are trying to do on our side—and this is what I was emphatic about yesterday—is trying to make sure this bill is in balance. I think we can do that.

Look, there is not much in this bill that is particularly offensive to Wall Street. To say that those of us who want to get it right for everybody else in the country are defending Wall Street was way off the mark, not true.

Second, there are many things in the bill that are good. There are some things that aren't so good that I think are being worked out right now. That is typically what happens when we have a bipartisan discussion. Each side brings their particular strengths to a bill. We all represent different points of view and, when we work together, we end up with a good bill.

One of the things that troubles me—and I was very emphatic about it yesterday, and will be again today and tomorrow, as I have been for a long time—is that this bill doesn't even deal with underwriting. At the end of the day, at the bottom of this upside down pyramid, the crisis began because we had a lot of mortgages in this country that should have never been written in the first place. Then we had firms that were way overleveraged that were doing that. Then we spread the pain through \$600 trillion in notional value around the world. It started with the fact that a lot of loans were written that should not have been written. I don't think this bill even addresses that. I think that is a little bit of an issue.

If we come to the floor with a template that deals with consumer protection, systemic risk, and derivatives, I hope my colleagues on the other side of the aisle will join in with many Members on this side of the aisle to correct that. At the end of the day, if we continue to write loans that should not be written, and we continue to securitize them, and if we continue to spread them around the world, we have not done much in this legislation. So I have been emphatic about that, and I have wanted these two pieces of the legislation to balance as it relates to the rest of the country, making sure our underwriting is done appropriately. Do I believe those are things that are important? Yes. Do I think we are going to address those? I hope so on the underwriting, but I am not sure. I cannot tell if people are willing to make sure that Americans across this country have to live in a semidisciplined way as it relates to mortgages. I hope we get there because I think it is important.

In closing, in spite of all the rhetoric about bailouts and not bailouts and Wall Street and not Wall Street, I think what is happening in rooms and

offices around the Hill is that negotiations are taking place that will get us to a place where we at least have a template, a piece of legislation that can be embraced in the beginning in a bipartisan way, and then what I hope will happen—I know my friend from Delaware will be highly engaged in this, because he has been focused on this for a long time—what I hope happens, after we get the base template together, is that we have a vigorous debate on the floor about where we need to go from there. There are other pieces—I would consider them to be central—but I am OK with legislation coming to the floor where we have a balance between resolution, derivatives, and consumer protection. Then let's go from there and have the kind of debate I think our country would love to see us have in public, focused not on rhetoric—because we have plenty of substance on this issue—but on substance, and let's do something that will stand the test of time. I think we are going to do that. As a matter of fact—and I know my time is up—I think this bill has the opportunity in the next few days, and once we begin debate on the floor, which I hope will happen in a bipartisan way—I think this bill is potentially the beginning of us being able to function in an appropriate way in this body. That is what I hope happens.

That is why for weeks and months I have been saying that I think at the end of the day we are going to end up with a bipartisan bill. I hope it has some important elements in it, such as the ones I mentioned, that will allow me to support it. Whether that happens—and I hope it happens—or not, I hope we have a vigorous debate and end up with a good product.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF CHRISTOPHER SCHROEDER TO BE AN ASSISTANT ATTORNEY GENERAL

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

The legislative clerk read the nomination of Christopher Schroeder, of North Carolina, to be an Assistant Attorney General.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I rise today to express my support for Chris Schroeder's nomination to be Assistant Attorney General for the Office of Legal Policy in the Department of Justice.

Before I go any further, I want to state for the record that Chris Schroeder

is a long-time colleague and great friend. Not only did we work together for Senator BIDEN, but for the past 20 years we have co-taught a course on the Congress at Duke Law School—a course that for many of those years was cosponsored by the law school and the Stanford School of Public Policy.

Chris is currently the Charles S. Murphy Professor of Law and Professor of Public Policy Studies at Duke, as well as director of Duke's Program in Public Law.

Chris was born in Springfield, OH, received his B.A. from Princeton University, a master of Divinity from Yale, and his J.D. from the University of California at Berkeley, where he was editor in chief of the California Law Review.

He is married to Katherine T. Bartlett, former dean and current A. Kenneth Pye Professor at Duke Law School. Chris and Kate have three wonderful children.

During his legal career, Chris has excelled in private practice, government service, and academics.

Following his graduation from law school, Chris practiced law in San Francisco, gaining valuable experience in a wide variety of both State and Federal practice.

In 1979, he became a law professor at Duke, where he has been a respected and prolific scholar, an invaluable administrator, and a committed and effective teacher.

He has authored and edited several books, including a leading casebook on environmental law, "Environmental Regulation: Law, Science and Policy," now in its sixth edition.

He also has published countless articles in law reviews and journals, on an impressive range of topics, including environmental law, federalism, Federal courts, executive and legislative power, and national security.

Chris's teaching is just as broad and deep as his scholarship. Over the course of his career, he has taught environmental law, constitutional law, comparative constitutional law, administrative law, civil liberties and national security, Federal policymaking, the Congress, government, business and public policy, an environmental litigation clinic, toxic substances regulation, land use planning, water law, philosophy of environmental protection, property, and civil procedure.

Chris is a true renaissance man. I can personally attest to the quality of Chris's teaching, having co-taught with him for 20 years. Here in the Senate, we have many former students doing excellent staff work on both sides of the aisle.

Chris has also contributed his legal and policy expertise to practical problems affecting the health and safety of the community. He served on National Academy of Science and Institute of Medicine committees to evaluate the use of human intentional dosage studies by the EPA and the adequacy of the U.S. drug safety system.

Duke has also recognized Chris's considerable administrative skills. In addition to serving as co-chair of the Center for the Study of the Congress, with me, and the director of Program in Public Law, Chris has chaired the school's appointments committee, served on the dean's selection committee, and served as a member of the university's judicial board.

In the 1990s, while at Duke, he took several leaves of absence for positions in public service. As a result, he has considerable experience in government, which will stand him in good stead at the Office of Legal Policy.

He has served in several capacities in the Senate, including as special nominations counsel and then he was the No. 1 staffer as chief counsel for the Judiciary Committee.

He also held numerous positions in the Department of Justice, including counselor to the Assistant Attorney General of the Office of Legal Counsel, Deputy Assistant Attorney General, and acting Assistant Attorney General.

In short, Chris Schroeder has the experience, the intellect, and the judgment necessary to be a superb leader of the Office of Legal Policy.

Just as important, he has the character and integrity to help the Attorney General continue to restore the public faith in the Department of Justice.

The Office of Legal Policy, OLP, has a wide range of important responsibilities within the Department of Justice. Let me read from the description on the DOJ Web site:

The major functions of the Office of Legal Policy are to:

Develop strategies and programs to implement legislative, programmatic and policy initiatives;

serve as a liaison to the Executive Office of the President and other agencies on policy matters;

conduct policy reviews of legislation and other proposals and support and coordinate Departmental efforts to advance the Administration's legislative and policy agenda;

assure policy consistency and coordination of Departmental initiatives, briefing materials and policy statements;

provide support and policy expertise in conjunction with other components to implement effectively major departmental and administration initiatives in the criminal and civil justice areas; assist the President and the Attorney General in filling all Article III and certain Article I judicial vacancies; coordinate regulatory development and the review of all proposed and final rules developed by all Department components; To serve as liaison to the Office of Management and Budget and other agencies on regulatory matters; Track and coordinate departmental implementation of statutory responsibilities and reporting requirements.

In sum, OLP is responsible for developing the high-priority policy initiatives of the Department of Justice. The Assistant Attorney General for OLP serves as the primary policy adviser to the Attorney General. OLP is the place within the Department where critical long-term planning gets done. OLP also handles special projects that implicate the interests of multiple Department components and coordinates the regulatory development and review of all

proposed and final rules developed by the Department. Finally, OLP advises and assists the President and the Attorney General in the selection and confirmation of Federal judges.

Chris's extraordinary career and exemplary character render him uniquely qualified to lead OLP. As we saw from his confirmation hearings in the Judiciary Committee back in June, Chris has excellent credentials and broad experience in law and government. He fully understands the special role at the Department of Justice and is deeply committed to the rule of law.

He has broad support from lawyers of all political and judicial philosophies. Just as an example, A.B. Culvahouse, former White House Counsel to President Reagan, gave Chris a ringing endorsement, describing him as having "the requisite maturity, experience, and confidence to work constructively across institutional, interest group, and party lines to advance the public interest."

Ken Starr was similarly enthusiastic in his endorsement, saying:

Chris has a particularly keen and nuanced sense of what the founding generation was seeking brilliantly to achieve: balanced government. From both practical experience and engaged scholarship, he understands deeply the appropriate role of the coordinate branches.

Before I conclude, I would like to give my colleagues a little better sense of Chris Schroeder outside of his professional life because I think his model character is something we should all bear in mind as we consider his nomination.

Chris has deep roots in the Durham, NC, community. He and his wife Kate have been members of the Pilgrim United Church of Christ for 30 years. This is the church in which Kate and Chris have raised their three children, and it has been an important part of their family life. Chris has been a member of every elected board or committee of his church. He has been the chairman of the fellowship committee several times—a job he cherishes because of the simple pleasures that come from providing good meals and hospitality at church events of every description. Chris has also taught Sunday school for over 20 years at Pilgrim, most often a Bible study class.

Chris has also been a member of the board of directors of the Meals on Wheels program in Durham which supplies lunches to elderly and shut-in members of the Durham community. Besides having served in a leadership position for Meals on Wheels, Chris and colleagues from the Duke University faculty drive one of the Meals on Wheels routes every Friday. They have been doing this for more than 20 years.

Chris and his children have also been active in the CROP Walk, an annual event in Durham and many other cities around the country that raises funds for local as well as international food programs. Chris is proud of the fact that Pilgrim United Church of Christ is

regularly among the leaders among churches its size in raising funds in the CROP Walk.

In selecting Chris Schroeder, the President has chosen wisely. Based on our long association, I know him to have a piercing intellect, impeccable judgment, and unparalleled integrity. I am proud to call him my friend. I urge my colleagues to confirm him without delay.

Mr. President, I ask unanimous consent that any time in a quorum call during the debate on the Schroeder nomination be charged equally to both sides.

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent that 5 minutes be set aside for the chairman during the debate.

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

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

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

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

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

FINANCIAL REGULATORY REFORM

Mr. BURRIS. Mr. President, in early 1933, just after Franklin Roosevelt was sworn in as President, the Great Depression was at its worst. The American economy had been shaken to its core. Financial institutions had closed, people's life savings had evaporated, and no one knew where to turn. That is when the unthinkable happened: Much of the American commercial banking system collapsed.

President Roosevelt and his colleagues in the House and Senate sprang into action. Congressman Henry Steagall and Senator Carter Glass, both Democrats, worked with the President to write sweeping reform legislation. They set out to get the economy back on the road to recovery. The resulting law—known as the Glass-Steagall Act of 1934—helped to lay the foundation for sensible bank regulation in this country. It would come to define America's financial landscape in the decades that followed the Depression.

Mr. President, it is in this spirit that I ask my colleagues to join me today in supporting major financial reform and making sure that the Volcker rule is included in our financial legislation. If we pass the bill that has been introduced by Senator DODD, we can help prevent another economic crisis and reinstate some of the basic protections included in Glass-Steagall.

Almost 80 years ago, this legislation established the FDIC, which still insures bank deposits—and it drew a sharp distinction between commercial banks and investment banks. In the wake of economic collapse, Congress recognized that these dueling roles often came with massive conflicts of interest. In some cases, this resulted in risky behavior. In others, fraud.

So Glass and Steagall designed their bill to set up a barrier between commercial banks and investment banks. The law prevented these two activities from mixing and kept financial professionals honest and accountable. For much of the next half century—as our economy recovered from the Great Depression and prosperity returned to America—the system worked just as it was intended.

As a former banker, I can personally speak to the significance of the Glass-Steagall Act in helping to keep our financial system on an even keel. This important law was essential to the stability of our economy—right up to the moment when my Republican friends revealed it—a little more than a decade ago.

In 1999, the Republican Congress decided there was no longer a need to keep commercial and investment banks separate, so they passed a bill that rolled back key portions of the Glass-Steagall Act. Unfortunately, President Clinton signed it into law, and with the stroke of a pen, the walls between commercial banks and investment banks were torn down.

Almost overnight, commercial institutions started to move into this fresh territory. They started to underwrite CDOs and mortgage-backed securities. Then they began to trade them. Commercial lenders even created new investment vehicles, which bought these very same securities. Without the Glass-Steagall Act, it was a free-for-all.

As soon as the regulations were removed, big banks swooped in without regard to responsible lending practices. Conflicts of interest sprang up everywhere. Fraud was allegedly committed by some of our largest and most respected institutions. Then, 2 years ago, our economy went into a massive downward spiral—a great recession from which we are still trying to recover.

The repeal of Glass-Steagall certainly did not cause this financial crisis on its own. But many believe it was a contributing factor, and unless we can take action to close this regulatory gap, the absence of Glass-Steagall could expose our economy to major systemic risk in the future.

So, today, as the Senate stands on the verge of considering major financial reform, I would urge my colleagues to reinstate some of these protections. We must prevent big banks from engaging in these irresponsible practices ever again. That is why I am proud to support the Volcker rule, which my friend, Senator DODD, has included in his financial reform bill.

This provision will prevent traditional banks from making private equity investments. It will stop them from running hedge funds. It will help keep them from placing bets on the market. As a key part of Senator DODD's bill, the Volcker rule will essentially serve as a modernized version of the Glass-Steagall Act.

It would stop short of reinstating the old law of 1933, but it would help to prevent fraud, discourage conflicts of interest, and keep large banks from engaging in reckless behavior. It would also allow us to help regulate mergers among our biggest banks so we can prevent the market from becoming too concentrated or incurring systemic risk.

Mr. President, I believe each of these key components is a necessary part of any financial reform bill. That is why I am proud to join Senator DODD, as well as President Obama, in supporting the Volcker rule. Colleagues, let's learn from the events of history. Let's impose fair and reasonable regulations so a handful of banks would not be able to undermine the American economy with a few foolish decisions. Let's pass a financial reform bill that includes the Volcker rule.

Mr. President, I yield the floor, and I respect the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. FEINGOLD and Mr. LEAHY are printed in today's RECORD under "Morning Business.")

Mr. LEAHY. Madam President, today the Senate will finally confirm Professor Chris Schroeder to lead the Office of Legal Policy at the Department of Justice. I say "finally" because he was nominated by President Obama nearly 11 months ago. Professor Schroeder was first nominated to this position on June 4, 2009. He appeared before the Senate Judiciary Committee last June. He was reported favorably last July, a year ago, without dissent from both Republican and Democrat members on the committee. But then he sat on the Executive Calendar for 5 months, blocked by mysterious holds from the Republican side. Then, as the last session drew to a close, Republican Senators objected to carrying over Professor Schroeder's nomination into the new session, so it had to be sent back to the White House. The President had to renominate him. The President did that, to his credit. His nomination was reconsidered, reported favorably by the Judiciary Committee by a rollcall vote, with a majority of the Republicans voting for him. That was nearly three months ago.

Professor Schroeder is a scholar and public servant who has served with dis-

tingtion on the staff of the Senate Judiciary Committee and in the Justice Department and has support across the political spectrum. The Judiciary Committee has received letters of support for Professor Schroeder's nomination from Arthur B. Culvahouse, Jr., former White House Counsel to President Ronald Reagan; Ken Starr, former Solicitor General under former President George H.W. Bush; 11 former high-ranking officials at the Justice Department; and Dean David F. Levi of Duke Law School, where Professor Schroeder has taught for many years.

Madam President, I ask unanimous consent to have those letters printed in the RECORD.

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

LETTERS OF SUPPORT FOR THE NOMINATION OF CHRISTOPHER SCHROEDER TO BE ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY

(As of April 21, 2009)

CURRENT AND FORMER PUBLIC OFFICIALS

Arthur B. Culvahouse, Jr., Former White House Counsel to President Reagan, 1987–1989.

Joint letter from former Department of Justice Officials [Eleanor D. Acheson, former Assistant Attorney General for the Office of Policy Development; Walter E. Dellinger III, former Assistant Attorney General for the Office of legal counsel, former Acting Solicitor General; Jamie S. Gorelick, former Deputy Attorney General; Randolph D. Moss, former Assistant Attorney General for the Office of Legal Counsel; Beth Nolan, former Deputy Assistant Attorney General for the Office of Legal Counsel; H. Jefferson Powell, former Deputy Assistant Attorney General for the Office of Legal Counsel, former Principal Deputy Solicitor General; Teresa Wynn Rosenborough, former Deputy Assistant Attorney General for the Office of Legal Counsel; Lois J. Schiffer, former Assistant Attorney General for the Environment and Natural Resources Division; Howard M. Shapiro, former General Counsel, Federal Bureau of Investigation; Richard L. Shiffrin, former Deputy Assistant Attorney General for the Office of Legal Counsel; Seth P. Waxman, former Solicitor General].

Kenneth Starr, Former Solicitor General, Duane and Kelly Roberts Dean and Professor of Law.

OTHER SUPPORTERS

David F. Levi, Dean, Duke Law School.

O'MELVENY & MYERS LLP

Washington, DC, July 14, 2009.

Hon. PATRICK J. LEAHY,

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

Hon. JEFF SESSIONS,

Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SESSIONS: I write to endorse the nomination of Christopher H. Schroeder of North Carolina to serve as Assistant Attorney General for the Office of Legal Policy.

I am sure the Committee on the Judiciary is well aware of Chris Schroeder's substantial record of academic accomplishment as a chaired professor at Duke Law School and of his distinguished public service with the Department of Justice Office of Legal Counsel and with the Senate Judiciary Committee. Perhaps less well known is Chris Schroeder's part-time private practice association with our law firm, O'Melveny & Myers, from Jan-

uary 2002 to the present, the last four years in an "of counsel" position. As Chair of the Firm, I can attest Chris has provided exemplary legal services to the Firm and its clients, while working on highly complex legal matters. His capacity for keen analysis, his great maturity and judgment, and his ability to work in a constructive and purposeful way with others, have impressed both his colleagues and our clients.

Chris Schroeder's experience as counsel to our firm adds yet another dimension to his qualifications for office, making Chris one of the rare individuals who has excelled in academic law, in public service to both the legislative and executive branches of the national government, and in private practice. This diversity of experience and perspective will serve the Justice Department and the country well if Chris is confirmed as head of the Office of Legal Policy.

From my time as White House Counsel to President Reagan until now, I know how important it is to have senior Justice Department office holders who not only are first-rate lawyers, but also have the requisite maturity, experience and confidence to work constructively across institutional, interest group and party lines to advance the public interest. I believe that Chris Schroeder will be one of those leaders. I am pleased to endorse his nomination.

Yours very truly,

ARTHUR B. CULVAHOUSE, JR.,

Chair.

JUNE 23, 2009.

Re Nomination of Christopher Schroeder to serve as Assistant Attorney General.

U.S. SENATE,

Committee on the Judiciary,
Washington, DC.

DEAR CHAIRMAN LEAHY, RANKING MEMBER SESSIONS, AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE: We are all former Department of Justice officials who worked closely with Chris Schroeder when he served as a Deputy Assistant Attorney General, and later Acting Assistant Attorney General, in the Office of Legal Counsel in the 1990s. Many of us have also known and worked with Chris in a variety of other settings. Based on our broad range of experiences, we all offer our enthusiastic support for Chris' nomination to serve as the Assistant Attorney General for the Office of Legal Policy.

Chris brings together a broad range of talents, experience and perspective that make him an ideal candidate to lead the Office of Legal Policy. First, Chris is a superb lawyer. He is a distinguished scholar, with an expertise in public law and policy. He has taught classes on constitutional and administrative law, on civil liberties and national security, and on the Congress. As acting head of the Office of Legal Counsel, he grappled with some of the most difficult legal issues in the executive branch and, in the course of doing so, earned the broad respect of others throughout the government.

Chris would also bring to the job extensive knowledge of the workings of the Department of Justice, and a deep respect for the Department as an institution. Equally importantly, Chris has worked extensively with other offices throughout the government, and he has a clear understanding of the interagency process. As a result, Chris would know how to ensure that Department of Justice policy judgments are fully informed by others in the executive branch.

Similarly, Chris also understands how the legislative process works. He would be well positioned to ensure that the Department's policy judgments are consistent with the laws Congress enacts and that they are informed by the judgment and experience of

those in the legislative branch. Chris served as chief counsel to the Senate Judiciary Committee, and he understands how important it is to work effectively with Members of Congress on both sides of the aisle in formulating effective public policy.

In addition, Chris would bring to the job the perspective of a lawyer who has engaged in the private practice of law. As a result, he would also understand how Department of Justice policy might affect the legal profession, and he has the experience to understand the practical implications of those policy decisions.

Finally, and most importantly, Chris is a balanced, fundamentally fair, and honest person. He has excellent judgment and a compelling sense of what is right. All of us have worked with Chris, and we can all affirm that he is a colleague of the highest order.

In short, Chris would bring to the job the perfect mix of experience: he is a distinguished scholar; he has worked in the Department of Justice, for the Congress, and in private practice; and he has the integrity and judgment the job demands. For all of these reasons, we believe that Chris is superbly well-qualified to serve as the Assistant Attorney General for the Office of Legal Policy.

Respectfully,

Eleanor D. Acheson (former Assistant Attorney General for the Office for Policy Development), Walter E. Dellinger III (former Assistant Attorney General for the Office of Legal Counsel; former Acting Solicitor General), Jamie S. Gorelick (former Deputy Attorney General), Randolph D. Moss (former Assistant Attorney General for the Office of Legal Counsel), Beth Nolan (former Deputy Assistant Attorney General for the Office of Legal Counsel), H. Jefferson Powell (former Deputy Assistant Attorney General for the Office of Legal Counsel; former Principal Deputy Solicitor General), Teresa Wynn Roseborough (former Deputy Assistant Attorney General for the Office of Legal Counsel), Lois J. Schiffer (former Assistant Attorney General for the Environment and Natural Resources Division), Howard M. Shapiro (former General Counsel, Federal Bureau of Investigation), Richard L. Shiffrin (former Deputy Assistant Attorney General for the Office of Legal Counsel), Seth P. Waxman (former Solicitor General).

SCHOOL OF LAW,
PEPPERDINE UNIVERSITY,
Malibu, CA, June 22, 2009.

Hon. PATRICK J. LEAHY,
*U.S. Senate, Russell Senate Office Building,
Washington, DC.*

Hon. JEFF SESSIONS,
*U.S. Senate, Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR LEAHY AND SENATOR SESSIONS: It is my privilege to endorse, and heartily so, the nomination of Christopher Schroeder to be Assistant Attorney General for the Office of Legal Policy. Having known Chris for many years, I know him not only to be a distinguished professor at my beloved alma mater, but—as befits his fine reputation—I also know him to be a thoughtful and measured person. He has sound judgment. Indeed, Chris is quite well known, and again rightly so, for his balanced, careful writing.

Equally relevant, Chris served with great distinction in the Department of Justice in the highly important Office of Legal Counsel. He has thus been fully engaged in fashioning the advice and counsel that is foundational to our system of the rule of

law. Having also served in the Article I branch, Chris has a particularly keen and nuanced sense of what the Founding generation was seeking brilliantly to achieve: balanced government. From both practical experience and engaged scholarship, he understands, deeply, the appropriate role of the co-ordinate branches.

In short, based on both his personal character and professional qualifications, I enthusiastically recommend him to you for confirmation to this very important role at the Justice Department.

Yours sincerely,

KENNETH W. STARR,
Duane and Kelly Roberts Dean and Professor of Law.

DUKE UNIVERSITY SCHOOL OF LAW,
Durham, NC, June 19, 2009.

Hon. PATRICK J. LEAHY,
*U.S. Senate, Russell Senate Office Building,
Washington, DC.*

Hon. JEFF SESSIONS,
*U.S. Senate, Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR LEAHY AND SENATOR SESSIONS: I am the Dean of Duke Law School. Previously I was U.S. Attorney in the Eastern District of California (1986-1990) and then a United States District Judge in the same district (1990-2007). I am writing in my personal capacity to endorse the nomination of Christopher Schroeder to be Assistant Attorney General for the Office of Legal Policy.

Professor Schroeder is currently a distinguished member of the Duke Law School faculty, and the Charles S. Murphy Professor of Law. His scholarship is well recognized across a range of subject areas, including constitutional law, administrative, and environmental law. He is the author of dozens of articles and books in these fields, and has the reputation of a fair, thoughtful teacher who respects all points of view.

Professor Schroeder also directs Duke Law School's Program in Public Law. This Program in Public Law exposes law students to the opportunities and value of public service as part of their professional careers, through speaker series, workshops, conferences and other programs. The Program engages topics that are newsworthy and often controversial, in order to provide students an informed basis for evaluating the public debate about them. I have participated in a number of events sponsored by the Program and have been impressed both with the quality of Professor Schroeder's own contributions, and with the even-handedness of points of view that he consistently brings to the programming. His leadership of this program demonstrates, again, a balanced, fair-minded person who respects, and is respected by, people from many different backgrounds and perspectives. Professor Schroeder is not an ideologue.

Professor Schroeder also has considerable government experience both in the Department of Justice and in the United States Senate. In the Department of Justice, he has served in the Office of Legal Counsel, including as its Acting Assistant Attorney General. Through that experience he has gained knowledge of the organization and operation of the Department, as well as of many of the policy issues that regularly face the Department of Justice. His prior work at Justice provides valuable preparation for the leadership position to which he has been nominated. In the United States Senate, he has served as Chief Counsel to the Senate Judiciary Committee and in several other capacities as well. I know from my conversations with him that he appreciates the responsibilities of the Senate and the Congress, and possesses a genuine respect for the role of

the legislative branch in our constitutional system. This orientation, too, will be an asset in leading the Office of Legal Policy, which often works closely with members of Congress in developing policy initiatives.

Professor Schroeder possesses the intellect, skill, training, reliability, and disposition to make him an effective and dynamic director of the Office of Legal Policy. He is someone in whom the members of the Senate and the American people can be confident. He has distinguished himself in every endeavor that he has undertaken. I am certain that he will do so as the AAG for the Office of Legal Policy. I highly recommend him for this position.

Sincerely,

DAVID F. LEVI.

Mr. LEAHY. Madam President, Chris Schroeder is well known to many of us in the Senate. He has served in a number of positions, including chief counsel for the Judiciary Committee when the chairman was then-Senator JOE BIDEN. He spent years in private practice and as a professor, including for the last 10 years as director for the Program in Public Law at Duke University Law School. He has also served in a number of high-ranking positions at the Justice Department making him extraordinarily well prepared for the position to which he has been nominated. In fact, in my nearly 36 years here, it is hard to think of somebody more well qualified.

Look what he has done. He graduated from Princeton University, received his master of divinity from Yale Divinity School before earning his law degree from the University of California at Berkeley Boalt Hall in 1974. There is no question that he is well qualified to run the Office of Legal Policy.

For somebody who is going to be confirmed easily, it shouldn't be necessary for the majority leader to have to file cloture in order to end the Republican filibuster. The Senate should be able to at least have an up-or-down vote on Professor Schroeder's nomination. What has this place come to when we have filibusters on routine nominations such as this?

I remember, when I first came here, probably the biggest nomination we had before a heavily Democratic-controlled Senate was a nomination by a conservative Republican President, Gerald Ford, for the U.S. Supreme Court. President Ford nominated a well respected Republican from Chicago seen as a conservative; John Paul Stevens. We took that nomination from the Republican President 2½ weeks after that nomination arrived here. We all voted for John Paul Stevens to be confirmed for the Supreme Court, including myself. In fact, I am one of only three Senators still here who voted, with Senator INOUE and Senator BYRD being the other two.

What have we come to when we have a nominee who is as extraordinarily well qualified as Professor Schroeder, who is going to be confirmed, but he has to get past a Republican filibuster.

The 11 months it has taken us to consider this nomination is a far cry, incidentally, from the way the Democrats

treated President Bush's nomination to run the Office of Legal Policy. A Democratic majority confirmed President Bush's first nominee to head that division, Viet Dinh, by a vote of 96 to 1 only 1 month after he was nominated and only 1 week after his nomination was reported by the committee. The 3 nominees of that office who succeeded Mr. Dinh—Daniel Bryant, Rachel Brand, and Elisabeth Cook—were each confirmed by a voice vote in a far shorter time than Professor Schroeder's nomination has been pending. None of these nominations were returned to the President without explanation. None of them required cloture to be filed before being considered.

What is going on when a Republican President is treated with fairness but a Democratic President, President Obama, is treated this way? It makes me think of what one of the leaders of the Republican Party said last year: I want this President to fail. If you have an objection to a nomination, vote against it, but none of us should want the President of the United States to fail because if the President fails, America fails and we all suffer, Republicans and Democrats alike. We have to get out of this mindset that if President Obama is for something, everybody has to find ways to block it.

I agree with Senator FRANKEN's observation on the Senate floor earlier this week concerning the Schroeder nomination. He remarked that perhaps Republicans were blocking this nomination because Professor Schroeder has been nominated to lead the office that vets potential judicial nominees. Well, he is right, as is Senator KAUFMAN, who has spoken so eloquently on behalf of Professor Schroeder today.

To deflect criticism for Republican delays and obstruction of judicial nominations that have left 25 judicial nominations languishing on the Executive Calendar, Senate Republicans have tried to place the blame on the administration for sending too few nominees to the Senate. But these same Republicans have held up Professor Schroeder's nomination to lead the division of the Justice Department involved with reviewing and preparing judicial nominations for nearly a year. In other words, they stopped the person who is supposed to do the initial review on judicial nominations and then said: Oh, my goodness, President Obama is not sending up enough nominations. Come on. Come on. This is like a burglar saying: I should be excused for burglarizing this warehouse because you had such nice things in the warehouse to steal. It is your fault for having nice things to steal. How can you blame me for stealing them? What they are saying is: It is President Obama's fault for not moving through judges who have to be vetted by somebody we are blocking from vetting them.

I know the Department and the administration would be grateful to have Professor Schroeder help them prepare judicial nominations. He has shown

that he has a deep understanding of the proper role of a judge tasked with interpreting the Constitution. As he emphasized in a response to a question from Senator SESSIONS:

Any interpretation of the Constitution must begin with the document's text, history, structure, and purpose, as well as judicial precedent . . . [A] fundamental qualification for anyone being considered for a judicial appointment is that he or she understand the Constitution has binding force that must be applied faithfully in cases that come before any court, independent of his or her own policy or preferences.

So, again, I thank Senator KAUFMAN. He is one of the most valued members of the Judiciary Committee and somebody I am going to miss sorely when he retires this year. I thank him for his dogged efforts in support of Professor Schroeder's nomination and for his assistance in managing the debate so well today.

I congratulate Professor Schroeder and his family on his confirmation. I have every confidence he will be an effective and devoted public servant.

I might note—I see the distinguished Senator from North Carolina, who is presiding over the Senate today. Among the 25 judicial nominees stalled before a final Senate vote, there were two courts of appeal nominees for North Carolina. I know the distinguished Presiding Officer took a totally nonpartisan attitude toward recommending these judges and has worked extraordinarily hard, and I hope Judge Wynn and Judge Diaz will soon be allowed by Senate Republicans to be considered and voted on. They are supported by both the distinguished Presiding Officer, Senator HAGAN, and the other distinguished Senator from North Carolina, Senator BURR. So they are supported by a Democrat and a Republican.

Incidentally, Judge Wynn was reported out of the committee 18 to 1. Most of us would love to win elections by that kind of a margin. Judge Diaz was reported unanimously 3 months ago.

So let's stop this unprecedented kind of stalling and clear these 25 judicial nominees.

I see nobody else seeking recognition.

Madam President, I ask unanimous consent that at 2:15 p.m. today, the Senate proceed to vote on confirmation of the nomination of Christopher Schroeder, with the time until then equally divided and controlled as previously ordered; further, that any other provisions of the previous order with respect to the nomination remain in effect.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEMIEUX. I ask to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida is recognized.

FINANCIAL REGULATORY REFORM

Mr. LEMIEUX. Madam President, I come to the floor of the Senate today to talk about the issue of financial regulatory reform, an issue that is consuming the good efforts and time of many of our colleagues in the Senate. It is an issue that is very important to the future economic health and viability of this country.

As we go about our lives, even in this difficult economy, I think it is easy to forget how bad things were just a couple of years ago, how bad things were in the fall of 2008. It is important for us to remember the situation that we were put in, where our stock market fell precipitously, where our financial institutions were on the verge of collapse, where the Congress was forced to step in to give billions of dollars of taxpayer money to save the financial institutions, to avoid what was perceived at the time to be a situation as dire as that which happened in the late 1920s when the Great Depression started.

It is important for us to remember that terrible, challenging time as we evaluate what we should do now to prevent that time from happening again. We should be looking back to the causes of that crisis in order to figure out the solutions we should impose today.

There has been good work done among Members of both sides of the aisle. Senators DODD, SHELBY, CORKER, and others on the Banking and Finance Committee have been working overtime to come forward with a piece of legislation that will help put us in a situation where we will no longer have companies too big to fail which could have us going back to the American taxpayer to bail out Wall Street to save our financial institutions. We should never be put in that position again, so I commend the work that is being done. I am hopeful we will have a bipartisan product.

There are pieces of this legislation as it is currently constructed which give me concern; that they would cause a bailout to again be a situation that the Congress has to address gives me great concern. There is particular legislation as part of this package which would set up a fund of \$50 billion with certain companies designated as too big to fail. I think that is a wrong strategy. I think, therefore, we are guaranteeing future bailouts. We are saying to these companies: You are too big to fail. The Federal Government is giving you its stamp of approval. We will come in and rescue you with taxpayer dollars—or shareholder dollars, for that case.

I think that creates the wrong incentive. I think it promotes risky behavior

and at the same time creates an unfair playing field for those institutions which have played by the rules, which have had sound financial management. We should not forget in this debate and discussion that the way business is supposed to work in this country is you put together a venture to sell a product or a service. If you succeed, you have a profit. If you fail, you go out of business. The failures of the American economic system are in many ways just as important as the successes.

Where would we be if technologies that proved to be failures were subsidized and preventing better technologies from coming forward? That doesn't make any sense for consumers. It doesn't make any sense for the American way of life. We need to make sure businesses can fail if they do not succeed.

We have a system of bankruptcy in this country that is admired around the world that, in an orderly way, takes companies into its procedures and either reorganizes them or liquidates them. That should be the way the process works. We do not want to continue to support bad businesses with bad practices and bad ideas. We want the good businesses to succeed, and we certainly do not want to create a playing field where the businesses that run the right way are at a disadvantage. So I have problems with that portion of the bill.

There are other portions of the bill with which I have trouble. Certainly, we should not be in a situation of more taxpayer bailouts or even shareholder bailouts.

I wish to talk today about the causes of the prior crisis and what this bill needs to do to make sure that crisis does not happen again. If we go back to 2007–2008, we can see in hindsight what led to this financial meltdown. In a State such as mine, Florida, we have been particularly impacted by the meltdown that occurred because the basis of this meltdown was residential property and the mortgages that went along with that property.

In a State such as mine, in Florida, we have been very fortunate over the past 30 years or so because as we have had slowdowns in our real estate economy—which is a main driver of the economy in Florida, construction of real estate—other parts of the market have been able to step in and succeed when real estate construction fell back. Never before, until this most recent crisis, was the financial market wedded with the real estate market.

Let's look back at the circumstances that occurred. Sometime during the early 2000s, a process started whereby banks and lending institutions would give mortgages to people who did not have the ability, in all honesty, to afford the home they were purchasing. There was a type of loan in Florida, and I am sure in other parts of the country, called the Ninja loan—no income, no job. Why would any lending institution give you a loan if you were

not creditworthy in order to obtain that loan.

I had the opportunity to purchase my first home back in 1995. When I did, I could only put down 15 percent. My bank required me to get mortgage insurance in order to make it to the 20 percent deposit requirement. That was the way it was in this country. There was a time when you tried to obtain a mortgage where the bank was very vested in you being able to pay because they were holding the note.

Sometime in the early 2000s, the process started whereby mortgage brokers and banks could sell off your mortgage into the marketplace because we started to securitize mortgages, make mortgages trading instruments. When that happened and when now the mortgage broker or the bank that generates a fee from the writing of the mortgage of itself can take that mortgage and send it off, sell it off to somebody else, we created a bad incentive.

The bad incentive was, I don't care about the creditworthiness of the person to whom I am loaning the money because I no longer have to hold the mortgage. So the creation of these instruments, these securitized instruments to trade mortgages created that bad incentive, and all of a sudden mortgages were being written to people who otherwise did not have the credit and didn't have the likelihood of repaying them.

What did that do? Easier money meant prices became inflated. Most folks in Florida and all around this country did not look at the price of the home they were purchasing, they looked at their monthly payment. Interest rates were extremely low, money was easy to get, a downpayment was no longer a requirement. This helped the building business, the home construction business to take off—more homes, more mortgages.

The financial markets on Wall Street found that putting together these mortgage-backed securities, these large trading instruments with thousands, tens of thousands of mortgages, was very profitable for them. They could trade these back and forth and they, too, could receive a commission on the sale of these products. That made them money. Guess what. They were not responsible if they went under either.

In order for all of this to work, someone had to vouch for the worthiness of these large mortgage-backed securities, these trading instruments of mortgages. Wall Street looked, as it always has looked, to these rating agencies such as S&P, Moody's, Fitch—and guess what. They came along and allegedly looked at these products and stamped them as being AAA, the highest level of creditworthiness, very unlikely to have any problems with them where the person who purchased some kind of instrument on them would not get paid let alone lose their investment.

The challenge was that the rating agencies did not understand the mortgages that were in these products. They didn't do the due diligence, and we protect them by Federal law from any recourse. They didn't have any skin in the game either.

So now we have the borrower with no skin in the game because they didn't have to put anything down on their house—they are basically renting. We have the bank and mortgage broker with no skin in the game because they don't have to hold the mortgage on their books. We have the financial firms with no skin in the game because they are just trading these large securitized instruments, and worse still they create what they call synthetic agreements where you do not have to hold any of these mortgages yourself. You are just creating sort of a shadow trading instrument that trades off of the same underlying mortgage when, in fact, it doesn't hold them. It is like me betting that your house will burn down without me having an interest in your house.

We created this long chain of people in the marketplace, from the borrower to the mortgage broker bank to the financial institution to the rating agency, who had no skin in the game on these transactions. The sale of these market-backed securities, and later the credit default swaps which was the insurance policies against them, created huge fees for the financial firms.

We did, for the first time in this history, something we had never done before. We put the prime asset of most Americans—their home—in play on Wall Street. Year after year the demand for these mortgages drove the excess. More and more, poorer and poorer mortgages went to feed the beast on Wall Street. At the end of the day, the housing market couldn't sustain itself, and when the mortgages started to fail, when people started to not be able to make their payments, when the increase in property prices could not increase any more because gravity affects everything after a while, the whole system in 2007 and then 2008 began to fall apart, and we found out that companies such as AIG were all entangled in buying and selling insurance products on these products; that they had huge exposures, that Wall Street banks had \$5, \$10, \$15 billion or more in exposure and some of the biggest institutions that we know from Wall Street failed—at first bought up by other companies and then ultimately bailed out by you, the taxpayer. I go through this history and explain it in the best way I know how. It is a very complicated topic, because what we do in this reform bill has to address the skin-in-the-game problem. So to my friends, Senator DODD, Senator SHELBY, Senator CORKER, Senator WARNER, and others, who are in the midst of negotiating the bill that will come to this floor, I have made three suggestions as to what we need to do to make sure we do not replicate this problem again.

First, these rating agencies, which are captive to the investment banks whose products they rate, can no longer be held harmless to not do the due diligence required and stamp AAA on products they do not investigate and do not understand. But for these rating agencies, this crisis probably would not have happened. But for them, but for the imprimatur of their AAA stamp, people would not have slept well at night buying a product they did not understand. It is like Consumer Reports. Consumer Reports says, this is a great car. It is safe. You as a consumer do not understand the modern workings of a car with all of its computer technology, but you buy Consumer Reports, and you read it. It tells you this is the safest car in America, so you feel safe putting your wife and your kids in that car.

But you did not know under this circumstance that the very rating agencies that were rating these products, one, were not doing any due diligence, and, two, were being paid by the investment banks whose products they were rating. That has got to change.

Suggestion No. 2. In terms of residential mortgage underwriting, if a broker or bank is going to write some exotic-type mortgage where there is little to nothing down, then they should be required to maintain a portion of those mortgages on their books. Let them bear the risk. Do not let the bank shift it off so it can become securitized in the marketplace, entangle all of our financial institutions, and put us, the taxpayer, at risk. If we make those banks hold some of these nontraditional mortgages, I guarantee you they will do a better job of making sure the people they are lending money to are good creditworthy investments for them.

The third suggestion is this: The issuers of securitization, including these synthetic—which basically means manufactured, not real—collateralized debt obligations also should be required to retain a substantial stake of the instruments they market. They have to have skin in the game as well, so that if these instruments fail, they are going to lose money.

We have got to understand, not only in this discussion but throughout the problems we address, the incentives we are creating. We cannot have a financial market system whereby there is no exposure to me in any part of the equation, because that is going to encourage bad behavior. It is the same reason why we got it wrong on health care reform. Because as long as we have third-party payers, Medicare and Medicaid insurance companies, we, the consumers, have little interest in the cost we are paying. Therefore, costs do not go down.

It is the same brewing problem we are going to have when a recent statistic says that 47 percent of Americans do not pay taxes. If 47 percent of Americans do not pay taxes, do they

actually care if the U.S. Government does a good job of spending money effectively and efficiently? The incentive is for them not to care, because it is not their money.

We have got to address this issue today in the financial markets, and tomorrow in all of the legislation we pass.

Americans, banks, consumers, in all forms, whether we are buying health care services or financial products, whether we are buying a home or trading on Wall Street, we have to have skin in the game, or we create bad incentives that harm our country.

With that, I conclude my remarks and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

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

DERIVATIVES

Mr. BROWN of Ohio. I know the Democrats are a bit shorter than that in time. If a Republican comes, I will yield the floor more quickly if they ask.

I only have a couple of things I want to say. I just came earlier from the Agriculture Committee meeting where we passed legislation, bipartisanship, to regulate derivatives. It was a major step in financial reform. The discussion was vigorous, the discussion was not contentious, but there was a good bit of disagreement. But in the end, the committee voted bipartisanship for stronger derivative legislation. It will provide financial stability by requiring banks to put capital behind their trades. It will use transparency and accountability to prevent Wall Street banks from taking advantage of their business customers. It will reduce speculation that fuels bubbles in markets such as natural gas and mortgages.

We understand derivatives can be used responsibly by businesses to hedge commercial risk. But commercial businesses make up a relatively small part of the derivatives business. It used to make up a much larger part. A lot of the synthetics, CDOs, and other derivatives have become way more commonplace and, parenthetically but importantly, put us in the position that we are in as a nation in our economy.

I commend Senator LINCOLN for her advocacy and leadership in voting out a strong derivatives regulation. The reason this is so important is we know what happened because of Wall Street excess. What happened is some homeowners in Bryan, OH, lost their homes. We know that retirees in Ravenna, OH,

lost a good bit of their wealth. We know that workers in Dayton, OH, lost their jobs. That is repeated in Charlotte, and Raleigh, and Asheville, NC. It is true in Marietta and Cleveland and Bedford, OH, that because of Wall Street excesses, too many people lost their homes, lost their wealth, lost their retirement, lost their jobs.

This legislation today, coupled with Senator DODD's legislation coming out of Banking, was bipartisanship passed. It will move us in the right direction. It was bipartisan but not a compromise of Wall Street. When bipartisanship means bring Wall Street to the table to write the legislation, that is not what the American people want. What bipartisanship means is that our committee writes strong language and Republicans and Democrats, at least one Republican and Democrats, come together. That is what we ought to do. That is the direction we should go. That is what responsible governing is all about.

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

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

The bill clerk proceeded to call the roll.

Mr. BARRASSO. 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 question is, Will the Senate advise and consent to the nomination of Christopher H. Schroeder, of North Carolina, to be an Assistant Attorney General?

Mr. BARRASSO. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. 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 Tennessee (Mr. ALEXANDER), the Senator from Utah (Mr. BENNETT), and the Senator from Nebraska (Mr. JOHANNIS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

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

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 121 Ex.]

YEAS—72

Akaka	Cardin	Franken
Baucus	Carper	Gillibrand
Bayh	Casey	Graham
Begich	Collins	Grassley
Bennet	Conrad	Hagan
Bingaman	Corker	Harkin
Boxer	Dodd	Hatch
Brown (MA)	Dorgan	Inouye
Brown (OH)	Durbin	Johnson
Burris	Feingold	Kaufman
Cantwell	Feinstein	Kerry

Klobuchar	Merkley	Shaheen
Kohl	Mikulski	Shelby
Kyl	Murkowski	Snowe
Landrieu	Murray	Specter
Lautenberg	Nelson (NE)	Stabenow
Leahy	Nelson (FL)	Tester
LeMieux	Pryor	Udall (CO)
Levin	Reed	Udall (NM)
Lieberman	Reid	Voivovich
Lincoln	Rockefeller	Warner
Lugar	Sanders	Webb
McCaskill	Schumer	Whitehouse
Menendez	Sessions	Wyden

NAYS—24

Barrasso	Cornyn	Isakson
Bond	Crapo	McCain
Brownback	DeMint	McConnell
Bunning	Ensign	Risch
Burr	Enzi	Roberts
Chambliss	Gregg	Thune
Coburn	Hutchison	Vitter
Cochran	Inhofe	Wicker

NOT VOTING—4

Alexander	Byrd
Bennett	Johanns

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, a motion to consider is considered made and laid upon the table.

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

THOMAS I. VANASKIE TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

The ACTING PRESIDENT pro tempore. The clerk will report the next nomination.

The legislative clerk read the nomination of Thomas I. Vanaskie, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 3 hours of debate on this nomination. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, the Senate just devoted more than 3 hours to the nomination of Chris Schroeder. I am glad that after many months the Senate has finally been allowed to act on that nomination and gratified that he received a bipartisan confirmation vote. After months of delay no Republican came to the Senate to speak in opposition to the nomination in the 3 hours that Republicans insisted be set aside to debate it. Senator KAUFMAN spoke in favor; I spoke in favor. Not a single opponent came to debate. That wasted more of the Senate's time when we should be considering other matters. We could be debating Wall Street reform, patent reform, or clearing the way for some of the other 100 Presidential nominations being stalled. We should have been.

With respect to the President's judicial nominees, we are well behind the pace I set as chairman when the Senate was considering President Bush's nominees during the second year of his Presidency. By this date in President Bush's second year, the Senate, with a Democratic majority, had moved ahead to confirm 45 of his Federal circuit and district court judges. So far during President Obama's Presidency, Senate

Republicans have only allowed votes on 18 of his Federal circuit and district court nominations. During the first 2 years of President Bush's Presidency we moved forward to confirm 100 of his judicial nominees. Republican obstruction of President Obama's nominations makes it unlikely that the Senate will reach 50 such confirmations. Last year they allowed only 12 Federal circuit and district court nominees to be confirmed, the lowest number in more than 50 years.

Today, thanks to the perseverance of the majority leader and the Senators from Pennsylvania, we will consider and I hope confirm the 19th of President Obama's Federal circuit and district court nominees, Judge Thomas Vanaskie. It has been more than 4 months since Judge Thomas Vanaskie's nomination to fill a judicial emergency on the U.S. Court of Appeals for the Third Circuit was reported favorably by the Judiciary Committee with strong bipartisan support. His nomination has the support of both of his home State Senators, Senator SPECTER and Senator CASEY. He has more than 15 years of Federal judicial experience having served as a district court judge in Pennsylvania since 1994. The American Bar Association Standing Committee on the Federal Judiciary has unanimously rated him well qualified to serve as a circuit judge on third circuit. His nomination is not controversial. Yet, it has taken months to get consent from the other side for an up-or-down vote on Judge Vanaskie's nomination and that did not occur until the majority leader was forced to file cloture to end the stalling. Judge Vanaskie is one of the 25 judicial nominees still being stalled from final Senate consideration.

I appreciate the significant steps taken by the majority leader to address the crisis created by Senate Republican obstruction of the Senate's advice and consent responsibilities. Their refusal to promptly consider even the most noncontroversial nominations is a dramatic departure from the Senate's traditional practice of prompt and routine consideration of noncontroversial nominees. The majority leader's decision to file cloture was an unfortunate but necessary step, resulting from Senate Republicans' refusal month after month to join agreements to consider, debate and vote on this nomination. Those practices have obstructed Senate action and led to the backlog of almost 100 nominations pending before the Senate, awaiting final action. These are all nominations favorably reported by the committees of jurisdiction. Most are nominations that were reported without opposition or with a small minority of negative votes. Regrettably, this has been an ongoing Republican strategy and practice during President Obama's Presidency.

The vote on the confirmation of Judge Vanaskie's nomination is the first vote on judicial nominations that

the Senate will hold in 5 weeks. Despite the dozens of judicial nominations ready for Senate consideration, none has been allowed to move forward for over a month to fill longstanding vacancies in the Federal courts. Of the 25 pending judicial nominations, 18 were reported from the Senate Judiciary Committee without any Republican Senator voting against. I have been urging the Senate Republican leadership for months to allow votes on these noncontroversial nominations and to enter into time agreements to debate the others. We need to clear the backlog of nominations and move forward.

I am pleased that the Senate tomorrow will consider another judicial nomination, that of Judge Denny Chin to the Second Circuit Court of Appeals. His nomination was reported by the Judiciary Committee unanimously, but it has also been stalled from Senate consideration for more than 4 months. Senate Republicans should lift their secret holds and also allow votes on the remaining 23 judicial nominations currently pending final action by the Senate. If we are allowed to act on the judicial nominations reported favorably by the Senate Judiciary Committee but on which Senate Republicans are preventing Senate action, we will more than double the number of judicial nominations confirmed by the Senate this Congress, and bring the number of confirmations in line with the number we confirmed at this point during President Bush's first two years in office.

Judicial vacancies have skyrocketed to over 100, more than 40 of which have been designated "judicial emergencies." Caseloads and backlogs continue to grow while vacancies are left open longer and longer. On this date in President Bush's first term, not only had the Senate confirmed 45 Federal district and circuit court judges but there were just seven judicial nominations on the calendar. All seven were confirmed within 9 days. By the end of this month, which is nine days from now, we should clear the backlog that Republican obstruction has created and vote on the judicial nominations stalled on the Senate Executive Calendar.

By this date during President Bush's first term, circuit court nominations had waited less than a week, on average, before being voted on and confirmed. By contrast, currently stalled by Senate Republicans are circuit court nominees reported by the Judiciary Committee 5 months ago, in November of last year. The seven circuit court nominees the Senate has been allowed to consider so far have waited an average of 124 days after being reported before being allowed to be considered and confirmed.

Judge Vanaskie was born and raised in Shamokin, PA. He is one of seven children raised by two working parents. He graduated magna cum laude from Lycoming College in 1975 and cum

laude from Dickinson School of Law in 1978, where he was an editor of the law review. After law school, he spent 2 years as a law clerk to the Honorable William J. Nealon, then Chief Judge of the United States District Court for the Middle District of Pennsylvania. Prior to joining the Federal bench, Judge Vanaskie spent 14 years in private practice.

In 1994, Judge Vanaskie was confirmed by voice vote to serve as a United States District Court Judge for the Middle District of Pennsylvania. He served as the Chief Judge of the Middle District from 1999 to 2006, and has sat by designation with the Third Circuit Court of Appeals on several occasions. He has also served as cochair of the Third Circuit Library Resources Task Force and as a member of the Board of Directors of the Federal Judges Association. He is presently the chair of the Third Circuit Judicial Council's Information Technology Committee. His work in the area of technology in the courtroom has won him widespread admiration and appreciation.

I congratulate Judge Vanaskie and his family on what I expect will be strong bipartisan vote in favor of his confirmation to serve on the Third Circuit. It is long overdue.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

NOMINEES JIM WYNN AND AL DIAZ

Mrs. HAGAN. Mr. President, there are two judicial nominees on the calendar from North Carolina who I believe would be confirmed by this body overwhelmingly. Judges Jim Wynn and Al Diaz, nominees for the Fourth Circuit Court of Appeals, were both approved by the Senate Judiciary Committee in January. Judge Diaz had the vote of every single member of the committee, and just one Senator opposed Judge Wynn.

The reality of this situation, though, is that North Carolina has been waiting for one of these judges since 1994. That is 1994. Since then, there has been only one judge from North Carolina on the 15-judge panel of the Fourth Circuit Court of Appeals, even though North Carolina is the largest and fastest growing of the five States in the Fourth Circuit. Partisan bickering has continually blocked qualified North Carolinians from confirmation since the court's establishment back in 1891.

But in consultation with both me and Senator BURR, the President has appointed two highly qualified, experienced, and fairminded North Carolina judges: Al Diaz and Jim Wynn. Judge Diaz, of Charlotte, a Business Court judge, handles extremely complex business cases. Before that, he was a State superior court judge. Judge Wynn, of Cary, is a 19-year veteran of the North Carolina Court of Appeals and formerly served on the North Carolina Supreme Court. The American Bar Association has given them both its highest possible rating. They both have served our country in the military. They have the

support of Democrats and Republicans, including my North Carolina Senate colleague, Senator RICHARD BURR. They have no real opposition that I am aware of.

Finally, we have not one but two qualified and bipartisan choices to serve North Carolina and our country on the Fourth Circuit. I am hopeful that we are close to confirming these two outstanding nominees for the Fourth Circuit. I will continue working with my colleagues to ensure they are confirmed as swiftly as possible.

I yield the floor.

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

Mr. CASEY. Mr. President, I rise today to speak about the nomination we are considering in the next few hours, which is the nomination of Judge Thomas I. Vanaskie.

I can't tell you how proud I am to talk about his nomination. I have known him for a long time. I think it goes without saying that—and I join a lot of people who have spoken about him already and know him—I strongly support his nomination and confirmation for a seat on the United States Court of Appeals for the Third Circuit. Tom Vanaskie is a legal scholar, he is fair minded, and he has unquestioned integrity and ability. He is an experienced Federal judge since his appointment in 1994. On top of all that, he is a decent, compassionate man.

The Standing Committee on the Federal Judiciary of the American Bar Association has unanimously rated Judge Vanaskie well qualified to serve as a judge on the United States Court of Appeals for the Third Circuit.

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

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

After graduating from law school, Judge Vanaskie served as a law clerk for Judge William J. Nealon, chief judge at the time of the U.S. District Court for the Middle District of Pennsylvania.

Judge Vanaskie practiced law for two highly regarded Pennsylvania law firms before his appointment to the United States District Court for the Middle District of Pennsylvania in 1994. He became the Middle District's chief

judge 5 years later, in 1999, and completed his 7-year term in that capacity in 2006.

He was appointed by Chief Justice Rehnquist to the Information Technology Committee of the Judicial Conference of the United States, where he served as chairman for 3 years. He also participated in several working groups at the Administrative Office of the U.S. Courts, most recently on the Future of District CM/ECF Working Group, tasked with determining the design and development of the next generation of the Federal judiciary's electronic case filing program.

Finally, he is an adjunct professor at Dickinson School of Law and has been active in civic and charitable endeavors in northeastern Pennsylvania. Like me, he is a northeastern Pennsylvania native and resident.

Just a few accolades about his service from a wide variety of people. We could read a number of these. I will highlight a few: Lawyers who have appeared before Judge Vanaskie have expressed tremendous respect for his intellectual rigor and the disciplined attention he brings to the matters before him.

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

A U.S. district court judge, William J. Nealon, for whom he clerked, described him as follows:

Superbly qualified. He's outstanding, he's brilliant, he's objective, and he's tireless.

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

For all these reasons and many others, I am proud to stand in support of Judge Vanaskie and urge his confirmation today.

With that, I ask unanimous consent that all quorum calls during the controlled time on the Vanaskie nomination be equally divided.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

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

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

The assistant bill clerk proceeded to call the roll.

Mr. CASEY. 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.

Mr. CASEY. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

FINANCIAL REGULATORY REFORM

Mr. CASEY. Mr. President, I rise today to talk about a major issue that will be before the Senate very shortly, and which we have spent some time on in the Agriculture, Nutrition and Forestry Committee over many weeks and days, but most recently today in a markup. I will talk about that in a couple moments.

It is time that the Senate, in the next couple of days and weeks, focuses on passing comprehensive reform measures that will put an end to Wall Street's reckless endangerment of our economic system. For too long—in fact, for many years now—we have allowed this system to be in place, where high-risk deals were cut on Wall Street. Some people made a lot of money, but our economy went into the ditch because of it.

It wasn't always like that. For decades following the Great Depression, we enjoyed a financial system that worked—worked for American families and small businesses. It is pretty simple when you think about it, and it has been successful at the same time. Local banks, operating in communities across the Nation, took deposits and made loans for homes, cars, or businesses. People knew their bankers and their bankers knew them. Each party was invested in the success of the other. During this time, our economy thrived. It experienced prolonged growth and innovation. These benefits were felt across the board by people across our economy and our country.

Let's contrast that period of growth and shared prosperity with what has happened in the last few years, and even over the last 30 years. This most recent period can be characterized by the massive growth of the financial sector.

In 1978, commercial banks held \$1.2 trillion in assets, equivalent to 53 percent of gross domestic product. By the end of 2007, that same measurement, what commercial banks held in assets, had grown to \$11.8 trillion or 84 percent of gross domestic product. So the percentage went from 53 to 84, and the number went from \$1.2 trillion to \$11.8 trillion in assets. Unlike the preceding period, this growth was not spread across the real economy to households and businesses. Instead, it was explicitly shifted away from families and communities and concentrated on Wall Street.

The impact of this concentration has been acute. People used to rely on local institutions, but they now face a financial service marketplace dominated by a few banks with retail outposts sprinkled across the country.

Instead of supporting small businesses, little league teams, or families, as did their local predecessors, these megabanks gather deposits from Main Street and then slice and dice them and leverage them to the hilt and use the hard-earned wages and savings of Americans to make a handful of people very rich.

Make no mistake about it, the megabanks profited tremendously from this new model. Over the last 30 years, profits and compensation in the banking industry have skyrocketed. From 1948 to 1979, the average compensation in the banking sector was more or less the same as any other job in the private sector. Today, bankers earn, on average, two times what other private sector employees take home.

Simply stated, American families and small businesses are no longer the customer in this broken system. Instead, these institutions function to make wealth for themselves and their stockholders.

A clear example of this can be found in recent news stories detailing the record profits of these megabanks—record profits in a time of historically high unemployment and a bad economy. These profits were not made through savvy lending to their customers. In fact, in the case of JPMorgan Chase, Citigroup, and Bank of America—three of our largest megabanks—they have cut lending through a key Small Business Administration lending program by between 85 and 90 percent from 1 year to the next.

These multibillion dollar profits have been made through high-risk trading operations with money deposited by families and businesses. The banks are expecting people in our communities to shoulder all of the risk, while getting none of the upside.

Something has to give in this situation. These megabanks, these big companies, are entitled to make profits, but we will no longer allow them to continue to use the federally insured deposits of working people as capital for their money-making schemes. We need commonsense rules that separate conventional commercial banking operations from high-risk financial gambles.

In no area is this need for reform more apparent than in the so-called derivatives market. A derivative is a high-risk bet that the value of another financial instrument, or commodity, or other product will go up or down. It is a bet. For years, Wall Street fought and won the battle to keep derivatives unregulated. In this highly unregulated market, Wall Street could place bets on bets, without backing them up. Therefore, when the underlying weakness of assets became apparent, the derivatives market went bust—along with it, the Wall Street banks playing in the market, causing the need for the massive bailout of these institutions.

To prevent another catastrophe, we need a strong regulation of the derivatives market. Today, the Senate com-

mittee of which I am a member, the Committee on Agriculture, Nutrition and Forestry, had a markup session. What we are talking about is members of the committee talking on amendments and then voting for final passage of the bill out of committee. That is a markup. We had that markup session today on the Wall Street Transparency and Accountability Act of 2010.

I applaud our chairwoman, Senator LINCOLN, for her work on putting forth a bill that cracks down on the reckless activities of Wall Street. I also commend her and other members of the committee for reporting it out of committee so we can incorporate it into the Banking Committee bill we will be considering on the floor soon.

The Wall Street Transparency and Accountability Act of 2010 will add those two important words to our financial system, both transparency and accountability. In particular, it will impose it on the derivatives market, No. 1, by requiring that derivative transactions—most of them—be cleared through a central clearinghouse; second, require real-time reporting, similar to a stock exchange, of the transactions that parties are entering into.

Besides a more transparent market, the most important provision in this bill is the requirement that commercial banks that have FDIC-insured accounts can no longer trade on the derivatives market. This provision will force commercial banks to refocus on what should be their No. 1 priority—the customer—instead of just profits and their own stockholders.

Our current financial system is broken and no longer works for families and small businesses. When I travel across the Commonwealth of Pennsylvania, I often hear about the financial difficulties people are experiencing. We have close to record-high unemployment, 582,000 people out of work. A lot of people lost their jobs or their homes or both, and, in so many ways, their hopes and their dreams. Then they read in the paper every day it seems about record profits of these big megabanks.

They think: What about me and my family? Why can't I get a loan? They will ask people like me: Why is the interest rate being raised on my credit card? Questions such as these have persisted for so long now. Did we not bail out these megabanks on Wall Street already so they can continue to lend money to people like me or their customers? Those are the questions I get.

The answers to each of these questions are the same. These institutions have failed the American people. It is that simple. By extension, they have helped to collapse our economy. Thank goodness we are starting to turn, seeing some job growth in our economy. But we need financial institutions that focus on the needs of our families and our small businesses once again.

Senator LINCOLN's bill is a step in the right direction. We are not there yet. With that bill and with the work we will do on the Banking Committee bill,

we can begin to restore not only transparency and accountability and sunlight, but I believe we can restore some measure of confidence in our financial system and make it work better for real people, for families, and for small businesses and also to strengthen our economy.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

FINANCIAL REGULATORY REFORM

Mr. DODD. Mr. President, I wish to take a few minutes this afternoon, if I may, to discuss further the efforts in financial regulatory reform.

I would be remiss if I did not note the contribution of the Presiding Officer to this effort. I thank him personally once again. He is a member of the Banking Committee and has expressed strong interest in this legislation and various parts of it, and I thank him for it.

Today I wish to talk about aspects of the bill. I have been talking about this bill on the floor over the last several days, issues such as too big to fail, which we aggressively address in our legislation. I talked about the efforts that have been made to try to forge a comprehensive bill, a strong bill. We have involved, we have invited virtually everyone interested to participate in the product. I am proud to say many did offer their ideas and thoughts as we tried to develop a proposal that was not only strong and broad based but attracted, again, a strong group of our colleagues, both Democrats and Republicans, to this effort.

Over the days, we have spent a lot of time discussing the impact of Wall Street reform on large financial firms, big banks, investment banks, nonbanks, corporate executives, Federal regulators, and other power players in the financial sector—that has been the subject of a great deal of attention—and the complicated subject matters of derivatives—how they work, how they apply—shadow economies, black pools, systemic risk—all this language and discussion that sometimes can leave the average citizen feeling as though we are talking in a foreign language about these matters.

The question they ask is: How does this affect me? I am glad you are going to try to clean this up, but what is happening with all of this that has some positive impact on my life as a taxpayer, as a working American? I would like to know what is being done to see to it that my interests are going to be considered as you are trying to resolve all of these larger questions that somehow seem very distant to my concerns every day.

Today I wish to take a few minutes to talk about the impact of this legis-

lation on millions and millions of our fellow citizens who are not financial wizards—and would be the first to tell you so—they are not big wigs on Wall Street, major players in large banks and financial institutions. They are people just trying to build a nest egg for their families, invest in their futures, maybe take a loan out to buy an automobile, a home, send a child to college because that child has done everything they have asked them to do over the years and now wants to go on to that educational opportunity and needs the resources to do so.

The stories are myriad. There are many. The demands are obviously clear. Unfortunately, as we know and many Americans found out the hard way over the last few years, our current financial system leaves consumers too often vulnerable to being deceived into purchasing risky products, if not outright ripped off by greedy Wall Street firms and others. After all, at the heart of the financial crisis that has cost our Nation so dearly were the subprime mortgages sold by unscrupulous lenders to Americans who did not understand their terms and who never, ever could have afforded them, and the lenders knew it. They knew going into it. Yet they lured them into those arrangements, with great damage done to individuals and to the economy as a whole.

Wall Street's unquenchable thirst for profits and utter disregard for ordinary consumers led to a pattern of greed and recklessness that darn near led to creating a complete collapse of our financial markets and our economy. Millions of Americans lost their jobs, around 8.5 million. Seven million homes have gone into foreclosure, many lost forever. Retirement earnings, as I have said over and over, evaporated in some cases almost instantaneously as a result of the collapse of our economy. Maybe more important than all of that—as hard as it is if you lost your home, your job, your health care—is they lost their faith and sense of optimism and confidence in our financial system in this country, that loss of confidence, that loss of optimism, that loss of belief that while you may make a bad bet on a stock, the system was sound and fair. It would treat you fairly, and you were not going to get hurt because we had a good system in place. That confidence, that faith has been lost. That may be more important than everything else I have mentioned in terms of the future strength of our economy and our country.

To add insult to injury, those same Americans then saw those same firms collecting billion-dollar bailouts at the expense of the taxpayer—and paying million-dollar bonuses to the same executives whose bad decisions put us in the mess in the first place and who would have been out of a job had the bailout not occurred.

The bailout allowed those financial institutions to survive and their ex-

pression of gratitude was to write themselves a huge bonus check and being able to do so only because in this Chamber we voted 75 to 24 to stabilize our financial system—a decision I believe was the right one. I think we made the right call in doing it, as difficult as it was. But at the end of all that, major executives in these companies then rewarded themselves as the head of these institutions because we—mostly the taxpayers, by the way—came up with the resources to make it possible for those institutions to survive.

So the American people are angry and with good reason. But they are also wondering: Who is looking out for us? Whose job is it to make sure this doesn't happen again? While our current system pays lip service to consumer protection, those responsibilities are divided among some seven different regulators for whom consumer protection is just an afterthought, in too many cases, to their primary safety and soundness missions that they are responsible for as well. The result is, regulators put the interests of banks and large financial institutions, in too many cases, before the interests of the consumers who rely on those institutions for their long-term economic security.

If this sounds like a recipe for failure, that is because it is. Assistant Secretary of the Treasury Michael Barr testified before our Banking Committee not long ago, and he said:

Today's consumer protection regime just experienced massive failure. It could not stem a plague of abusive and unaffordable mortgages and exploitative credit cards despite clear warning signs. It cost millions of responsible consumers their homes, their savings, and their dignity. And it contributed to the near collapse of our financial system. We did not have just a financial crisis, we had a consumer crisis.

That massive failure could happen again. Today, we are in no different position than we were in 2007, 2008, and 2009. Nothing has changed. Yet we are on the brink of creating change that could make a difference in this very area. So today those massive failures are still lurking out there, and the same consumers who lost their homes, lost their jobs, lost their retirement, lost their health care are in no different position should another crisis happen tonight or tomorrow. It is exactly the same system, exactly the same structure, exactly the same so-called regulators out there charged with protecting consumers from the kinds of problems that led us to the difficulties we are in today. Again, the financial products and practices being devised on Wall Street, even as we speak, will make it even more difficult in many ways. Are they safe? Are they exploitative? We have no idea, and neither do the American people because no one is looking out for them at this juncture.

Our legislation answers the question of who is looking out for ordinary Americans when they interact with our

financial systems. The bill we will present to our colleagues in just a matter of hours in this Chamber creates an independent Consumer Financial Protection Bureau, a watchdog with bark and with bite. This new bureau will not have any job more important than helping American consumers make smart financial decisions—because protecting, educating, and empowering American consumers will be their only job.

This bureau will have an independent Director, appointed by the President and confirmed by the Senate. It will have a dedicated and independent budget paid by the Federal Reserve Board. It will be empowered to write consumer protection rules governing any institution, whether it is a bank or a payday lender that offers consumer financial services or products. It will have a new Office of Financial Literacy to ensure that consumers are able to understand the products and services they are being offered and a national toll-free consumer complaint line so, for the first time, Americans have somewhere to go when they need to report a problem.

When I talk to people back in my home State, they understand it is their responsibility to make smart decisions about their family finances, and nothing in our bill suggests otherwise. That is the first line of defense, so we all bear responsibility to learn more, to pay attention, and to understand the financial arrangements we are getting into. I am not saying anything different. Unlike Wall Street, they are not looking to shirk that responsibility. They welcome that responsibility, but they would like to understand it better. What they need is clear, accurate information so they can make those good decisions and a cop on the beat to stop abusive practices when they occur. That is what our legislation, which will soon be before this body, does.

Our legislation finally puts consumers in control of their financial lives by requiring large financial institutions and credit card companies to tell them what they are selling in plain English so the purchaser doesn't need a master's in business administration to understand. It will finally put an end to the practices that have become almost standard operating procedure—skyrocketing credit card interest rates, the explosion of overdraft fees, predatory lending by mortgage firms, and more.

This Congress has taken steps to address these abusive practices, passing the Credit CARD Act, which was authored by the members of our committee—again, I thank the Presiding Officer for having been a part of that—and forcing large banks to change their overdraft fee policies.

But credit card companies continue to look for ways around the new rules, and history shows them to be pretty good at getting away with it as well.

Between 1997 and 2007—in that decade—credit card companies engaged a

wide variety of, frankly, unethical practices—from so-called double-cycle billing and universal default to retro-active and arbitrary interest rate hikes. In that entire decade—a decade in which literally millions of our fellow citizens were overcharged or outright ripped off by these banks—there were just nine formal enforcement actions taken by the seven regulators in our national government. Let me repeat that. In that entire decade—when nearly every single citizen in this country could talk about one horror story after another, where rates were increased, fees were enlarged, and every gimmick and trick was used to squeeze every last nickel out of a consumer's pocket-book—there were only nine formal enforcement actions taken by the regulators at the national level.

There are stories similar to the one I heard from Mario Livieri of Branford, CT. Mario is a 75-year-old retired homebuilder who accidentally overdrew his account by \$2. I am not making this up. Mario is 75 years old and a small business contractor. He overdrew his account by \$2 and was charged \$35. The bank took several days to notify him that the account was overdrawn. In the meantime, of course, additional minor purchases yielded three additional \$35 fees, for a total of \$140, which Mario Livieri was charged because he was \$2 overdrawn in his banking account.

Unfortunately, that story by this individual in my State can be repeated millions of times all across the country. A \$2 mistake made by a conscientious individual, and one that he was unaware of until notified later, and every subsequent purchase he made brought an additional \$35 fee until he had a bill—before he discovered the mistake—of \$140 because of being \$2 overdrawn. That used to go on all the time, and in too many cases it still does. When Mario protested, the bank waived one of the four \$35 charges, but they told him there was nothing he could do to fight the fees because the practice was perfectly legal.

Then there are the auto dealers that have been shown to take advantage of military servicemembers, the shady payday lenders that prey on minority communities, and a wide range of malicious actors who look to take advantage of American consumers. This bill that will be before this body, which passed out of our committee, puts an end to those abuses, and that is why it is supported by the Military Coalition, civil rights groups, consumer rights groups, and more. It is also why it is opposed by large financial institutions whose business strategies are based too often on taking advantage of their very own customers.

Let me take a moment to put an end to some of the malarkey we have been hearing from the Wall Street crowd. The large banks are paying for ads now claiming that this legislation will impose new restrictions on dentists and butchers and other Main Street mer-

chants. That is not true. You and I know this. But that kind of falsehood that goes out across the country is exactly the kind of propaganda they are determined to engage in to undermine this legislation.

These rules we have crafted apply only to firms engaged in offering consumer financial services or products, not the butcher, not the laundromat, and not the dentist. An entity must be engaged in financial services or products. Just because your butcher lets you keep a tab or your dentist offers a payment plan doesn't mean these new rules apply.

Moreover, this legislation doesn't seek to strangle innovation in the financial sector. Quite the opposite. That innovation is part of what keeps America prosperous. We are not dictating what products can be offered any more than the Consumer Product Safety Commission directs what toy-makers can invent. But just as the Consumer Product Safety Commission watches out for toys that could hurt children, the independent Consumer Financial Protection Bureau will watch out for products that will hurt someone's finances so customers and consumers can make smart decisions.

The large financial institutions have tried to push this notion that this legislation creates an enormous burden on small community banks. Let me address that. How nice of them to look out for their competitors, the ones they have been trying to drum out of business for decades. But the fact is, the small community banks with \$10 billion or less in assets will not see any regulatory changes. They will not be charged any fees or assessments. They will follow the same rules they follow today. Even better, these small community banks will be able to operate on a level playing field without the unfair competition from the underregulated or unregulated shadow banks that don't operate with any rules whatsoever.

So this legislation has many important objectives, from ending taxpayer bailouts to establishing an early warning system so future financial crises can be nipped in the bud before they threaten our entire economic system. But for millions of Americans who don't pay much attention to what goes on, on Wall Street, except when they have to write a check to bail out the firms that live there, perhaps nothing in this bill will impact their lives more directly than the new independent Consumer Financial Protection Bureau. Finally, there will be a cop on the beat watching out for them.

The safety and soundness of our financial institutions are critically important. I am not arguing against that at all. But that is not the only consideration. As this real estate bubble was building up, we were told over and over that the system was safe and sound. Why? Because people were making money. It was growing in profits. What we failed to look at and understand

was it may have been safe and sound from that narrow perspective, but for the consumers who were relying on these financial institutions for their economic security, it was anything but safe and sound. With the establishment of this bureau, for the first time in the history of our country, we are saying that financial products ought to be no different than any other product consumers buy. There ought to be a place where someone can go when they have been deceived or defrauded in the use of these financial products.

If your lawnmower breaks or your car malfunctions, we get all sorts of reports, as recently seen with recalls of products because they are unsafe for a consumer to use. Why shouldn't that also exist if someone is out there purchasing a financial product that could put them in great danger—in fact, bankrupt them and ruin their life because they have been deceived and drawn into a financial arrangement because it was a quick profit-making operation for the lender, but it put the consumer at great risk—and ultimately causes, as we have seen in millions of cases, the ultimate financial ruin of individuals, families, and businesses. Thus, we have established a parity between physical products you may buy and financial products you may engage in.

Finally, Americans will be able to rely on clear and accurate information about their family finances. They will know that someone will be looking out for them. There is no better way to restore faith against the loss of homes, the loss of jobs, the loss of retirement—all of which have occurred—and perhaps the greatest tragedy of all being the loss of faith in our financial system. We need to restore that. The absence of that will not make this get better. Every single other thing we do will not achieve its goal if Americans don't have confidence in our financial systems—the faith that it is there, it is safe; that they can be secure in the knowledge that when they deposit a hard-earned paycheck, when they buy an insurance policy, when they buy a stock, when they engage in financial activity, the structure, the system there is not unfair. It is not out there to deceive them, to defraud them, to take advantage of them, but to see to it they are protected. That is our goal in this bill.

My hope is that my colleagues will allow us to get to this debate. If you have objections or ideas, let's have that full-throated debate that has been the history of this Chamber on important matters that have come before us in the past. We ought not be denied that opportunity again on this bill.

But I wanted to take a moment to talk about the consumer protection efforts on this legislation, and I again compliment my colleague in the chair, the Presiding Officer, because he has been a champion in our short service together on this committee on the very issues I have addressed today, and I

thank him for his commitment and passion for these issues.

I yield the floor, and I see my colleague and friend from Arizona, so I will not note the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, before I begin talking about this bill specifically, I wish to compliment Chairman DODD for the hard work he has put into this matter. I believe it is important for us to reach a bipartisan consensus, and many of the things we just discussed are matters on which we can reach a consensus. That is the goal of Republicans.

I am concerned that there has been some politicization of this issue by many on the other side and, frankly, some in the administration. I know, for example, that Senator CHAMBLISS, a Republican, and Senator LINCOLN, a Democrat, worked very closely together and had virtually, I am told, reached an agreement on the derivative issue as it pertains to the jurisdiction of their Agriculture Committee, only to be told by the White House that was not acceptable and that Chairman LINCOLN needed to go back and redo it the way they wanted it done. As a result, the bill was passed out of the Agriculture Committee on an almost partisan line. The same thing was true of the legislation that came out of the Banking Committee.

While Chairman DODD is here, let me make this point. He suggested this morning that there are Republicans who support this bill, he knows, but that they are being told by Republican leadership that they can't support it. I want to make it clear that our leadership does not operate that way. One reason I know that is because I am one of our leadership. Our members of the Republican caucus think for themselves.

We came to a conclusion unanimously in the Republican conference that the partisan bill that came out of the Banking Committee—and it was partisan; it was written by Democrats, not Republicans, and it was passed on a party-line vote—that bill was not the way to move forward. It was partisan, it was flawed and, among other things, it would provide for perpetual bailouts and therefore didn't achieve the first goal of the legislation, which was to finally end the taxpayer bailouts.

So all 41 of us wrote to the leader and said we will not vote to proceed to that bill because it is a partisan bill. It would be better if we could work together in a bipartisan way to bring a bill to the floor of the Senate that represented not just Republican ideas but a combination of Democratic and Republican ideas that had been negotiated by the members of the Banking Committee, members of the Agriculture Committee, and others. That would ordinarily be the way we would take up a bill here on the Senate floor.

Having said that, I am still confident, based upon what Senator SHEL-

BY and other Republicans on the Banking Committee have said, that it is possible to reach a bipartisan consensus. I know Chairman DODD and Senator SHELBY have been working hard every day on various aspects of the bill to try to reach a conclusion.

The second point I wish to make is that one should not describe the bill that passed out of the Banking Committee as the end of the story, as a successful bill that is going to solve all of these problems. I do not think it will. It does not end taxpayer bailouts, for example, and at a minimum, it seems to me it ought to do that. So in just a few minutes here, I would like to describe some of the things that I think the bill should address and that I hope are being addressed in the bipartisan negotiations.

I am sure it is obvious that it is very difficult—once a bill comes to the floor and you have a chairman and leader supporting the bill, with 59 Senators on their side of the aisle, it is very hard to amend that bill. That is one reason Republicans would like to see a bill brought to the floor that already has bipartisan consensus, and then, yes, we can work our will on the bill and maybe amend it, maybe not, but at least we know it is not going to be a purely partisan proposition.

There has been much attention paid to the \$50 billion fund that is created by this bill. While it is true that the financial institutions, of course, pay the money, supply the money that goes into that fund, we all know where the money eventually is paid—the costs are passed on to the consumers. But that is not the real problem because there are other funds, such as the FDIC fund, for example, which the banks obviously pass on to their consumers in order to have an ability to take care of their expenses to creditors should they not be able to do so.

But what this bill does is not just create this \$50 billion fund but also continuing government obligations beyond that. It provides not an orderly bankruptcy type of procedure for the resolution of a failed company but, rather, an ad hoc procedure determined by bureaucrats who are not accountable to anybody and who can apply pretty much any rule they want to the winding down of the institution.

What does that do? Today—and frankly, it has been this way for two centuries—we have a series of laws that dictate what happens in the event of the failure of a company. Primarily, these are our bankruptcy laws. You know in advance what happens. If you are a company that cannot make it and you go bankrupt, there are two basic ways you can file bankruptcy, one in which you totally liquidate, the other in which you reorganize. In those two situations, the law provides for what happens to your creditors.

By definition, bankruptcy means you cannot pay all your debts. So who gets paid and who doesn't and how much and in what order—all of that is resolved by the bankruptcy laws and by

the laws built up as precedent applied in the bankruptcy courts. That is why you know—when you either lend money to an institution or you invest in it in equity investments, you have an idea of where you stand, where your loan or equity investment stands in the order of priority should the entity fail. For example, a secured creditor would be very high on the list. Security means you have something to fall back on to take from the company if they can't pay their debt to you. As a result, you can lend the money at a lower rate because you don't have to account for that risk when you lend the money. It is a good way for companies to borrow money. Granted, they have to have something that backs it up. Sometimes it is even the personal guarantee of the CEO of the company. But you get a pretty cheap loan if you do that because the lender knows he or she or it is going to get its money back. By the same token, if you need money pretty badly and don't have any more security, you might ask people to invest in your company or to borrow money on an unsecured basis. Well, you are going to get charged a higher rate of interest on that because there is more risk to the investor or to the lender. But in every case, they know where they stand in the event you can't make it or you fold.

What this bill does is substitute an unknown, untested process for the tried-and-true rules of bankruptcy. Nobody is suggesting there could not be some modification of the bankruptcy process or rules that might govern these particular institutions. They are unique institutions in some respects, and to the extent the rules should be tailored in order to fit these circumstances, they could be. But that is not what is done in this legislation. Instead, new entities are created and bureaucrats are allowed to decide when a company could destabilize the markets and therefore decide what to do about it. Their range of options is essentially unlimited. The bottom line is that taxpayers could end up being on the hook for the bailout. That is true with the FDIC, it is true with the Fed, and this legislation has specific language in it that provides for that.

There are those who say: Why don't we just get rid of this \$50 billion fund, and then the problem will go away. No, that problem doesn't go away unless you correct the other language as well.

I will not try to substitute my judgment for that of others who say we need a \$50 billion fund. I will say this: Creating that fund makes it more likely than less that risks will be taken and that therefore there will be instability in the market. I also suspect that those who have an implicit guarantee from the fund are more likely to receive credit, for example, at a lower rate because there is much of an assurance on the part of the lender or the equity investor that they will get their money back. So there are some downsides to having this fund.

But those aside, if you want to do away with the fund, OK. If you want to keep the fund, OK. But what you should not do is provide that beyond that, the taxpayers are on the hook. Here is the problem. Lehman Brothers, I am told, had well over \$600 billion in liabilities, and a \$50 billion fund does not go a long way toward resolving a \$600 billion liability. In the case of Fannie Mae and Freddie Mac, which are not even dealt with in this legislation even though they were the prime causes of the problem—and by the way, that is a deficiency in the law that needs to be corrected. I hope these negotiations will provide something in that regard. But they have now created—it is about \$6.3 trillion in obligations. Guess who is on the hook for those obligations. Congress never passed a law that said the taxpayers were going to be on the hook, but that is exactly the result of the actions taken by the bureaucrats who decide these matters now.

I do not want to create a perpetual situation where not Congress, not the courts, but bureaucrats—by the way, I do not use that term pejoratively. “Government officials”—let's use that term. Unelected government officials, to whom we give the power, simply decide who gets bailed out, when, under what circumstances, who gets paid back, who doesn't get paid back, and how much it is going to cost the taxpayers. That, in essence, is what is provided for in this legislation.

So when folks say this is a bill we need to support because it ends too big to fail, that is wrong because it doesn't end too big to fail and taxpayers are still on the hook.

If those things are fixed, then my criticisms in this respect go away. But we have not heard from these negotiations that is being done. So I told my colleagues: Don't come to the floor and say this is a great bill, it solves all these problems, it ends too big to fail, and there is nothing wrong with it. There are some things wrong with it that need to be fixed. Let's do those things. I assume, on a bipartisan basis, if you just ask the abstract question of every 100 of the Senators, do you think we ought to end too big to fail, the answer would be yes. Ask our constituents—yes. Then we can get down to the nitty-gritty.

What about the language in the bill that says the FDIC “will guarantee the obligations of banks” under certain circumstances? That is language that has to be carefully either defined, limited, crabbled, or eliminated, or we are going to have taxpayers continuing to be on the hook for these obligations.

As I said, we haven't done anything for Fannie and Freddie in the legislation, and that is going to continue to mean a continuing taxpayer obligation as well.

As I said before, too, those firms, the ones deemed too big to fail, have an advantage over the smaller banks, the community banks. My colleague just

mentioned those a moment ago. We just met with the community bank representatives in Arizona, and they fear this kind of provision will make them uncompetitive vis-a-vis the big boys. As a result, what we will eventually end up with is a few really big banks and maybe some that aren't, in kind of a medium-size operation, and almost all of the smaller banks having to go out of business because of this anticompetitiveness that will result from the legislation.

One of the other ways in which what I have been talking about occurs is through section 113, the so-called Financial Stability Oversight Council. This is one of the entities that allow for these backdoor bailouts. It gives the Federal Reserve the authority to prop up any nonbank company that the council, this new council, deems to be a potential threat to systemic stability in our economy. This is a board based in Washington. It decides which institutions get special treatment. It gives these bureaucrats tremendous latitude to pick winners and losers, again resulting in a competitive advantage and disadvantage. What determines whether a nonbank is a threat to stability? What are the criteria? Among other possible considerations, “any other factors that the council deems appropriate.” That is pretty much an open book—“any other factors that the council deems appropriate.” I would think, if Congress is going to try to legislate in this very complex and difficult area, we would try to give pretty specific direction to the Federal authorities, to whom we give great power, as to how we want it exercised, and I don't think this meets the test—“any other factors that the council deems appropriate.” Take that out of the bill. Let's have a bipartisan negotiation to do that. If somebody can demonstrate to me why that would have to be left in, then great, but these are the kinds of things that lead me to the conclusion that, no, we should not agree to consider the bill that came out of the Banking Committee on a purely partisan basis because there are problems in it.

Today, the Wall Street Journal says:

The Dodd bill allows too much discretion to federal regulators to determine which firms to regulate and how, which firms to rescue or close down, and which creditors to reward and how. . . .

Exactly what I was just saying. It goes on to conclude:

The Dodd bill also extends the FDIC's resolution authority (subject to other executive approval) beyond deposit-taking institutions to any financial company deemed to be systemically important. And it gives the FDIC the discretion to discriminate among creditors as it judges who gets paid what as part of a resolution. . . . Recall how the White House exploited its authority under TARP to trash Chrysler's creditors and give unions a better deal.

Now, that is not the only section. Section 1155 of the bill is entitled “Emergency Financial Stabilization.” This is another way in which the bill

guarantees bailouts and puts them into the law and leaves the taxpayers on the hook.

Under this section, the FDIC would be allowed to create a new program of unlimited size to guarantee the obligation of depositories and holding companies with depositories.

What does this mean since there is no requirement that a company that receives, guarantees, and defaults on its obligations be taken into an FDIC receivership, bankruptcy, or resolution? The FDIC and Treasury can prop up whatever company they choose. This authority can be exercised without congressional approval.

It is one of the reasons I have said I think there needs to be some element of bankruptcy or other process prior to the instigation of this particular kind of authority. We cannot say this bill ends taxpayer bailouts as long as we have all of those sections in it.

Finally, there is much said about consumer protection. Does anybody know anybody who does not favor consumer protection? I think we all do. There are questions about how to intelligently do it. We can create a lot more cost to consumers if we make the regulations so costly and inefficient that they end up paying more money than they would have otherwise. That is, I fear, what can happen here. It happened with the credit card legislation we passed. I think it is predicted that it can happen here as well.

It could easily happen with businesses we do not even intend to cover. I know I have heard from dental offices and car dealerships. When we think about Wall Street bailouts, we do not think about our next-door neighbor who sells cars, or maybe our neighbor who is a dentist. But if they have an installment plan where it takes 4 months—where you can get up to 4 months to pay your bill to them, boom, you can be covered by provisions here. Then all of the consumer protections apply and so on.

Let's be careful that in an effort to make sure Wall Street handles its affairs properly that we do not impose conditions on Main Street, the folks we would like to see thrive, particularly in times of recession, in a way that would end up either causing them more expenses or, at worst, even making them uncompetitive with these so-called bigger guys.

Restraining credit is a big way to do this, requiring that they have to apply capital not to building their businesses but to somehow backing up their credit issuance, even though that is not the main part of their business.

Just quoting briefly from the New York Post:

New restrictions on credit . . . are likely to cost our economy tens of thousands of jobs a year.

And:

Reductions in credit—

Which would result here—

means declines in job creation. Many small business start-ups use home equity debt or credit cards as their source of funding.

There is not a lot of home equity debt to be had these days. A lot of our homes are not mortgageable at the present time, so credit cards are maxed out and so on. Well, that is a difficult way to do it. But we have to make sure if small businesses are doing this that the credit flows are not stopped because of provisions of this bill.

In an op-ed in the New York Post today, Mark Calabria pointed out:

The bursting of the housing bubble largely eliminated the first option.

That is the mortgaging of your home to get additional credit.

Now Washington is trying its best to kill the second.

That is the credit card provision.

[The Dodd bill's] proposed "consumer protections" would reach beyond credit cards and restrict the availability of all forms of credit, while raising costs.

Now, nobody intends this result. I do not think anybody in this body wants to impose additional costs, especially on smaller businesses or on startup businesses. It is simply an inevitable result of a policy that is written too broadly. We need to be careful how we do it. We need to ensure we do not write it so broadly that friends we want to protect are not adversely impacted.

They have been coming to my office. Folks you never dream of who would be covered by this act are coming in and saying: Here is how this bill could affect me. Please make sure it does not.

All I urge my colleagues on the other side of the aisle to do is, take these concerns on board—they are not partisan concerns—and make sure when these negotiations figure out how to amend the bill, that we take into consideration the things we are raising. They are not partisan concerns. They are concerns of everyday Americans, and we owe it to our constituents to think these things through and, if need be, change the bill.

I am sure even Senator DODD would say the bill is not perfect. If there are things we need to see changed in it, then let's do that.

The last point has to do with another element of consumer protection. A lot of folks do business in more than one State. In fact, some of the larger companies do business in all States, and it is cost efficient for them if there is one rule, if there is one regulator, so that they do not have to, for example, figure out what every single State requires in terms of different consumer protections or notice or whatever it might be, and then have to comply with all 50 States, some of which may be contradictory, as well as a Federal regulator.

So up to now we have pretty much had a Federal regime that has preempted the State jurisdiction in some of these areas. Well, as I understand it, the legislation does away with a significant component of that and would allow the State regulators to impose individual requirements on these companies that are doing business through-

out the United States. So we could have the anomalous situation where we have lots of different requirements.

Some of you have seen ads on TV. It says: Call now to get your \$29.95 knife. If you call right now, you will get another one thrown in for free. Then the last 10 seconds of the ad has some guy reading in very fast language: Offer not valid in New Mexico, New York, Arizona, Tennessee, Oregon, and so on and so on. You cannot even follow what he is saying. But the reality is, there are a lot of different requirements.

So what we would like to try to do is have things be as uniform as possible to keep the costs down because the greater the costs, the more the cost to the consumer. Unfortunately, as I said, however, this bill creates a patchwork of regulatory regimes that expand the number of regulators by 50 in certain areas. As a result, it is going to be much more difficult to comply with and much more costly.

If we believe we understand what is necessary in consumer protections, then let's provide for it. If we think we do not, that we need to leave this to a lot of other regulators, then let's not try to make the rules ourselves. Just let them do it. But we should not do both.

In addition to that, the chairman talked about safety and soundness. This is a technical term that essentially has regulators requiring banks and other financial institutions to carry a certain amount of reserves so that if people want their money back out of the bank, the bank has enough money to give to them. No bank believes every day 100 percent of its deposits are going to be called back by its depositors. But they have to have a certain percentage of those funds on deposit so if you go and say: I want my money out of the bank, they have enough money to give it to you or, if they have loans go bad, they have enough to carry those loans, and so on. That is what the safety and soundness requirements of the regulators do. It is a good thing.

Those same people can also provide for consumer protections, and say: Look, we know the bank needs to reserve a certain amount of money, and we also know, consistent with that, they need to ensure the protection of their consumers in a certain way.

What is difficult is when we separate these two functions, as this legislation does, so we have one group saying to the bank here is what you have to do for safety and soundness purposes, and we have another totally independent group saying, we do not care anything about that, but here is what you have to do for consumer protection.

We can end up with duplicative, overlapping, costly, and sometimes even inconsistent requirements, all of which make it more difficult for these institutions to give a cheaper product, a better loan, a credit card with a lower interest rate, or whatever it may be.

I just urge my colleagues, everyone is for consumer protection. Everyone is

for safety and soundness. Let's try to do this in a way that does not impose such great burdens, especially on the smaller folks, that they are not able to be competitive and provide their consumers, about whom, after all, we should be mostly concerned, with the cheapest product that is backed by the safety and soundness of the institutions.

Incidentally, on this last point, some who are a little more cynical have said: Well, maybe this is being done for a more nefarious purpose. If every single attorney general in the country can go out and hire trial lawyers on a special contract to bring class action lawsuits because of a violation of State laws, then we have a brandnew cause of action for the trial lawyers to do even better than they have done in the past.

I am not going to suggest that is the motivation, but I am going to suggest that I see nothing in the bill that will prevent that. As long as that is a potential, then, Katey, bar the door.

So, again, there are many things in this legislation that are not partisan in terms of we all want to protect the same folks. But there are questions that have been raised that need to be dealt with. I think it would be far better to take the time, to have Republicans and Democrats sitting down and going through all of these issues carefully, writing up a bill on which they can agree, bring that bill to the floor so the rest of us can then look at it, and hopefully we would all say: Gee, that is a lot better product than we thought.

It is not exactly as I would have done it. It looks like there are some compromises in there, but after all, that is what the process is when we have little more than half of the body of one party and less than half of the other party. That is how we get things done.

I can assure you this and assure my colleagues on the other side, Republicans want to work with our Democratic friends to get a good bill that all of us can support and that will be good for our country.

I think if we can work in good faith toward that end, we will be much happier with the result than if it is the result of a partisan or a near-partisan vote in this body and likewise in the House of Representatives.

I thank my colleagues for their patience and am happy to yield the floor. The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to engage in a colloquy with Senator KAUFMAN for up to 30 minutes as in morning business.

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

Mr. BROWN of Ohio. I want to believe what I just heard. I do. I believe the genuineness and the sincerity of the words from my colleague from Arizona. I also, though—and I agree with him there are things we need to fix in this bill. There always are. And we can work to improve it.

I met only 2 hours ago a dozen manufacturers from Ohio—mostly metal-working companies, stamping, bending metal, all of that—who came to see me to talk about credit. Their frustration with the banking system and Wall Street is pretty deep and pretty intense. Anger, frustration—I will not speak for them, to be sure. But it is pretty clear that Wall Street has not served them well and has not served this country well.

As I said, I know we need to fix some things about this bill. A guy years ago told me: Don't tell me what you believe. Show me what you do; I will tell you what you believe.

When I listen to leadership on the other side, especially to our colleague from Kentucky, I really do watch what he does, not just what he says. I know he says this bill does not work because it will mean more bailouts. That is battle tested, focus group tested, poll tested. That is the right thing to say you are against the bill.

But more than that, I watch what he does, and I watch what Republicans have done on this bill. Back in December 100 bank lobbyists met with Republican leadership in the House to talk about how to defeat any kind of Wall Street reform.

Earlier this month, Senator MCCONNELL and Senator CORNYN—Senator MCCONNELL, the Republican leader; Senator CORNYN is head of the Senate Republican Campaign Committee—went to New York and met with 25 hedge fund and other Wall Street executives to figure out how to defeat the bill and to do what—you know, what you would expect. The best way to beat this bill is elect more Republicans. We need help. All of that.

So when I hear them talk about bipartisan, that they want a bipartisan bill, what they really mean, and I know Senator KAUFMAN and I have talked about this—what they really mean is, we want Wall Street to come to the table and help us write the bill. That is what is bipartisan, in the same way that “bipartisan” in the health care bill of the last year was, we want to invite the insurance companies to the table and have them help write the bill.

The public wants bipartisan. They want us to work together. They want us to cooperate. We do that in a lot of things. But on a big bill like this, the public does not want bipartisan if it means: Let's get Wall Street and the five biggest banks in the country to write this bill and then we can all be happy and let's get along and let's have legislation that way.

Then I hear over and over, Senator MCCONNELL, you know, kind of getting a little bit—the leader gets a little upset when he talks about this bill. It is a little bit like when you throw a rock at a pack of dogs, the dog that yelps is the one you hit.

That is kind of what is going on here. (The remarks of Mr. BROWN and Mr. KAUFMAN pertaining to the introduction of S. 3241 are located in today's

RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. BROWN of Ohio. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I have sought recognition to vigorously, enthusiastically support the nomination of U.S. district court judge Thomas I. Vanaskie for the Court of Appeals for the Third Circuit.

Judge Vanaskie is someone known to me personally for the better part of two, perhaps even three decades as a practicing lawyer in Pennsylvania, as a judge on the Middle District Court. I had the privilege of recommending him, originally, for the district court during the Clinton administration. I have had the privilege of joining with Senator CASEY in recommending him to President Obama for the Court of Appeals for the Third Circuit.

Judge Vanaskie has a spectacular record. He is a graduate of Lycoming College, in 1975, with a BA degree, magna cum laude; Dickinson Law School in 1978, cum laude. He was a law clerk to Judge William Nealon from 1978 through 1980. For those who know Judge Nealon, he is a masterful judge, a paragon, a great person to learn from. Judge Vanaskie was in private practice in Scranton from 1980 to 1994. He was confirmed to the U.S. District Court for the Middle District of Pennsylvania on February 10, 1994.

Judge Vanaskie has been awaiting confirmation for some time now. He has had his hearing. He was reported out of the Judiciary Committee by a vote of 16 to 3. He is an outstanding jurist.

During the course of the discussions on the Judiciary Committee, where I have served during all of my tenure in the Senate, there was nothing really said in any way which was substantive in opposition. The contention was raised that he has cited foreign law, the law of other countries, but that is in keeping with the decisions of the Supreme Court in the United States, which has cited foreign legal precedents—not that they are binding. They are not the U.S. Constitution. They are not decisions in the U.S. Federal judicial system. But they have been recognized by the Supreme Court as worthy of some consideration.

It is regrettable that Judge Vanaskie has been caught up in the partisan battle in the Senate. This is a part of a broader picture of gridlock in the Congress of the United States, as we have seen the popularity and approval rating of Members of the House and Senate fall precipitously because of what America is seeing going on in this body

and across the Rotunda in the House of Representatives. We see a stimulus package where there is very little willingness on the part of people on the other side of the aisle to negotiate with people on this side of the aisle. We have seen a health care package enacted into law without a single vote in the Senate. In the House of Representatives, 176 Republicans said no and 1 said yes. On reconciliation, all 177 said no; all 41 in the Senate said no.

There has been a point reached where there is really an issue of whether there can be governance at all with an obstructive minority standing fast. We have seen a slight break in ranks when the issue came up on the vacation for the payroll tax. One Republican stood up and voted with Democrats. That led a few others to join. And on unemployment compensation, again, one Republican took the lead, and a few others joined. I think it is realistic to conclude that it is the pressure from back home. There are some on the other side of the aisle who may sensibly calculate—I do not fault them for the calculation—but they have to have some flexibility if they want to return to this body.

We have had concerns on Wall Street which are overwhelming with what has gone on in the economy: the precipitous great recession, which has engulfed America and has engulfed the world. And for a lengthy period of time, there has been resistance to any real negotiation by the other side of the aisle.

Finally, within the last day or two, there has been some willingness to consider legislation on the Wall Street issue, but I think that has come about as a result of public pressure. It is, simply stated, impolitic to be against reforming Wall Street, considering what has gone on.

It would be my hope these cracks in the die would lead to some substantial shift in position so we could return to the bipartisanship which was present in this body when I was elected in 1980. At that time, we had Mac Mathias of Maryland, who was willing to cross the aisle, and Mark Hatfield of Oregon similarly and John Danforth of Missouri, Lowell Weicker of Connecticut and Bob Stafford of Vermont and John Heinz of Pennsylvania and John Chafee of Rhode Island and Bill Cohen of Maine, so that when we had the so-called Wednesday club, it was full. That has dwindled so that the moderates can meet in a telephone booth today. We ought to go back to the days of just a little bipartisanship.

We had an enormous problem in 2005 when the shoe was on the other foot and the filibustering was being done on this side of the aisle. Fortunately, we were able to work through that problem. There was a flirtation with the so-called nuclear constitutional option, which would have changed the rules on filibuster. We preserved the procedure of the Senate, the tradition of the Senate, to be the "saucer which cools the

tea" as the expression was used during the colonial days. I think it is very important to maintain that tradition and that procedure. It was the coolness of the Senate which saved the independence of the Federal judiciary and the impeachment proceeding of Supreme Court Justice Chase of 1805 and preserved the independence of the Presidency and the acquittal on the impeachment proceeding of Andrew Johnson, when a controversy arose with the claim being made that there had to be congressional or senatorial approval to fire a Secretary of War, and he barricaded himself in the office. President Johnson refused to seek Senate consent to fire the Secretary of War. Articles of Impeachment were filed and he was saved by the vote of the Senator from Kansas. Growing up in Kansas, there was great pride in the State about that courageous Senator who stood and later was defeated. Maybe that—I would not make any predictions of the cost of standing up.

So it is important to maintain the traditions of this body, but we have to do it in the context of capacity to govern. Supreme Court Justice Jackson, in a somewhat different context, said the Constitution is not a suicide pact. Whatever rules we have are not substitutes for our capacity to govern.

We have seen this pattern illustrated by the nomination of Barbara Keenan of Virginia for the Fourth Circuit. Judge Keenan's nomination was stalled for 4 months, and after the time-consuming process of cloture, her nomination was approved 99 to nothing. Well, if she can be approved 99 to nothing, why require the filing of cloture? Why tie up this Senate for the better part of 2 days?

May the RECORD show that the distinguished Presiding Officer, the junior Senator from Minnesota, is nodding in agreement with my statements. That is a procedure we lawyers use to perfect the RECORD. But that has been the policy—tying up this body, going to cloture, the delay, and then overwhelming confirmations; not all unanimous but very substantial, and I predict that is what will happen with Judge Vanaskie when the roll is called a little later this afternoon.

One additional note. These proceedings take a very heavy toll on the nominee. Judge Vanaskie is a man devoted to public service. When he was practicing law in Scranton, his paycheck was a great deal bigger than when he became a Federal judge. When he comes into the process of the nominating procedure and he is questioned and his writings are impugned because he follows the Supreme Court of the United States, it is a jolt and it is hard on the Vanaskie family and it is hard on the community. I have had many calls from the people in Judge Vanaskie's community saying: What is going on in the Senate? What is going on? What is happening? Repeated calls. Finally, I decided to write a column for the Scranton Times Tribune, explain-

ing what happens in the Senate as to why the delay has occurred.

So I am glad to see this brought to a close. I hope we will move the appointments of the President. Consideration is being given to limiting the filibuster, not having it apply to members of the administration. We all concede, as a governmental doctrine, the President ought to have the right to name his own team but maintaining the filibuster for judicial nominations where we are talking about lifetime appointments. But this is a good and true man and he has been subjected to a process which is fundamentally unfair. I am glad to see it brought to an end this afternoon.

I ask unanimous consent that the copy of the article which I wrote for the Scranton Times Tribune, dated February 26, 2010, be printed in the RECORD.

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

[From the Scranton Times Tribune, Feb. 26, 2010]

GOP DELAYING VANASKIE APPOINTMENT

(By Arlen Specter)

Republican inaction on nominations is paralyzing the work of the Senate and putting the government's ability to confront the nation's challenges at risk.

We have seen much obstructionism by the minority in this Congress, but nothing compares to the gridlock on nominations. During President Obama's first year, 46 executive nominees waited at least three months to be confirmed, 45 waited at least four months, and nine took six months or longer. Inaction on these qualified nominees, many in defense-related and national security posts, is unacceptable.

This applies to nominations for federal judgeships, many to important or long-vacant jurisdictions. Currently, 14 judicial nominees, who have been approved—in many cases unanimously—by the Senate Judiciary Committee are awaiting confirmation in the face of Republican objections, many of them specious or just plain outlandish. It is time to put partisan politics aside and work to fill these positions as quickly as possible.

Take the case of Judge Thomas I. Vanaskie, nominated by President Obama last August to the U.S. Circuit Court of Appeals for the Third Circuit. The Senate Judiciary Committee voted 16-3 in support of his nomination on Dec. 3. More than two months later the nomination still awaits confirmation.

Judge Vanaskie's appointment, like so many of this administration's, has been stalled by political posturing. The near certainty of his eventual confirmation only adds to the charade. When Senate Majority Leader Harry Reid recently called for a vote on a long-delayed circuit court nomination, the Republicans voted to confirm unanimously. One legitimately wonders whether partisanship is not the only explanation for the delay.

The Senate can force a vote by resorting to the time-consuming step known as cloture, which takes up two days of the Senate's time. If cloture were to be invoked in each of the 67 currently pending nominations that have been approved by committee, it would take most of the year to deal with nominations. This is an intolerable imposition on the Senate's time and business.

Judge Vanaskie is eminently qualified to serve on the Third Circuit, as evidenced by

his 16-year record on the U.S. District Court for the Middle District of Pennsylvania and the overwhelming bipartisan support he received from the Senate Judiciary Committee. He has built a reputation for consistency and judicial restraint, backed by a first-class legal mind and even temperament.

Republican objections to his nomination are specious. One criticism—that Judge Vanaskie inappropriately cites foreign law precedents—was ably explained in his testimony before the Judiciary Committee that he was following Supreme Court decisions when it relied upon foreign sources in *Lawrence v. Texas* and *Roper v. Simmons*. In *Lawrence*, the Supreme Court majority cited the European Court of Human Rights in a decision overruling its own prior precedent on the criminalizing of consensual gay sex. In *Roper*, the court cited international law to support a ruling striking down the death penalty when applied to individuals who committed murder before they were 18. In short, Judge Vanaskie was merely following the Supreme Court's lead. Following precedent is mandatory, not grounds for rejecting his elevation to the Third Circuit.

There is no reason to further delay the nomination of this highly qualified jurist to the Third Circuit Court of Appeals. The Senate should carry out its constitutional duties promptly and promote this eminently qualified judge.

Mr. SPECTER. I thank the Chair and yield the floor and I suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent that the vote on confirmation of the nomination of Judge Thomas Vanaskie occur at 5:30 p.m. today, with the time until then divided as previously ordered and the remaining provisions of the order governing consideration of this nomination still in effect.

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

Mr. SPECTER. In the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I briefly wish to share a few thoughts about Judge Thomas Vanaskie, who has been nominated for the Third Circuit Court of Appeals—a very important position. He currently serves on the U.S. District Court for the Middle District of Pennsylvania. I do intend to support his nomination, giving deference to the President, but I would

just like to share a thought or two about his testimony before the Judiciary Committee.

Judge Vanaskie testified he believed American courts should not use foreign law in interpreting the Constitution, but he did believe the Supreme Court properly used foreign law in cases such as *Lawrence v. Texas*, and I think that is a bit contradictory. He also testified that the Supreme Court properly used foreign law in *Roper v. Simmons*, where the Court concluded that the Constitution, because of “evolving standards of decency,” would now prohibit States from imposing the death penalty on juveniles who commit murder. I think that is a legitimate public policy issue to discuss, but the question is, Does the Constitution say a State is not able to decide at what age people are executed?

Judge Vanaskie said, at another point, that foreign law was relevant to determining fundamental constitutional rights. Well, our Constitution is the one we have, and judges, if they are faithful to their oath, will enforce our Constitution—the one we have. It is difficult for me to comprehend how somebody could conclude that a legal action in the European Union would provide illumination to a judge on how to interpret our Constitution and what the Founders meant and the plain meaning of its words.

So I think this is a bad philosophy, and it evidences a detachment of the judiciary from the limited role they are given. We have limited powers, the President has limited powers, and the courts have limited powers. Courts are not empowered to reinterpret our laws and our Constitution based on some better idea they think they may find in France. They are not. This is not a little bitty matter. It is a trend that is occurring in our courts, and I am disappointed that several of the President's nominees seem to be seduced by these ideas, including speeches made by Justice Sotomayor where she talked about how she favored Justice Ginsburg's views about that.

So I wish to give this judge the benefit of the doubt. He did say he didn't follow this doctrine to the full extent of it, and I will give him the benefit of the doubt. But also, some of his statements indicate that he may yet be seduced by this idea. He had difficulty articulating any limit on the commerce clause. The commerce clause says Congress can regulate commerce. Does that mean everything? Does regulating commerce mean you can reach down into Oklahoma and tell an individual farmer: You have to have insurance? That raises a serious question of constitutional power, and does that impact interstate commerce? Well, you could theoretically conjure up a way that it could, but I want to know that a judge understands there is some limit to the amount of reach the Federal Government can have.

We have had a number of people complaining about the process of confirma-

tion and judges languishing before the Senate. In particular, my friend, Senator WHITEHOUSE, noted the nominations of Judge James Wynn and Judge Albert Diaz to the Fourth Circuit. Senator WHITEHOUSE hasn't been here but since 2006, so maybe he isn't familiar with some of the procedures that have gone on before. Wynn and Diaz's nominations have been pending in the Senate for only 167 days. That is half the time—half the time—that President Bush's circuit court nominees waited—350 days.

In fact, four of President Bush's nominees to the Fourth Circuit never received any hearing, and they were highly qualified nominees. Those nominees—Mr. Steve Matthews, Chief Judge Robert Conrad, Judge Glen Conrad, and former Maryland U.S. attorney Rod Rosenstein were well qualified and had the bipartisan support of their home State Senators. Yet they were blocked steadfastly from ever moving forward. President Bush nominated Steve Matthews in September of 2007 to the same seat on the Fourth Circuit for which Judge Diaz has now been nominated and expects to be confirmed—and will be confirmed, I am sure.

For Senators to be whining about how long it takes Judge Diaz to move along, in a fairly steadfast way, in light of what was done to Mr. Matthews, is a bit much to me, I just have to tell you. We all know this is a robust body. We don't mind speaking our minds. But Mr. Matthews had the support of his home State Senators and received an ABA rating of “qualified.” He was a graduate of Yale Law School, had a distinguished career in private practice, and he waited 485 days for a hearing and never got one. So his nomination was returned and expired in January of 2009.

Another of President Bush's nominees, Chief Judge Robert Conrad, was nominated to the seat for which Judge Wynn is now nominated. He had the support of his home State Senators, received an ABA rating of unanimous “well-qualified,” which is the highest rating. Judge Conrad met Chairman LEAHY's standard for a noncontroversial consensus nominee. He had received bipartisan approval by the committee when he was confirmed by a voice vote to be U.S. attorney and later district court judge for the District of North Carolina. He was then chief judge. Senators BURR and Dole sent letters in support of that confirmation. Yet he was blocked.

I know he can make decisions because, if I am not mistaken, I used to say he was the point guard for the University of North Carolina basketball team. I think that was incorrect. I think he was point guard for Clemson. Regardless, anybody who can play a point guard in the ACC can make decisions. He was chosen out of all the prosecutors in America by Attorney General Janet Reno to conduct a very sensitive investigation of President Clinton, when he was accused of some

wrongdoing. He conducted that and concluded no charges ought to be brought. This was a highly qualified person. Yet he was blocked.

My time is up, but I know every nominee is not brought up immediately or when some people would want to call up the nomination. It requires unanimous consent to bring up a nominee, to immediately get a vote, and unanimous consent isn't always given, so it does slow down people. I do believe we ought not to unnecessarily delay persons, but I would want to say that the alacrity by which President Obama's nominations are moving far surpasses anything like the difficulties that President Bush's nominees had. I have been here, I have seen it, and I know that to be a fact.

I hope we can create a climate where judges have a reasonable time on the calendar, that they have hearings in the Judiciary Committee, that there is opportunity to raise objections, when they are made, and the nominee comes to the floor and eventually can be brought up for a final confirmation vote. That would be my request.

I see it is time for the vote, and so I yield the floor.

Mr. LEAHY. Mr. President, the Senate just devoted almost 3 hours to the nomination of Thomas Vanaskie. Senate Republicans demanded this extended time for debate. I thank Senator SPECTER and Senator CASEY for their statements. The Senators from Pennsylvania know Judge Vanaskie best, and strongly support him.

I was glad to see Chairman DODD, Senator BROWN of Ohio and Senator KAUFMAN come to use some of the time to talk about Wall Street reform. That is what we should be working on. Wall Street reform, patent reform, and other matters that are important to the American people are what we should be debating. I was glad to see that time not wasted in another extended quorum call because those who demanded this time to debate the nomination did not use it.

I was glad to hear Senator HAGAN talk about the two North Carolina nominees to the Fourth Circuit. They are among the 25 judicial nominees that Republicans have objected to considering even though they were voted out of the Judiciary Committee unanimously or nearly so.

With respect to the President's judicial nominees, as I have said, we are well behind the pace I set as chairman when the Senate was considering President Bush's nominees during the second year of his presidency. By this date in President Bush's second year, the Senate with a Democratic majority, had moved ahead to confirm 45 of his Federal circuit and district court judges. So far during President Obama's Presidency, Senate Republicans have allowed votes on only 18 of his Federal circuit and district court nominations. During the first 2 years of President Bush's Presidency we moved forward to confirm 100 of his ju-

dicial nominees. Republican obstruction of President Obama's nominations makes it unlikely that the Senate will reach 50 such confirmations. Last year they allowed only 12 Federal circuit and district court nominees to be confirmed, the lowest number in more than 50 years.

Today, thanks to the perseverance of the majority leader and the Senators from Pennsylvania, we will consider and confirm only the 19th of President Obama's Federal circuit and district court nominees. I have already noted Judge Vanaskie's qualifications. There is no dispute that he is well qualified. Indeed, the only concern his opponents have raised is their fixation that no Federal judge be aware of foreign law. As Senator SPECTER has explained, the matter on which Judge Vanaskie is criticized was a case involving an international treaty. To those whose ideology clouds their judgment, I remind them that the Constitution of the United States, our Constitution, expressly provides that the judicial power of the United States extends to cases arising under the Constitution, laws of the United States "and Treaties." Treaties are international by their nature. How treaties are interpreted by other courts in other jurisdictions is relevant. In fact, Justice Scalia observed, when writing for the unanimous Court in *Zicherman v. Korean Air Lines Co.*, 516 U.S. 217, 226 (1996):

Because a treaty ratified by the United States is not only the law of the land, see U.S. Const., Art. II, § 2, but also an agreement among sovereign powers, we have traditionally considered as aids to its interpretation the negotiating and drafting history (*travaux préparatoires*) and postratification understanding of the contracting parties.

I appreciate the significant steps taken by the majority leader to address the crisis created by Senate Republican obstruction of the Senate's advice and consent responsibilities. Their refusal to promptly to consider nominations is a dramatic departure from the Senate's traditional practice of prompt and routine consideration of noncontroversial nominees. The majority leader was required to file five cloture motions to break through the logjam. I, again, urge the Senate Republican leadership to reverse its course and its obstructionist practices. Those practices have obstructed Senate action and led to the backlog of almost 100 nominations pending before the Senate awaiting final action. These are all nominations favorably reported by the committees of jurisdiction. Most are nominations that were reported without opposition or with a small minority of negative votes. Regrettably, this has been an ongoing Republican strategy and practice during President Obama's Presidency. I hope it will now, finally, be abandoned and we will be allowed to make progress after weeks and months of delay.

The vote on the confirmation of Judge Vanaskie's nomination is the first vote on judicial nominations that

the Senate will hold in 5 weeks. Despite the dozens of judicial nominations ready for Senate consideration, none has been allowed to move forward for over a month. These are nominations to fill longstanding vacancies in the Federal courts. Of the 25 pending judicial nominations, 18 were reported from the Senate Judiciary Committee without any Republican Senator voting against. I have been urging the Senate Republican leadership for months to allow votes on these noncontroversial nominations and to enter into time agreements to debate the others. We need to clear the backlog of nominations and move forward.

Judicial vacancies have skyrocketed to over 100, more than 40 of which have been designated "judicial emergencies." Caseloads and backlogs continue to grow while vacancies are left open longer and longer. On this date in President Bush's first term, not only had the Senate confirmed 45 Federal district and circuit court judges, but there were just seven judicial nominations on the calendar. All seven were confirmed within 9 days. By the end of this month, which is 9 days from now, we should clear the backlog that Republican obstruction has created and vote on the judicial nominations stalled on the Senate Executive Calendar.

By this date during President Bush's first term, circuit court nominations had waited less than a week, on average, before being voted on and confirmed. By contrast, currently stalled by Senate Republicans are circuit court nominees reported by the Judiciary Committee as long ago as five months, in November of last year. The seven circuit court nominees the Senate has been allowed to consider so far have waited an average of 124 days after being reported before being allowed to be considered and confirmed.

I congratulate Judge Vanaskie and his family on what I expect will be strong bipartisan vote in favor of his confirmation to serve on the Third Circuit. His confirmation is long overdue.

The PRESIDING OFFICER (Mr. FRANKEN). Under the previous order, the question is, Will the Senate advise and consent to the nomination of Thomas I. Vanaskie, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

Mr. CASEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) was necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Nebraska (Mr. JOHANNIS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 20, as follows:

[Rollcall Vote No. 122 Ex.]

YEAS—77

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

NAYS—20

Barrasso	Cornyn	Inhofe
Brownback	Crapo	Isakson
Bunning	DeMint	Risch
Burr	Ensign	Roberts
Chambliss	Enzi	Thune
Coburn	Grassley	Wicker
Cochran	Hutchison	

NOT VOTING—3

Bennett	Byrd	Johanns
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The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 10 or 12 minutes.

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

SECRET HOLDS

Mr. GRASSLEY. Mr. President, I have not listened to every speech on the Senate floor in the last week or so where there has been a lot of talk about secret holds and everything. But since I have been in the Senate working with Senator WYDEN in a bipartisan way over the course of maybe a decade, not to do away with holds but to have a transparency of holds, and seeing those things compromised, and then particularly to see exception taken to what has happened when this side of the aisle has put on holds, and then considering when Senator WYDEN and I did try to do something, that was gutted by people on the other side of the aisle. So I would appreciate it if Democratic Members of the Senate would listen while I explore some of the his-

tory so that they know this bipartisan effort, that if it had been done the way Senator WYDEN and I did it before it was gutted, we would not have a lot of problems today that we have.

So I wanted to go into my remarks, but I preface it with what I just said. There has been a lot of talk recently on the Senate floor about secret holds. For a practice with so much bipartisan guilt to go around, it is interesting that the discussion has taken on a partisan tone. Republicans are being accused of being particularly egregious offenders when it comes to circumventing disclosure requirements.

Let me say that if any of my colleagues have holds on either side of the aisle, they ought to have the guts to go public and to go public the minute they put the hold on, not like the mysterious way it is done now, which amounts to nothing. It has been my policy for years to place a brief statement in the CONGRESSIONAL RECORD each time I placed a hold, with a short explanation of why I placed the hold. I did that before there was ever any Wyden-Grassley proposal. The current disclosure requirements for secret holds have been discussed quite a bit lately, as has bipartisan work with Senator WYDEN to address the issue. It is important I give a little background about how we got where we are today.

After many attempts to work with various leaders over the years on policy to make all holds public, Senator WYDEN and I decided the only way to settle this matter once and for all was for the full Senate to adopt a very clear policy. In the 109th Congress, Senator WYDEN and I were successful in passing an amendment to the ethics reform bill by a very wide vote of 84 to 13 to require public disclosure of holds. That bill was never enacted, but the identical provision was included in the ethics bill passed by the full Senate at the very beginning of the 110th Congress. Members may recall the Democrats had just secured a majority in both houses of Congress. Then, in a process that has become all too familiar under the past two Democratic Congresses, there was no conference committee. Instead, in a twist of irony, the so-called Honest Leadership and Open Government Act was rewritten behind closed doors by the Democratic leadership. Lo and behold, the public disclosure provision Senator WYDEN and I had worked so hard on, which the Senate had overwhelmingly adopted on that 84 to 13 vote, had been altered, and altered significantly. Keep in mind, under Article I, section 5 of the Constitution:

Each House may determine the Rules of its Proceedings . . .

That means that the House of Representatives has no say whatsoever about the Senate rules. When the full Senate speaks on a matter of Senate procedure, that should be the final word, particularly if it is 84 to 13. I want to be clear, the current weak disclosure requirements we now have are

not the ones originally proposed by Senator WYDEN and this Senator. In fact, at the time I came to the floor and criticized the specific changes, because I saw they would be ineffective. And ineffective they are.

Let me reiterate some of those criticisms I initially aired to the Senate on two occasions: August 2, 2007, and September 19, 2007. In the version the Senate originally passed, we allowed 3 days for Senators to submit a simple public disclosure form for the record, just like adding oneself as a cosponsor to a bill. This was intended simply to give time to perform administrative functions of getting the disclosure form to the Senate floor, not to legitimize secrecy for the period of 3 days. The rewritten provision gives Senators 6 session days. That might not sound so bad but wait to see how that actually works out in practice. First, it doesn't take a week to send an intern down to the Senate floor with a simple form saying one is putting a hold on a bill. The change I find most troubling is that the 6 days until the disclosure requirement is triggered begins only after a unanimous consent request is made and objected to on the Senate floor. That is too late. I will explain how that is ineffective. By that point, a hold could have existed for quite some time, perhaps without the sponsor of the bill even realizing it. In fact, most holds never get to the point where an objection is made on the floor, because the threat of a hold prevents a unanimous consent request from being made in the first place. So maybe this 6 days is never even triggered.

The original Wyden-Grassley provision required disclosure at the time the hold was placed. That is where it ought to be today. We have heard lately about how the minority party has used the weak disclosure requirements to avoid making holds public. However, this change made it far less likely that majority party holds would ever, in fact, become public. Since the majority leader controls the Senate schedule, he would hardly object to his own request to bring up a bill or nominee. He would simply not bring up a bill or nominee being held up by a member of his own party, and we might never know that there was a hold on it at all.

Why were these provisions changed? Simply, I don't know. I don't know who does know, because I can't be sure who it was who rewrote these provisions in secrecy behind closed doors. The majority party should be careful now, as they complain about Republicans exploiting loopholes in the disclosure requirements for holds. Both parties are guilty of using secret holds. But we can't blame Republicans for the fact that the current disclosure requirements are weak and ineffective. Again, there is plenty of blame to go around when it comes to using secret holds, but I am hopeful this recent attention to the problem can result in a bipartisan consensus to end secret holds once and for all. That is something we

hope, Senator WYDEN and I, other people will talk to us about. We would like to move in this direction. I, for one, am happy to work with anyone on either side of the aisle to that end.

It should be stressed that this has been a bipartisan effort. Everybody in this body talks about bipartisanship. When this was watered down, it wasn't watered down in an environment that I know about where any Republicans were present.

Mr. WYDEN. Will the Senator yield for a question?

Mr. GRASSLEY. Yes.

Mr. WYDEN. First, let me tell the Senator from Iowa how much I have enjoyed working with him on this. We have had, as incredible as it sounds, a 10-year campaign to try to end secrecy in the Senate, just so people know a little bit about it. I always think when people hear about a hold in the Senate, they probably think it is a hair spray or a wrestling move or something like that. Isn't it correct that a hold, the ability to block a nomination or a piece of legislation, is one of the most powerful tools a Member of the Senate has today to influence policy?

Mr. GRASSLEY. Mr. President, Senator WYDEN is absolutely right. It is a very powerful tool.

Mr. WYDEN. And with respect to transparency, what he and I have focused on all these years, people asked: Are you trying to abolish a hold? I think he and I have said we believe Senators ought to have a right to weigh in on something important. But at a time when the public wants transparency and openness and accountability, a Senator who wants to use what the Senator has said is an extraordinary power, the real public interest is satisfied by that Senator having to disclose promptly that they are imposing a hold; is that correct?

Mr. GRASSLEY. Mr. President, Senator WYDEN is correct. I would add this point, that not only is it transparency that is essential—and it happens that way—but also a lot of times holds are put on because there is something wrong. We have to know what it is somebody believes is wrong, if we are going to work out some sort of a compromise.

Mr. WYDEN. One additional point, is it the Senator's sense, because we have talked about this often as we have been watching the spectacle of all these secret holds, that the central problem is it is triggered too late and it takes too long to kick in? Is that a fair statement of what needs to be changed? We need to get the openness earlier? It needs to be triggered earlier, and it needs to get into the public domain earlier; is that correct?

Mr. GRASSLEY. Mr. President, the Senator is correct. The present rules are practically not much better than what we have always operated under. So there isn't transparency, and it isn't done soon enough.

Mr. WYDEN. I express my appreciation to the Senator from Iowa for giv-

ing me the opportunity to work with him. He and I have pursued a lot of issues in the past. Very often those issues are part of television news debates and the like. Obviously, the secret hold would not be something on Main Street in Des Moines or Portland that people know about. This is the time to get this right once and for all. We sought to do it literally for a decade. A number of majority leaders, Democratic and Republican, said they wanted to get this done. Yet as of this day, I personally believe it continues to be abused and flagrantly so. At a time when the American people are looking at these challenging economic circumstances, they deserve a government that is truly open, truly accountable, and truly transparent. That has been what has guided our bipartisan efforts over this last decade. I appreciate the Senator coming to the floor this evening. There are not that many opportunities to advance a truly bipartisan agenda. He has given us the opportunity to do that tonight.

I look forward to working with my colleague to once and for all get secret holds abolished in the Senate.

Mr. GRASSLEY. I yield the floor.

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

Mr. WYDEN. I ask unanimous consent to speak for up to 10 minutes.

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

Mr. WYDEN. Mr. President, to continue this topic, we need to kind of put into perspective a little bit about why this secret hold has become such a detrimental practice. When Willy Sutton was asked why he robbed the bank, he said: That's where the money is. Secret holds are where the power is. Senator GRASSLEY and I have outlined the enormous effect a secret hold can have on a piece of legislation but, frankly, one of the other points that needs to be made is that a secret hold is a very powerful weapon that is available to a lobbyist.

I expect that practically every Senator has gotten a request from a lobbyist asking if the Senator would put a secret hold on a bill or nomination in order to kill it without getting any public debate and without the lobbyist's fingerprints appearing anywhere. If you can get a U.S. Senator to put an anonymous hold on a bill, it is like hitting the lobbyist jackpot. Not only is the Senator protected by a cloak of anonymity but so is the lobbyist.

A secret hold lets lobbyists play both sides of the street and can give lobbyists a victory for their clients without alienating potential or future clients. Given the number of instances where I have heard a lobbyist asking for secret holds, I am of the view that secret holds are a stealth extension of the lobbying world.

In the U.S. Senate, there has been an effort to improve the rules and have stricter ethics requirements with respect to lobbyists. It seems to me it would be the height of irony if the Senate were to adopt a variety of changes

to curtail lobbying, as we have done in the past, without doing away with what, in my view, is one of the most powerful tools that can be available to lobbyists.

The overwhelming majority of our citizens, in every corner of the land, be it Alaska or Oregon or Rhode Island, say they want public business done in public. If you walk down the streets of this country, I do not think you could find 1 out of 100 people who would have any idea what a hold is or what a secret hold is all about. But the fact is, these secret holds in the U.S. Senate can dramatically affect and change the lives of our citizens, and our people will not even know about it.

The hold—the ability to block a piece of legislation, block a nomination—cannot even, in a number of instances, end up being discussed on the floor of the Senate. Literally, the Senate will not even get a peek, will not even get the briefest look, at a particular issue that may involve millions of our citizens, billions of dollars, and affect the quality of life of citizens in every corner of the land.

So what this is all about, what Senator GRASSLEY and I have been working for 10, this past decade, what I have heard colleagues talk about—and Senator WHITEHOUSE has spoken eloquently about this—is we believe now is the time, once and for all, to permanently wipe the secret hold off the rulebooks of the Senate.

It is one thing if a Senator exercises the extraordinary power that a hold presents. It is quite another when they cannot be held accountable because they exercise this power in secret. So the average person in America may not know what a secret hold is, but I am very certain they want the Senate to do its business in public.

I want to express my appreciation to Senator GRASSLEY, who has left the floor, for working with me over this past decade to end what I think is a simply inexplicable denial of the public's right to know. That is what this is essentially about. This is a denial of the public's right to know. With colleagues on both sides of the aisle, I am determined to, this time, get this changed, shorten the period, to make it easier to trigger the requirements of public disclosure.

Mr. President, I know my colleague from Rhode Island is interested in getting in this issue. I look forward to his comments and yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to engage for 5 or 10 minutes in a colloquy with the distinguished Senator from Oregon.

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

Mr. WHITEHOUSE. Mr. President, I, first of all, want to salute Senator WYDEN of Oregon for his long work on this issue. He has been working on this issue since before I came to the Senate, before I had any experience of secret

holds, and saw—as we are seeing right now—their pernicious effect.

At present, we are looking at probably a little less than 80 secret holds by Republicans of President Obama's nominees—some judges. In the past few days, Senator MCCASKILL and I have come to the floor to push some of these nominees forward, to ask unanimous consent they go forward.

In one case, a nominee was a judge who was supported by both a Democrat and a Republican—the Senators from his home State—who had passed out of the Judiciary Committee by a unanimous rollcall vote of 19 to 0. They have been held for months and months. The distinguished Senator from Arizona, Mr. KYL, was put in the unfortunate position, since he had voted for this nominee in committee, to have to come to the floor and raise an objection to the unanimous consent request for a judge who he voted for in committee and one of his Republican colleagues supported—the home State Senator supported—to have to object to that nomination going forward because somebody had a secret hold.

We went through a great deal of these. I want to salute Senator MCCASKILL. She carried the greater part of the burden. I only tried to move a few. I think she tried to move over 70 by the time the day was done. I really want to extend my appreciation to her for that.

I say to Senator WYDEN, as I understand it, the rule is that now that these unanimous consent requests have been made, there is a 6-day-of-session period that has now begun to run, and at the end of that 6 days, our Republican colleagues will be obliged to disclose publicly their holds, who is holding it, and what their reason is.

I understand there is a potential loophole, which is they could pull sort of the old switcharoo, and in the 6-day period the Senator or Senators with the hold could all release their hold so that at the end of the 6-day period they have no hold to disclose, but they could connive with another colleague to put in a new hold, since the unanimous consent request, so they can start the process all over and hide their accountability.

But it strikes me those are really the only two choices our Republican colleagues have: They either have to divulge or they have to engage in a game of switcharoo, connivance with another Republican colleague to try to duck out from under the rule which was passed I think by 92 votes. It has very strong bipartisan support.

I say to Senator WYDEN, I just wanted to clear that understanding with the Senator since he is an expert on this issue, that the clock is running, that they have 6 days to come clean about this; and that the only two ways out are either to divulge or connive with another Senator to engage in a little switcharoo.

Mr. WYDEN. Or I think there might be a third option, of course, which is to

lift the hold. But the Senator has done a very careful and thoughtful analysis of the situation and particularly this situation of what Senator GRASSLEY and I came to call the “rotating hold,” simply shifting to another person—something that has been done often over the years by Democrats and Republicans. I think now is the time to get this changed. By the way, the Senator is absolutely correct on the bipartisan nature of the rule change. The vote was 84 to 13. There was overwhelming bipartisan support for it.

The Library of Congress has actually put together a very thoughtful historical analysis featuring the discussion of things such as the “Mae West” hold, which came to be known as the “come look me over” hold, which I gather was not a full-fledged hold but it might actually blossom into one.

So the Senator is absolutely right about what the choices are. That is why it is time, once and for all, to get this changed. I so appreciate the Senator, and also Senator MCCASKILL from Missouri, coming and highlighting the fact that this has again gotten out of hand.

The historical analysis of this has been that the hold was something that would be used rarely. The hold was for something of great consequence. Yet now it seems we have these secret holds that are simply thrown out for nominations and pieces of legislation because someone has some modest interest or is carrying out a different agenda, and I think that is why the secrecy is so unfortunate.

I thank my colleague.

Mr. WHITEHOUSE. So to have 80 secret holds by one party, all at once pending in the Senate, is not consistent with the history of the use of this procedural tactic in this body. Is my understanding correct?

Mr. WYDEN. The Senator is absolutely right about the fact that 80 secret holds is clearly not what Senator GRASSLEY and I and reformers thought would happen. Given all these secret holds, you would think at the back of the Executive Calendar—which is page 19; it is entitled “Notice of Intent to Object to Proceeding”—given what the distinguished Senator from Rhode Island has pointed out, one would think that page 19, “Notice of Intent to Object to Proceeding,” would be filled with these names if the rule was being honored.

I say to the Senator, both you and I are holding up this page 19 with nary a word on it.

Mr. WHITEHOUSE. We are looking at an empty page.

So just to summarize, the clock has run as a result of this series of unanimous consent requests Senator MCCASKILL and I have put forward. The 6 days have begun. By the end of that, one of three things—as the Senator has corrected me—will have happened. Either the hold will have been lifted, and then we can move to unanimous consent and clear these individuals who

the President has nominated and get them to work for the American people or, two, the Senator who has the secret hold will have to acknowledge publicly and become transparent and clear and candid with the rest of the body about who they are holding and why, or, three, they can engage in this rather obscure, shall we say, game of rotating holds, what I called the switcharoo, ducking out before the time runs and getting somebody else to actually have your hold for you but get in a proxy.

Given this was a rule that was adopted with a very strong vote, a very strong bipartisan vote, and that it is now a rule of the Senate, what comment would the Senator have on that third tactic in terms of its merit and appropriateness, if we find it is being used at the end of the 6 days? Would that spur the need for reform of this rule?

Mr. WYDEN. It surely would. I am grateful to the Senator from Rhode Island for prosecuting the reform case. I have talked with Senator GRASSLEY about it, and with Senator MCCASKILL and the Senator, and I think this is the time.

There are two points with respect to the secret hold: one as it relates to the institution and one as it relates to an individual Senator. With respect to the institution, in this example, the Senator has given us scores of these secret holds. I think this serves to undermine the credibility of the institution at a crucial time in American history. It is no secret Americans are divided on a host of issues.

Well, if the Senate insists on doing so much important business in secret—which is what happens if you honor these secret holds—I think that just undermines the institution. Because I think, first and foremost, you are absolutely right to zero in right now where we have all these secret holds.

Secondly, with respect to an individual Senator, what seems particularly important—the Senator and I share an interest in health care and a variety of economic issues—suppose an individual Senator works for years and years to try to build a bipartisan coalition on an issue and then is done in by an unknown or secret opponent, an unknown, unseen opponent who has been able, in effect, to block all that bipartisan work in secret.

So I want the Senator to know I am four-square behind his efforts to get this changed. Senator GRASSLEY and I have been talking about it. I think there is an opportunity to make this bipartisan.

I will also say, in closing—and the Senator has been kind to give me all this time—I do not think the secret hold passes the smell test of openness in American government. It is time to change it. I look forward to working with my colleague to finally, after all of these years, get this done and send the secret hold off into the dust bin of history.

Mr. WHITEHOUSE. The legacy of the Senator from Oregon on this, with 10

years of work, is very impressive to this newer Senator. I appreciate so much what he and Senator GRASSLEY have done over the years to begin to put an end to this practice.

I think the straw that broke the camel's back—or maybe the 80 straws that broke the camel's back—was the absolute avalanche of secret holds that has confronted our new President from this Republican minority. It has come to the point where the President, I think fairly, believes his ability to staff his own administration is being compromised by people who will not stand and be counted and be accountable for the reason for their opposition. It is being done in the dark, secretly, and without any accountability. I agree that needs to be put to an end.

So I urge people who are watching this: The sixth day has begun—6 days of session. At the end, we will know who is doing this or we will be able to clear these nominees, and we will have broken this unfortunate practice, to a significant degree or we will have learned something I think very unfortunate about our friends on the other side; that is, that they have agreed to connive with one another to play a switcharoo and bring in a new Senator to dodge the clear import of the rule that the Senator from Oregon and Senator GRASSLEY worked on, on a bipartisan basis, to put into effect in this body and which was approved by an enormous majority of this body. So the clock is running and we will see. We will learn a lot about this institution and our colleagues in 6 days. I thank the Senator for his leadership on this issue.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Rhode Island.

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.

MORNING BUSINESS

Mr. WHITEHOUSE. 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.

40TH ANNIVERSARY OF EARTH DAY

Mr. FEINGOLD. Mr. President, I come to the floor to recognize the 40th anniversary of Earth Day and to remember the man who founded Earth Day, the late Wisconsin Governor and Senator Gaylord Nelson.

Before he was the founder of Earth Day, and one of the Nation's greatest

conservationists, he was a son of Wisconsin. He was a young boy growing up in the town of Clear Lake, WI, amid the great natural beauty of our State. When asked how he developed his lifelong interest and dedication to the environment, Nelson would say "by osmosis" while growing up in Clear Lake, WI.

He reflected the very best of our State from the beginning, building on Wisconsin's long tradition of environmental conservation. Our State passed landmark forest and waterpower conservation acts during the progressive era and lays claim not only to Gaylord Nelson but to other giants of the conservation movement such as Aldo Leopold, John Muir, and Sigurd Olson.

All of them were inspired, as Nelson was, by the beautiful Wisconsin wilderness. The natural beauty of our State charted the course of Nelson's life, from the shores of Clear Lake to the banks of the Potomac, where he changed the way we think about our planet and changed the law to protect the water we drink and the air we breathe.

There are few Members of this body, past or present, who have left such a valuable legacy. So I am proud to help celebrate that legacy with a resolution in the House and Senate celebrating the 40th anniversary of Earth Day and its founder. As we look ahead to the many challenges we face, we can draw strength from the example Gaylord set for us all. He drove tremendous change and, with Earth Day, created a new momentum that has been critical to so many efforts to protect the health of our environment.

Gaylord also understood the connection between the two great Wisconsin traditions of fiscal responsibility and conservation. Too often, a Federal program that is wasting taxpayer dollars is also laying waste to our air, our water or our public lands. The Nation's outdated mining laws are a perfect example. These laws allow the mining companies to mine on our public lands for next to nothing and leave behind an environmental mess for taxpayers to clean up.

Gaylord fought to change those laws, and when I was elected to the Senate, he asked me to take up this fight and I have. I have made it part of my Control Spending Now Act, legislation to cut the deficit by about \$½ trillion over the next 10 years. If we scrap these outdated mining laws, we can save taxpayers hundreds of millions of dollars and protect the public lands that belong to the American people. They do not belong to the mining companies.

I am also working on another environmental issue that has a special connection to Gaylord Nelson; that is, clean water. The man from Clear Lake did so much for clear, clean water everywhere, including being a champion of the Clean Water Act.

Today, the Clean Water Act is under threat because two recent Supreme

Court decisions have jeopardized its protections. Those decisions put nearly 20 million acres of wetlands habitat and more than 50 percent of our stream miles in the lower 48 States at risk. These waters could now become polluted or wiped out altogether unless Congress takes action.

I am working to see that Congress stands up to the special interests that want to roll back the Clean Water Act's protections and ensure that these bodies of water can continue to provide drinking water, wildlife habitat, recreation, and support for industry and agriculture for generations of Wisconsinites to come.

So I have joined with Minnesota Representative JIM OBERSTAR to introduce the Clean Water Restoration Act. This bill is designed to accomplish one basic and important goal: ensure that the Clean Water Act of 1972 stays in place. There are no new regulations in our legislation, only a return to the original intent of the Clean Water Act, which has protected our waters for more than 35 years.

Gaylord Nelson and others have done so much to protect the health of our waters, and we owe it to them and to ourselves to carry that legacy forward. That is what I seek to do in the Senate with the Clean Water Restoration Act.

We face many other challenges as well. Of course, climate change looms largest of all. We need to address the serious problem of climate change and do so without unfairly hurting Wisconsin, which relies on coal for much of its energy needs. If we do this right, we have an opportunity to pass legislation that will reduce greenhouse gas emissions and create energy jobs here in America. We can help American businesses gain a competitive advantage developing new renewable energy and energy efficient technologies.

The desire to protect our air, our water, and our planet will bring people together tomorrow, all around the world. They will talk about global issues we face and the local environmental issues in their communities that they want to address. They will organize, mobilize, and galvanize new momentum for change.

That is exactly what Gaylord Nelson intended. He knew the power of people coming together and what that could mean for the air we breathe, the water we drink, and the national parks and public lands we all cherish. He knew that these natural resources connect us all and that Earth Day would bring us together to protect them.

I am so grateful to have known Gaylord Nelson, and I am proud of the legacy he left behind. As we celebrate the 40th anniversary of Earth Day, we remember the man from Clear Lake who came to this body inspired by the beautiful Wisconsin landscape of his childhood and in the end made a better world for us all.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I would say to my distinguished friend from Wisconsin, I was delighted to hear those words about Gaylord Nelson. I had the privilege of serving for a term with Senator NELSON. He was down-to-earth, respected by all in this body, and he had a commitment to the environment rarely ever matched. The Senator from Wisconsin has said it far more eloquently than I could. But I think how fortunate we are that we have this Senator from Wisconsin who has carried out that commitment to the environment, that commitment to the best ideals of our government. I know our dear, departed friend Gaylord Nelson would be so proud to have the Senator here representing Wisconsin.

Mr. FEINGOLD. Mr. President, let me thank the Senator from Vermont for his kind words, for his remembering Gaylord Nelson, and, of course, for the incredible legacy of his own for the environment, coming from one of the most beautiful States in this country, Vermont. I thank him.

95TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mrs. BOXER. Mr. President, we teach our children that genocide, wherever it occurs, is a crime against humanity that must never be tolerated or ignored. That is why it is so important for the United States to always recognize genocide for what it is and acknowledge when it takes place.

Between 1915 and 1923, the Ottoman Empire carried out genocide against the Armenian people. However, the United States has yet to recognize this stain on history by its rightful name despite an irrefutable body of evidence documenting the atrocities.

Diplomats, members of the military, humanitarians, journalists and others from the United States and around the world saw with their own eyes the deportation, starvation, drowning and murder of an estimated 1.5 million Armenians. And there are countless testimonies from victims who lived to tell of their experiences.

The American Ambassador to the Ottoman Empire, Henry Morgenthau, wrote:

When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and in their conversations with me, they made no particular attempt to conceal the fact.

There were great efforts made by Americans to relieve the suffering of the victims of what would become the first genocide of the 20th century. Powerful leaders of industry and government did speak out. Schoolchildren and poor families contributed mightily to try to save lives by donating whatever they could. American farmers sent food to reduce starvation.

Yet in the 95 years since the Armenian Genocide began, the word "genocide" has not been used by the United States to describe the atrocities carried out against the Armenians.

The United States has always been a beacon to the world—standing up for what is right and just. Now is the time for the United States to join countries such as Argentina, Belgium, Canada, Chile, Cyprus, France, Greece, Italy, Lebanon, Lithuania, the Netherlands, Poland, Russia, Slovakia, Sweden, Switzerland, Uruguay, Venezuela, and more than 40 U.S. States and unequivocally affirm the Armenian Genocide.

TRIBUTE TO RITA McCAFFREY

Mr. LEAHY. Mr. President, a distinguished and giving Vermonter will be retiring after nearly 40 years of working on behalf of Vermont's prisoners and former prisoners. Rita Whalen McCaffrey is stepping down in May as the Executive Director of Dismas of Vermont, a residential program that helps former prisoners transition and reintegrate into society. Opened in Burlington in 1986, Dismas of Vermont has grown to provide supportive housing in three homes and three satellite apartments in the Burlington and Rutland communities, and has served more than a thousand men and women in the past 25 years.

Rita has engaged hundreds of Vermonters from all walks of life through the years to actively participate in the Mission of Dismas: to reconcile former prisoners with society and society with former prisoners through participation in a supportive family-like community. The Dismas model Rita founded in Vermont is powered by volunteers who cook and share the evening meal, choose to live in the community with the residents, and participate as active board members. The act of mutual reconciliation happens because community members come into the home and become a part of the Dismas family.

Rita's strong commitment to building and encouraging community support for former prisoners exemplifies the charitable spirit that has made Vermont one of the best places in the country to live. Her efforts have changed the direction of many lives and encouraged many to work towards reconciliation and respect. By steering former prisoners away from crime and toward a more constructive path, her work has also made the community a safer and better place to live. She leaves a legacy that is as inspiring as it is impressive, and her successor will have large shoes to fill.

As she moves on from a career path that began in 1974, I congratulate Rita for her invaluable service and leadership and I wish her a happy retirement.

TRIBUTE TO DR. WILLIAM TORTOLANO

Mr. LEAHY. Mr. President, one of my fondest memories of my undergraduate days at St. Michael's college was getting to know both Dr. William Tortolano and his extremely accomplished wife Martha.

I could tell many stories about the Tortolanos and the times they were also part of the Leahy family. I would rather let a story in the Burlington Free Press about his retirement after a 50-year career at St. Michael's speak for me, and I ask unanimous consent that it be printed in the RECORD.

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

[From the Burlington Free Press, April 20, 2010]

ST. MICHAEL'S COLLEGE PROFESSOR DEPARTS WITH CONCERT

(By Matt Sutkoski)

St. Michael's College emeritus professor William Tortolano has made big, varied contributions to the school in his 50-year career there.

He's taught humanities and music, directed the chorus, gave and organized countless performances, and even designed the organ in St. Michael's chapel.

So it stands to reason his going-away gift to the community is just as varied.

The free concert at 7:30 p.m. today in the chapel will feature his beloved organ, even more beloved family members, the Vermont Gregorian Chant Schola, the St. Michael's College Chorale and a wide range of musical selections.

Tortolano, 80, is founder and first chairman of the St. Michael's College fine arts department. He also founded the St. Michael's Chorale and was its director for 28 years.

Music extends deeply into his personal life. He married a musician, his three children are accomplished musicians and his grandchildren are headed in the same direction, he said. "They were not forced into it, obviously. This was something they wanted to do," Tortolano said.

Tonight's concert will feature two of his children, and a grandson, a senior majoring in music at Boston College and a cellist.

Tortolano said he had some experience with organ design because he took a course on the subject while at the New England Conservatory of Music, and he has always been interested in the instrument.

He designed the organ for the Chapel of St. Michael the Archangel with the structure's acoustics in mind. "It has to fit the acoustics, the reverberations. You don't buy it at Walmart or anything," he said.

He completed the organ's design in 1962; the chapel opened in 1964; and the organ was installed in 1966, he said. At the time, it cost \$13,500, which in today's dollars would be more than \$97,000, according to the Consumer Price Index inflation calculator. That's not particularly expensive for a custom-made organ, he said.

St. Michael's College's student body was strictly male when Tortolano joined the faculty. He was in charge of the chorus, but as more women became students, he created a new St. Michael's Chorale in 1970, when the college became co-ed and eventually disbanded the all-male group.

Tortolano said the Chorale is among his best memories of his career. True, he performed for the Pope, and at Notre Dame, and Cambridge University. But he said he takes great joy in remaining in touch with past Chorale members and attending reunions.

This semester, Tortolano is teaching humanities, but this will be his last year, and the concert is his official retirement.

He won't just sit back. "I feel very good, and I keep very busy," he said. He'll continue in music; he'll do workshops and recitals. And, Tortolano says, he'll look back fondly at his five decades at St. Michael's.

"It's been a great experience," he said.

ADDITIONAL STATEMENTS

TRIBUTE TO JANET KURLAND

• Mr. CARDIN. Mr. President, I would like to ask my colleagues to join me in recognizing Janet Kurland, a great Baltimore social worker, who is being honored next Monday by the Edward A. Myerberg Senior Center.

For decades, Janet has been a trailblazer in policies and practices pertaining to the elderly and their families. Among her many accomplishments, she was instrumental in establishing the Northwest Senior Center in 1976, the predecessor to the Myerberg Center that honors her today.

Since first receiving her master of social work degree in the early 1960s, Janet has set the gold standard for practices in gerontology. Her current work as the senior care specialist at the Jewish Family Services of Baltimore, a place where she has worked in different capacities for over 40 years, is just one highlight of what has been an outstanding career.

Janet is a sought-after consultant who has developed manuals and training courses credited with advancing best practices that have benefited the elderly in housing, life care communities, and health care facilities. Her professional uniqueness lies in her ability to carefully and compassionately assess the dynamics and needs of individuals and families in order to improve the lives of all senior citizens.

In 2001, Janet was the first recipient of the Daniel Thursz Distinguished Service Award from Kehilla, a Baltimore Jewish communal professionals association. She is also recognized by her students as an excellent teacher for the post-masters course she teaches at the University of Maryland School of Social Work called "The Aging Process."

Not only has Janet made an impact in Baltimore, but she could easily be called a world ambassador for the elderly as well. She has traveled extensively in Poland, Russia, Israel, China, and Kenya to train social workers and to work with elderly populations. She is highly engaged in the world around her and has proven that compassion and care can easily transcend different cultures and language barriers. Her belief that elderly people often have an untapped internal capacity to live more fully than even they themselves can imagine continues to be an inspiration for many people around the globe.

I urge my colleagues to join me in congratulating Janet on this award and in thanking her for her many years of dedicated service to our older population. The Edward A. Myerberg Senior Center, the Jewish and greater Baltimore senior community, in fact seniors around the world are benefitting from Janet Kurland's expertise and dedication. •

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:30 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4360. An act to designate the Department of Veterans Affairs blind rehabilitation center in Long Beach, California, as the "Major Charles Robert Soltes, Jr., O.D. Department of Veterans Affairs Blind Rehabilitation Center".

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-5510. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-346, "Fiscal Year 2010 Balanced Budget and Spending Pressure Control Plan Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5511. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-349, "Newborn Safe Haven Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5512. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-350, "Small Business Stabilization and Job Creation Strategy Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5513. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-351, "Attorney General for the District of Columbia Clarification and Elective Term Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5514. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-352, "Prohibition Against Selling Tobacco Products to Minors Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5515. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report

on D.C. Act 18-353, "Third and H Streets, N.E. Economic Development Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5516. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-354, "Foster Care Youth Identity Protection Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5517. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-355, "Jubilee Housing Residential Rental Project Real Property Tax Exemption Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5518. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-356, "Campbell Heights Residents Real Property Tax Exemption Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5519. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-357, "Disposition of the Property Formerly Designated as Federal Reservations 129, 130, and 299 Approval Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5520. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-358, "Old Morgan School Place, N.W., Designation Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5521. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-359, "Special Event Exemption Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5522. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-360, "SOME, Inc., Technical Amendments Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5523. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-361, "IHOP Restaurant #3221 Tax Exemption Clarification Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5524. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-362, "Tregaron Conservancy Clarification Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5525. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-368, "Msgr J. Mundell Way Designation Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5526. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-369, "Ronald H. Brown Way Designation Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5527. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-370, "Rev. Dr. Edward Thomas Way Designation Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5528. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-371, "Council Cable Autonomy and Control Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5529. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-372, "Tenth Street Community Park Designation Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5530. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-373, "Abe Pollin City Title Championship and Title Trophy Designation Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5531. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-374, "Tenant Opportunity to Purchase Preservation Clarification Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5532. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-375, "H Street, N.E. Small Business Streetscape Construction Real Property Tax Deferral Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5533. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-376, "Adams Morgan Main Street Group Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5534. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-377, "Lis Pendens Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5535. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-378, "Certified Capital Companies Improvement Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5536. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-379, "Safe Release of Inmates Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5537. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-380, "Uniform Unsworn Foreign Declarations Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5538. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-381, "DC Circulator Bus Jurisdiction Expansion Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5539. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-382, "Energy Efficiency Financing Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5540. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pur-

suant to law, the report of a rule entitled "National Industrial Security Program Directive No. 1" (RIN3095-AB63) received in the Office of the President of the Senate on April 15, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5541. A communication from the Senior Procurement Analyst, Office of the Secretary, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation Rewrite" (RIN1093-AA11) received in the Office of the President of the Senate on April 15, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5542. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005-41; Introduction" (FAC 2005-41) received in the Office of the President of the Senate on April 16, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5543. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005-41; Small Entity Compliance Guide" (FAC 2005-41) received in the Office of the President of the Senate on April 16, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5544. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; FAR Case 2009-005, Use of Project Labor Agreements for Federal Construction Projects" ((RIN9000-AL31)(FAC 2005-41)) received in the Office of the President of the Senate on April 16, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5545. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's fiscal year 2009 annual report relative to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Homeland Security and Governmental Affairs.

EC-5546. 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 "Polyglyceryl Phthalate Ester of Coconut Oil Fatty Acids; Exemption from the Requirement of a Tolerance; Technical Correction" (FRL No. 8436-3) received in the Office of the President of the Senate on April 16, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5547. A communication from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, a report entitled "Cost and Impact on Recruiting and Retention of Providing Thrift Savings Plan Matching Contributions"; to the Committee on Armed Services.

EC-5548. A communication from the Assistant Secretary of Defense (Global Strategic Affairs), Department of Defense, transmitting, pursuant to law, a report relative to Cooperative Threat Reduction Programs; to the Committee on Armed Services.

EC-5549. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled "Federal Home Loan Bank Directors' Eligibility, Elections, Com-

pensation and Expenses" (RIN2590-AA03; RIN2590-AA31; RIN2590-AA34) received during adjournment of the Senate in the Office of the President of the Senate on April 6, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5550. A communication from the Associate General Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Section 108 Community Development Loan Guarantee Program: Participation of States as Borrowers Pursuant to Section 222 of the Omnibus Appropriations Act, 2009" ((RIN2506-AC28)(Docket No. 5326-F-02)) received in the Office of the President of the Senate on April 14, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5551. A communication from the Acting Director, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, a report relative to the details of the Office's compensation plan for fiscal year 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5552. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, an annual report on the actions taken by the Commission relative to the Fair Debt Collection Practices Act during 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-5553. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Tire Fuel Efficiency Consumer Information Program" (RIN2127-AK45) received during adjournment of the Senate in the Office of the President of the Senate on April 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5554. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Theft Protection and Rollaway Prevention" (RIN2127-AK38) received during adjournment of the Senate in the Office of the President of the Senate on April 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5555. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Air Brake Systems" (RIN2127-AK62) received during adjournment of the Senate in the Office of the President of the Senate on April 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5556. A communication from the Deputy Assistant General Counsel, Office of Aviation Enforcement and Proceedings, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Enhancing Airline Passenger Protections: Extension of Compliance Date for Posting of Flight Delay Data on Web Sites" (RIN2105-AE00) received during adjournment of the Senate in the Office of the President of the Senate on April 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5557. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300 B2-1C, B2K-3C, B2-203, B4-2C, B4-103, and B4-203 Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-1166)) received in the Office of the President of the Senate

on April 15, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5558. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 767-200, -300, and -300F Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2008-0978)) received in the Office of the President of the Senate on April 15, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5559. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Lampasas, TX" ((RIN2120-AA66) (Docket No. FAA-2009-0925)) received in the Office of the President of the Senate on April 15, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5560. A communication from the Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, a report relative to the disclosure of financial interest and recusal requirements for Regional Fishery Management Councils and Scientific and Statistical Committees; to the Committee on Commerce, Science, and Transportation.

EC-5561. A communication from the Acting Assistant Secretary of Land and Minerals Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas Sulphur Operations in the Outer Continental Shelf—Oil and Gas Production Requirements" (RIN1010-AD12) received in the Office of the President of the Senate on April 15, 2010; to the Committee on Energy and Natural Resources.

EC-5562. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Standards for Business Practices and Communication Protocols for Public Utilities" (FERC Docket No. RM05-5-017) received in the Office of the President of the Senate on April 14, 2010; to the Committee on Energy and Natural Resources.

EC-5563. A communication from the Secretary of the Department of Energy, transmitting, pursuant to law, a report relative to a National Academy of Sciences study regarding the use of full-fuel-cycle measurements as part of the Department of Energy's appliance standards program; to the Committee on Energy and Natural Resources.

EC-5564. 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 Implementation Plans; Revisions to the Kentucky State Implementation Plan" (FRL No. 9139-1) received in the Office of the President of the Senate on April 16, 2010; to the Committee on Environment and Public Works.

EC-5565. 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 Implementation Plans; Tennessee; Visibility Impairment Prevention for Federal Class I Areas; Removal of Federally Promulgated Provisions" (FRL No. 9138-9) received in the Office of the President of the Senate on April 16, 2010; to the Committee on Environment and Public Works.

EC-5566. 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; New Mexico; Transportation Conformity Requirement for Bernalillo County" (FRL No. 9140-2) received in the Office of the President of the Senate on April 16, 2010; to the Committee on Environment and Public Works.

EC-5567. A communication from the Chief, Branch of Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Salt Creek Tiger Beetle" (RIN1018-AT79) received during adjournment of the Senate in the Office of the President of the Senate on April 2, 2010; to the Committee on Environment and Public Works.

EC-5568. A communication from the Director of the U.S. Geological Survey, Department of the Interior, transmitting, pursuant to law, a report entitled, "Mineral Commodity Summaries 2010"; to the Committee on Environment and Public Works.

EC-5569. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Fiscal Year 2008 Superfund Five-Year Review Report to Congress"; to the Committee on Environment and Public Works.

EC-5570. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Annexes to the Fiscal Year 2009 Annual Report on U.S. Government Assistance to and Cooperative Activities with Eurasia; to the Committee on Foreign Relations.

EC-5571. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (RIN0910-AG33) received during adjournment of the Senate in the Office of the President of the Senate on April 6, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5572. A communication from the Assistant General Counsel for Regulations, Office of Safe and Drug Free Schools, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Emergency Management for Higher Education Grant Program", received in the Office of the President of the Senate on April 14, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5573. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Family Violence Prevention and Services Program for fiscal years 2007-2008; to the Committee on Health, Education, Labor, and Pensions.

EC-5574. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to Indian Health Service funding for contract support costs of self-determination awards; to the Committee on Indian Affairs.

EC-5575. A communication from the Deputy Assistant Administrator of Diversion Control, Drug Enforcement Agency, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Table of Excluded Nonnarcotic Products: Nasal Decongestant Inhalers Manufactured by Classic Pharmaceuticals, LLC" (Docket No. DEA-329F) received during adjournment of the Senate in the Office of the President of the Senate on April 6, 2010; to the Committee on Judiciary.

EC-5576. A communication from the Federal Liaison Officer, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Cancellation of Rule of Practice 41.200(b) before the Board of Patent Appeals and Interference Proceedings" (RIN0651-AC46) received in the Office of the President of the Senate on April 15, 2010; to the Committee on the Judiciary.

EC-5577. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the quarterly report of the Department of Justice's Office of Privacy and Civil Liberties; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM-97. A resolution adopted by the Senate of the General Assembly of the State of Tennessee urging Congress to adopt legislation that would postpone the Environmental Protection Agency's effort to regulate greenhouse gas emissions from stationary sources using existing Clean Air Act Authority; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 200

Whereas, the U.S. Environmental Protection Agency's (EPA's) plan to regulate greenhouse gas (GHG) emissions from new cars and light trucks will trigger the same regulation of GHG emissions from stationary sources like manufacturing facilities, power plants, hospitals, and commercial establishments; and

Whereas, regulating greenhouse gas emissions from stationary sources under the Clean Air Act might be a great anchor on manufacturing and the economy in general; and

Whereas, the pending EPA effort might burden progress on two of the nation's top priorities, environmental improvement and economic recovery, by imposing onerous permitting requirements that will significantly delay or even eliminate investments in new energy-efficient technologies; and

Whereas, over four million jobs were lost in 2009, and the EPA's proposed regulations have the potential to cause even further job losses; and

Whereas, the regulatory requirements of the Clean Air Act will overwhelm state agencies, which are not equipped to handle the estimated six million permitting requests anticipated; and

Whereas, only Congress can act to avoid the significant costs and burdens imposed by such regulations on stationary sources, which even the EPA admits will lead to "absurd results": Now, therefore, be it

Resolved by the Senate of the One Hundred Sixth General Assembly of the State of Tennessee, That we hereby encourage the United States Congress to adopt legislation that would postpone The Environmental Protection Agency's effort to regulate greenhouse gas emissions from stationary sources using existing Clean Air Act authority until Congress adopts a balanced approach to address climate and energy supply issues without crippling the economy. Be it further

Resolved, That an enrolled copy of this resolution be transmitted to the Speaker and the Clerk of the U.S. House of Representatives, the President and the Secretary of the U.S. Senate, and to each member of Tennessee's Congressional delegation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 3236. A bill to expand the National Domestic Preparedness Consortium to include the SUNY National Center for Security and Preparedness; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HARKIN (for himself, Mr. INOUE, and Mr. CRAPO):

S. 3237. A bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. SPECTER, Mr. CASEY, Mr. LAUTENBERG, Mr. MENENDEZ, and Mrs. GILLIBRAND):

S. 3238. A bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001, and to the memorials established at the 3 sites that were attacked on that day; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD:

S. 3239. A bill to repeal unwarranted provisions from the Patient Protection and Affordable Care Act and to more efficiently use taxpayer dollars in health care spending; to the Committee on Finance.

By Mr. CORNYN (for himself and Mr. KYL):

S. 3240. A bill to increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings, and for other purposes; to the Committee on Finance.

By Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. MERKLEY, Mr. WHITEHOUSE, and Mr. HARKIN):

S. 3241. A bill to provide for a safe, accountable, fair, and efficient banking system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REED (for himself, Mr. LEMIEUX, and Mr. BROWN of Ohio):

S. 3242. A bill to improve teacher quality, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. PRYOR:

S. 3243. A bill to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VITTER (for himself, Mr. INHOFE, Mr. KYL, and Mr. CRAPO):

S. Con. Res. 59. A concurrent resolution expressing the sense of Congress that the United States should neither become a signatory to the Rome Statute of the International Criminal Court nor attend the Re-

view Conference of the Rome Statute in Kampala, Uganda in May 2010; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 182

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 308

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 308, a bill to amend title 23, United States Code, to improve economic opportunity and development in rural States through highway investment, and for other purposes.

S. 309

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 309, a bill to amend title 23, United States Code, to improve highway transportation in the United States, including rural and metropolitan areas.

S. 455

At the request of Mr. ROBERTS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry "Hap" Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd anniversary of the founding of the United States Army Command and General Staff College.

S. 493

At the request of Mr. CASEY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 493, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

S. 632

At the request of Mr. BAUCUS, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the

writing of the Star-Spangled Banner, and for other purposes.

S. 718

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 718, a bill to amend the Legal Services Corporation Act to meet special needs of eligible clients, provide for technology grants, improve corporate practices of the Legal Services Corporation, and for other purposes.

S. 1060

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1060, a bill to comprehensively prevent, treat, and decrease overweight and obesity in our Nation's populations.

S. 1275

At the request of Mr. WARNER, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 1275, a bill to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

S. 2995

At the request of Mr. CARPER, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 2995, a bill to amend the Clean Air Act to establish a national uniform multiple air pollutant regulatory program for the electric generating sector.

S. 3078

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3078, a bill to provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes.

S. 3098

At the request of Mr. MERKLEY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 3098, a bill to prohibit proprietary trading and certain relationships with hedge funds and private equity funds, to address conflicts of interest with respect to certain securitizations, and for other purposes.

S. 3122

At the request of Mr. ENSIGN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 3122, a bill to require the Attorney General of the United States to compile, and make publicly available, certain data relating to the Equal Access to Justice Act, and for other purposes.

S. 3164

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3164, a bill to amend the Internal Revenue Code of 1986 to extend financing of the Superfund.

S. 3184

At the request of Mrs. BOXER, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3184, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 3201

At the request of Mr. UDALL of Colorado, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 3201, a bill to amend title 10, United States Code, to extend TRICARE coverage to certain dependents under the age of 26.

S.J. RES. 16

At the request of Mr. DEMINT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S.J. Res. 16, a joint resolution proposing an amendment to the Constitution of the United States relative to parental rights.

S. CON. RES. 55

At the request of Mr. FEINGOLD, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. Con. Res. 55, a concurrent resolution commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of the State of Wisconsin.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 3239. A bill to repeal unwarranted provisions from the Patient Protection and Affordable Care Act and to more efficiently use taxpayer dollars in health care spending; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, today I am introducing legislation to repeal unwarranted and inappropriate "sweeteners" that were added to the Patient Protection and Affordable Care Act in the days before final passage of the bill.

These "sweeteners" are unjustifiable and only detract from our collective goal of putting America's health care system on a better and more sustainable path. They also undermine public confidence in the legislative process and in elected representatives in Congress.

In some cases, there are valid policy or fairness reasons why certain states or interests may receive seemingly different treatment. But several provisions were included in the health reform bill that create, rather than diminish, inequity.

This legislation would repeal four provisions in the Patient Protection and Affordable Care Act. These provisions are not supported by policy rationales and do not address any inequity in current policy. Simply put, they are intended to provide an undeserved windfall to specific states.

This legislation also amends one provision in the Patient Protection and Affordable Care Act providing increased Medicaid assistance to States recovering from natural disaster. Because there is some justification for Louisiana receiving additional help to cope with the continued aftermath of Hurricane Katrina, my legislation leaves this provision intact, but it decreases the amount of assistance available.

I was pleased to support the Patient Protection and Affordable Care Act. That law will strengthen America's health care system and reduce the national deficit and the five changes to the law that I am proposing would help us better meet those goals.

By Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. MERKLEY, Mr. WHITEHOUSE, and Mr. HARKIN):

S. 3241. A bill to provide for a safe, accountable, fair, and efficient banking system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. BROWN of Ohio. Mr. President, when you look at Wall Street and you look at the relationship between far too many Senators and Wall Street, that is what got us into this mess. For the last 10 years the deregulation of the Bush administration, the people they appointed to watch, such as the head of mine safety in the Bush years was a mining executive, we paid the price for that, the people in my State, people in West Virginia. Too often families pay the price for a government not aggressive enough to regulate mine safety. We paid the price in this country because we didn't have a government aggressive enough to make the banks and Wall Street behave. That is why they were able to overreach.

That is why the legislation Senator KAUFMAN and I are introducing, with Senators CASEY, WHITEHOUSE, MERKLEY, and others, will address the issue of too big to fail. Too big to fail is not what you do if these banks are in trouble, how you pull them apart when they are about to fail, and we want to make sure we don't spend taxpayer dollars to bail them out. We make sure they don't hurt the whole financial system. Too big to fail means don't let them get too big. Even Alan Greenspan, hardly an ally in regulating the banking system, says too big to fail means too big. That is what Senator KAUFMAN and I are addressing in our legislation.

Let me give some numbers. Fifteen years ago, the six largest U.S. banks had assets equal to 17 percent, one-seventh. Fifteen years ago, the six largest U.S. banks had assets equal to 17 percent of overall GDP. Today the six largest banks have assets equal to 63 percent of overall GDP. Three of these megabanks have close to \$2 trillion of assets on their balance sheets.

When that happens, we are setting ourselves up for one more round of seri-

ous problems. That is why homeowners in Youngstown lost their homes. That is why retirees in Sidney, OH lost a lot of their wealth. That is why workers in Newark, OH lost jobs—because we had a banking system that was overreaching, excessive, that became too greedy, and we didn't do enough about it.

Here is what has happened. The Ohio manufacturers I talked to this morning want to grow. They want to hire people. They have orders. They have capacity. They just can't get loans. Three of the largest banks slashed their SBA lending by 86 percent over the last year. SBA loans went from 4,200 in 2007 in Ohio alone to 2,100. At the same time banks have increased their Wall Street trading by 23 percent. Something was wrong in the last 10 years. We paid the price in the last 2 years. But something is still wrong when these banks get bigger and bigger. They trade more and more, and they lend to Main Street less and less.

That is why the legislation Senator KAUFMAN and I introduced with several other Senators today speaks to this. We need banks to serve this country. Ultimately, it is which side one is on. Are you going to side with Wall Street or Main Street?

Today in the Agriculture Committee we had Republicans and Democrats together passing legislation, strong legislation to regulate derivatives. It is a first, good bipartisan step. Senator GRASSLEY, a Republican from Iowa, joined all of us on the committee to pass a strong bill, not a bill that Wall Street helped to write but a bill that works for American consumers, American small business, American homeowners and workers.

I yield to Senator KAUFMAN.

Mr. KAUFMAN. I agree with what Senator BROWN is saying. This is a very complex bill. It is a very complex area. But what we are talking about is a very simple proposition. We can either limit the size and leverage of too big to fail financial institutions, such as the bill which Senator BROWN and I are offering now will do or we will suffer the economic consequences of their potential failure later. I personally believe breaking apart too big to fail banks is a necessary first step in preventing another cycle of boom, bust, and bailout. Even if they do that, this bill is required if, in fact, we are going to limit too big to fail.

This debate is a test of whether the power of that idea can spread and gain support. Although it is clearly the safest way to avoid another financial crisis, this idea must overcome tremendous resistance from Wall Street banks and their politically powerful campaigns against any kind of structural financial reform. Moreover, the idea must overcome the inertia and caution in a Congress drawn to easier ideas that may work. But how much should we gamble that they will work? Limiting size and leverage are fail-safe

provisions to prevent a dangerous outcome. Senator BROWN and I are proposing a complementary idea to limit the size and leverage, not a substitute for breaking the banks apart.

The current banking bill has many important provisions we support. But under its approach, we must hope the financial stability oversight council can identify systemic risks before it is too late. We must hope that regulators will be emboldened to act in a timely manner when before, in the recent past, they failed to act. We must hope better transparency in financial data will produce early warning signals of systemic dangers so clear that a council and panel of judges will unhesitatingly agree. We must hope that capital requirements will be set properly in relation to risks that all too often remain purposefully hidden from view. We must hope that resolution authority will work, when we know it has no cross-border authority to resolve global financial institutions.

Under the current bill, we must hope all future Presidents will appoint regulators as determined to carry out the same strict measures preached belatedly by today's regulators who have been converted by the traumatic experience of their own failures.

All rules to restrict excessive risk taking in banking have a half life. That is because the financial sector is full of very smart people with an incentive to find their way around the rules, particularly to load up on risk, as this is what provides them their excessive profits and gigantic bonuses. I would rather not pin the future of the American economy on so much hope. I would rather Congress act now, definitively and responsibly, to end too big to fail.

The changes in regulations envisioned today in the bill we are proposing would help initially, particularly until the next free market candidate who wins appoints regulators who only believe in self-regulation. This bill establishes hard lines. One of the greatest sayings is: Good fences make good neighbors. This builds the fences. Then we let the regulators do it, and we don't have to worry about the President picking the right regulators. Our bill would provide a legislative size and leverage restriction that would last far longer than the half life of who is appointed to be regulator. We want this to operate for a generation.

In 1933, our forebears, after the Great Depression, made hard rules. They passed Glass-Steagall. They set up the FDIC. They set rules against margins, and they set the uptick rule. We should do no less. Remember, when they passed those bills in 1933, they helped us avoid a financial crisis for almost 50 years.

Some argue we need massive banks, but recent studies show that with over \$100 billion in assets—and by the way, these banks, as Senator BROWN said, have over \$2 trillion worth of assets—financial institutions no longer achieve additional economies of scale. They

simply become dangerous concentrations of financial power that benefit from an implicit government guarantee that they will be saved if they fail. With this implicit guarantee, these firms will continue to have every incentive to use massive amounts of short-term debt to finance the purchase of risky assets. This bill would deal with their ability to be able to do that and would stop it. They would go on and be able to do this without us. They have done it in the past, and there is no reason to think they won't do it in the future until they cause the next crisis and taxpayers must bail them out again. While \$100 billion banks would be smaller, they are not small banks. Such banks would have no trouble competing around the world.

Under this bill, we would still have banks far bigger than even that size. People say: Look at other countries. Look what they are doing. Just because other countries subsidize megabanks that could send those countries spiraling into a financial crisis should not make us want to do the same.

Everyone agrees—as the Senator from Arizona said—the most important thing is too big to fail. How much can we risk that by doing what other countries are doing, when they are creating banks that are clearly too big to fail? Most people in the oil industry did well under the breakup of Standard Oil, including its shareholders, and the breakup of AT&T helped the telecom industry become more dynamic, competitive, and profitable.

The current Senate bill contains many important provisions that address the causes of the financial crisis, but why risk leaving oversized institutions in place when they potentially are too big to fail? Instead, we should meet the challenge of the moment and have the courage to act, as in this bill, to limit the size and practices of these literally colossal financial institutions, the stability of which are a threat to our economy. This bill is the best hope to ensure future decades of financial stability and the livelihoods of the American people. This bill will put the days of too big to fail forever behind us.

Mr. BROWN of Ohio. I thank Senator KAUFMAN.

Some people think about this as a pretty big step, to decide we want to limit the size of banks. It is not something we like to do. We don't want to do more regulation than we have to. We don't want to tell successful companies not to grow. But when we look at what has happened in the past, as Senator KAUFMAN said, we did this right in the 1930s, and it protected our financial system, with a few hiccups but no serious problems until the end of this last decade, when President Bush and the Congress, starting with President Clinton—President Bush accelerated it and weakened regulation—repealed regulation and appointed, you might use the term “lapdogs”—that might not be a senatorial sounding word.

Mr. KAUFMAN. Lapdogs is another way of saying people who believe self-regulation will work.

Alan Greenspan also was quoted as saying we should breakup the banks; Standard Oil wasn't bad. At the time he said, after it was over, a year later he gave a speech and said: I really thought self-regulation would work. I am dismayed that it didn't.

The way I put it, it is as if there were a whole group of folks, not just in the financial regulatory area but all over the government, who basically believed the markets are great. I am a big believer in markets, but I also like football. The idea that someone would say: Football is great, but those referees keep blowing their damn whistles. Let's get the referees off the field so football players can be football players. We know what would happen if we pulled all the referees off the field in a game. I wouldn't want to be in the second pileup.

That is what we said with this. We said we are going to pull the referees off the field and see what happens. These were good people. They just didn't believe they had to regulate, and we are now seeing the results.

People say to us, when we propose these things—I have had several press people say to me—why don't we leave it up to the regulators? They can set these numbers. We shouldn't set these numbers.

Let me read from a couple things. The 1970 Bank Holding Company Act amendments gave the Fed the power to terminate a company's authority to engage in nonbanking activities, basically doing what we are talking about doing, if it finds such action is necessary to prevent undue concentration of resources—I wonder if that went on recently—decreased or unfair competition, conflicts of interest, or unsound banking practices. The Fed had the power to do this. They did not do it.

The Financial Institutions Reform Recovery Enforcement Act also gave regulators the power to restrict an institution's growth and limit its size.

What we are talking about now is giving the regulators essentially what they already have in the present bill. What Senator BROWN and I are saying—and the other cosponsors—is, the buck stops here. We should tell the regulators what these percentages are going to be. Because if we leave it up to the regulators, as Senator BROWN said, these are very powerful people and very powerful institutions.

They hire the very best people to come and make their arguments.

So if you are sitting there running a regulatory agency and you are saying: Oh my God, I don't want to do this, I don't want to shrink these things down—and remember one other thing too. As bad as things were in this latest crisis, think about what has happened during this crisis. They have all exploded. What did we have happen? JPMorgan Chase now includes Washington Mutual, a \$400 billion bank.

Bank of America now includes Merrill Lynch. We can go on from there. Wells Fargo now has Wachovia. These things were big. We had this mess. We deregulated. We put the regulators in. We changed laws. Now they are bigger. As the Senator says, their assets are 63 percent of the gross domestic product of this country. Fifteen years ago, they were 17 percent of gross domestic product.

What do we have to do before someone sends the message that these things are too big and that this Congress not pass the buck to the regulators, who did not do the job in the past? Let me just say this. I think the world of our regulators now. I do not think there are people in regulating now who basically believe they should not be regulated.

In 1933, we made a decision that helped us through three generations. What are we doing as Senators on the floor passing legislation based on the fact: I trust my regulators now. Why are we not passing legislation that will work over the next two or three generations—something that will work whether we get a President who believes in the fact that we should have a market or not, whether we have a good regulator or a bad regulator? Why shouldn't the Senate of the United States do its job and basically lay out restrictions of the kind that are in this bill so the regulators have them? Then they can enforce it. They can do the enforcement, which is their job. We should send a clear message to people that this is what we have to do.

Mr. BROWN of Ohio. Exactly. I say to Senator KAUFMAN, you made a point maybe 5 minutes ago that some of the smartest people in the country are working on Wall Street. There is a huge incentive for smart people to go to Wall Street and be creative and invent new financial instruments to stay, in many ways, a step ahead of the regulators, in some sense, a step ahead of the "sheriff," if you will. Those regulators, who are paid probably one-tenth or one-hundredth—regulators are paid decent middle-class salaries that most Americans would be very happy with. But some of these very smart people on Wall Street are paid 100 times, 1,000 times—millions, tens of millions of dollars, and there is a huge incentive for them to figure out how to stay ahead of the regulators.

That is why it is so important that we have strong regulators. We always work to do that, and we have good regulators. It is important that a President appoint people who have the public interest in mind, which Presidents have not always done in the last decade. It is important that we write different rules, and that is exactly what we want to do to keep these banks from being so big.

We had problems with rating agencies that gamed the system. We had problems with mortgage brokers. We had problems with Wall Street. We had problems with people creating these

new CDOs and other financial instruments, particularly these so-called synthetic ones that had no real basis in any wealth creation for society, only wealth creation for each other. Ultimately, that does not work for Wall Street. It certainly does not work for our country.

So in summary, as to this legislation that five or six of us are introducing today, we will likely offer it as an amendment in the next week or two. We ask our colleagues to support it. If we are going to deal with too big to fail, we surely want to deal with it on the end if there are banks that are about to fail. But we need to, sort of, ahead of time, in anticipation, deal with it by not letting these banks—no matter how good the regulators are—not letting these banks get too big.

Mr. KAUFMAN. We just have to give the regulators the tools they need to do their job, and the guidelines because we know what these guidelines are. These are not really terribly strict guidelines; they are just to have the ability to stop what is going on now, to get banks back to the size where they can be managed.

As Senator BROWN said, these banks have a competitive advantage because when they are too big to fail, not only do we have to worry about bailing them out, but all their interest rate charges are lower. We know that. The interest rate charges on CDs with these major banks—they get higher interest rates than the other banks, and it is unfair competition for all the other small banks around this country.

As I said in the beginning, this is a very simple proposition: Is the Senate going to do its job to make sure we have in place the ability to keep these banks from being too big to fail and preparing so we never have to get to the resolution authority?

Mr. BROWN of Ohio. If we do what Senator KAUFMAN said, if we do this right, it will take care of this problem so it does not happen in the next two or three generations, the way people in the 1930s did, or if we do not do it right, we are back at this in 5 or 10 or 15 years.

Mr. KAUFMAN. By the way, let me say one thing about that. I am not for overregulation. But can you imagine, if we have another problem, what the regulation would be like then? Do you know what the proposals would be on this floor if, in fact, we have another problem? It would be draconian. It is important for all of us. We all care about our capital markets. One of the things that drive this country and make us great is the capital markets. We want them to be credible and we want them to be fair and we want them to work.

So we want to make sure we do not get faced with this. I think that is exactly what Senator BROWN and I are trying to do. We are trying to do a little bit of prevention here so we never get to that end of the road where we have to get involved in resolution authority.

Mr. BROWN of Ohio. These capital markets which worked so well for many years are not working for local manufacturers, for small businesses today.

Mr. KAUFMAN. Right.

Mr. BROWN of Ohio. I thank Senator KAUFMAN.

Mr. REED (for himself, Mr. LEMIEUX, and Mr. BROWN of Ohio):

S. 3242. A bill to improve teacher quality, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce with Senator LEMIEUX and Senator BROWN of Ohio, the Teacher and Principal Improvement Act, to foster the development of highly skilled and effective educators.

We are slated to reauthorize the Elementary and Secondary Education Act—ESEA—this Congress for the first time since 2001. My top priority for reauthorization is to build the capacity of our Nation's schools to enhance the effectiveness of teachers, principals, school librarians, and school leaders.

Decades of research have demonstrated that improving teacher and principal quality as well as greater family involvement are the keys to raising student achievement and turning around struggling schools. Studies have found that more than 50 percentile points of the difference in student academic performance is attributed to teacher quality. The world's top performing education systems invest heavily in supporting and developing teachers. Teachers in top-ranking countries such as Finland and Singapore get 100 hours of fully paid professional development training each year. It is clear that the United States must also increase its investments in our educators to stay academically competitive in an ever-expanding global economy.

Unfortunately, every year across the country thousands of effective teachers leave the profession—many within their first years of teaching. A 2003 study by Richard Ingersoll found that one-third of all new teachers quit after three years. That turnover rate increases to nearly half—one out of every two new teachers hired—after 5 years. A report by the National Commission on Teaching and America's Future also estimated that the nationwide cost of replacing public school teachers who have dropped out of the profession is \$7.3 billion annually.

However, research has shown that comprehensive mentoring and induction reduces teacher attrition by as much as half. New teachers need extra support and guidance. As such, our bill would help schools implement the key elements of effective multi-year mentoring and induction for beginning teachers, including rigorous mentor selection; ongoing mentoring with paid release time; training for mentors; and the use of research-based teaching

practices such as the National Board for Professional Teaching Standards.

The bill also significantly revises ESEA's current definition of "professional development" to foster an ongoing culture of teacher, principal, school librarian, and staff collaboration throughout schools. All too often current professional development still consists of isolated, check-the-box activities instead of helping educators engage in sustained professional learning that is regularly evaluated for its impact on classroom practice and student achievement. Effective professional development is collaborative, job-embedded, and data-driven. Research has shown that this type of professional development has a positive impact on student learning.

Research has also increasingly emphasized the important role that effective evaluation systems can play in teacher and principal development. Unfortunately, most evaluation systems nationwide have significant flaws, including a lack of: clear standards of expected performance; meaningful differentiation of teacher performance; ongoing evaluations and classroom observations; and rigorous training of evaluators. As such, our Teacher and Principal Improvement Act would for the first time in federal law require school districts to establish rigorous, fair, and transparent evaluation systems to assess whether teachers and principals are having positive impacts on student learning. If evaluation is done right, it provides teachers and principals with individualized ongoing feedback and support on their strengths, weaknesses, and areas in need of improvement.

Principals and school leaders also have a critical role to play in leading school improvement efforts and managing a collaborative culture of ongoing professional learning and development. Research has shown that leadership is second only to classroom instruction among school-related factors that influence student outcomes. As such, this bill would provide ongoing high-quality professional development to principals and school leaders, including multi-year induction and mentoring for new administrators. In this way, we will ensure that principals and school leaders possess the knowledge and skills to use student data to inform decisionmaking, communicate with families and local communities, and design and implement strategies for addressing student needs, including for students with disabilities and English Language Learners.

Additionally, our bill recognizes the importance of creating compensated leadership opportunities for teachers to take on additional roles and responsibilities outside the classroom, which will increase collaboration and the sharing of expertise among teachers and staff and improve instructional practices throughout the school. It also seeks to include for the first time in law a requirement that districts con-

duct surveys of the working and learning conditions educators face so this data could be used to better target investments and support.

Another precedent set as part of this legislation is that it requires an independent, formal review of professional development, mentoring, and evaluation programs. This review would look at whether these programs are effectively implemented and raise student achievement; retain effective teachers; improve classroom and leadership practice; and increase family and community involvement. We must ensure that our teachers and school leaders not only have access to high-quality professional development opportunities, but also know whether or not those programs are actually working to improve classroom practice and student learning.

Lastly, throughout the bill, school district collaboration with teachers and staff is viewed as a key element, particularly in the development and implementation of the teacher evaluation system. Research has shown that true "teacher buy-in" is an important factor in ensuring the sustained success of school reform efforts. In Rhode Island, we have seen in recent months an example of this as the Providence School District, educators, and the local teacher's union partnered together to embark on critical school improvement efforts. I am pleased that the Administration also has recently recognized the importance of teacher buy-in when it awarded the first Race to the Top grants to Delaware and Tennessee—both states that had applications with nearly 100 percent local teacher union support.

I worked with a range of education organizations in developing this bill, including the Alliance for Excellent Education; American Federation of School Administrators; American Federation of Teachers; American Association of Colleges for Teacher Education; Association for Supervision and Curriculum Development; Center for American Progress; Educational Testing Service; National Association of Elementary School Principals; National Association of Secondary School Principals; National Board for Professional Teaching Standards; National Commission on Teaching and America's Future; National Middle School Association; National Staff Development Council; National Writing Project; New Teacher Center; New Teacher Project; Pi Lambda Theta; and Teacher Advancement Program. I thank them for their input and support for the bill.

I urge my colleagues to cosponsor this bipartisan bill and work for its inclusion in the upcoming reauthorization of the Elementary and Secondary Education Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3242

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 "Teacher and Principal Improvement Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Teacher quality is the single most important in-school factor influencing student learning and achievement.

(2) A report by William L. Sanders and June C. Rivers showed that if 2 average 8-year-old students were given different teachers, 1 of them a high performer, the other a low performer, the students' performance diverged by more than 50 percentile points within 3 years.

(3) A similar study by Heather Jordan, Robert Mendro, and Dash Weerasinghe showed that the performance gap between students assigned 3 effective teachers in a row, and those assigned 3 ineffective teachers in a row, was 49 percentile points.

(4) In Boston, research has shown that students placed with high-performing mathematics teachers made substantial gains, while students placed with the least effective teachers regressed and their mathematics scores decreased.

(5) McKinsey & Company found that studies that take into account all of the available evidence on teacher effectiveness suggest that students placed with high-performing teachers will progress 3 times as fast as those placed with low-performing teachers.

(6) A 2003 study by Richard Ingersoll found that new teachers, not just those in hard-to-staff schools, face such challenging working conditions that nearly one-half leave the profession within their first 5 years, one-third leave within their first 3 years, and 14 percent leave by the end of their first year.

(7) A report by the National Commission on Teaching and America's Future estimated that the nationwide cost of replacing public school teachers who have dropped out of the profession is \$7,300,000,000 annually.

(8) Research by Thomas Smith, Richard Ingersoll, and Anthony Villar has shown that comprehensive mentoring and induction reduces teacher attrition by as much as one-half and strengthens new teacher effectiveness.

(9) A recent School Redesign Network at Stanford University and National Staff Development Council report by Linda Darling-Hammond, Ruth Chung Wei, Alethea Andree, Nikole Richardson, and Stelios Orphanos found that—

(A) a set of programs that offered substantial contact hours of professional development (ranging from 30 to 100 hours in total) spread over 6 to 12 months showed a positive and significant effect on student achievement gains; and

(B) intensive professional development, especially when it includes applications of knowledge to teachers' planning and instruction, has a greater chance of influencing teacher practices, and in turn, leading to gains in student learning. Such intensive professional development has shown a positive and significant effect on student achievement gains, in some cases by approximately 21 percentile points.

(10) Recent reports from the Center for American Progress, Education Sector, Hope Street Group, and the New Teacher Project have collectively demonstrated the significant flaws in current teacher evaluation and

implementation, and the necessity for redesigning these systems and linking such evaluation to individualized feedback and substantive targeted support in order to ensure effective teaching.

(11) Research by Kenneth Liethwood, Karen Seashore Louis, Stephen Anderson, and Kyla Wahlstrom found that—

(A) leadership is second only to classroom instruction among school-related factors that influence student outcomes; and

(B) direct and indirect leadership effects account for about one-quarter of total school effects on student learning.

(12) Research by Charles Clotfelter, Helen Ladd, Kenneth Liethwood, and Anthony Milanowski has shown that the quality of working conditions, particularly supportive school leadership, impacts student academic achievement and teacher recruitment, retention, and effectiveness.

(b) PURPOSES.—The purposes of this Act are to build capacity for developing effective teachers and principals in our Nation's schools through—

(1) the redesign of teacher and principal evaluation and assessment systems;

(2) comprehensive, high-quality, rigorous multi-year induction and mentoring programs for beginning teachers, principals, and other school leaders;

(3) systematic, sustained, and coherent professional development for all teachers that is team-based and job-embedded;

(4) systematic, sustained, and coherent professional development for school principals, other school leaders, school librarians, paraprofessionals, and other staff; and

(5) increased teacher leadership opportunities, including compensation for teacher leaders who take on new roles in providing school-based professional development, mentoring, rigorous evaluation, and instructional coaching.

SEC. 3. DEFINITIONS.

Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) is amended—

(1) by striking paragraph (34) and inserting the following:

“(34) PROFESSIONAL DEVELOPMENT.—The term ‘professional development’ means comprehensive, sustained, and intensive support, provided for teachers, principals, school librarians, other school leaders, and other instructional staff, that—

“(A) fosters collective responsibility for improved student learning;

“(B) is designed and implemented in a manner that increases teacher, principal, school librarian, other school leader, paraprofessional, and other instructional staff effectiveness in improving student learning and strengthening classroom practice;

“(C) analyzes and uses real-time data and information collected from—

“(i) evidence of student learning;

“(ii) evidence of classroom practice; and

“(iii) the State’s longitudinal data system;

“(D) is aligned with—

“(i) rigorous State student academic achievement standards developed under section 1111(b)(1);

“(ii) related academic and school improvement goals of the school, local educational agency, and statewide curriculum;

“(iii) statewide and local curricula; and

“(iv) rigorous standards of professional practice and development;

“(E) primarily occurs multiple times per week during the regular school day among established collaborative teams of teachers, principals, school librarians, other school leaders, and other instructional staff, by grade level and content area (to the extent applicable and practicable), which teams engage in a continuous cycle of professional learning and improvement that—

“(i) identifies, reviews, and analyzes—

“(I) evidence of student learning; and

“(II) evidence of classroom practice;

“(ii) defines a clear set of educator learning goals to improve student learning and strengthen classroom practice based on the rigorous analysis of evidence of student learning and evidence of classroom practice;

“(iii) develops and implements coherent, sustained, and evidenced-based professional development strategies to meet such goals (including through instructional coaching, lesson study, and study groups organized at the school, team, or individual levels);

“(iv) provides learning opportunities for teachers to collectively develop and refine student learning goals and the teachers’ instructional practices and the use of formative assessment;

“(v) provides an effective mechanism to support the transfer of new knowledge and skills to the classroom (including utilizing teacher leaders, instructional coaches, and content experts to support such transfer); and

“(vi) provides opportunities for follow-up, observation, and formative feedback and assessment of the teacher’s classroom practice, on a regular basis and in a manner that allows each such teacher to identify areas of classroom practice that need to be strengthened, refined, and improved;

“(F) regularly assesses the effectiveness of the professional development, and uses such assessments to inform ongoing improvements, in—

“(i) improving student learning; and

“(ii) strengthening classroom practice; and

“(G) supports the recruiting, hiring, and training of highly qualified teachers, including teachers who become highly qualified through State and local alternative routes to certification or licensure.”;

(2) by adding at the end the following:

“(44) EVIDENCE OF CLASSROOM PRACTICE.—The term ‘evidence of classroom practice’ means evidence of classroom practice gathered through multiple formats and sources, including some or all of the following:

“(A) Demonstration of effective teaching skills.

“(B) Classroom observations based on rigorous teacher performance standards or rubrics.

“(C) Student work.

“(D) Teacher portfolios.

“(E) Videos of teacher practice.

“(F) Lesson plans.

“(G) Information on the extent to which the teacher collaborates and shares best practices with other teachers and instructional staff.

“(H) Information on the teacher’s successful use of research and data.

“(I) Parent, student, and peer feedback.

“(45) EVIDENCE OF STUDENT LEARNING.—The term ‘evidence of student learning’ means—

“(A) data, which shall include value-added data based on student learning gains and teacher impact where available, on State student academic assessments under section 1111(c); and

“(B) other evidence of student learning, including some or all of the following:

“(i) Data, which shall include value-added data based on student learning gains and teacher impact where available, on other student academic achievement assessments.

“(ii) Student work, including measures of performance criteria and evidence of student growth.

“(iii) Teacher-generated information about student goals and growth.

“(iv) Formative and summative assessments.

“(v) Objective performance-based assessments.

“(vi) Assessments of affective engagement and self-efficacy.

“(46) LOWEST ACHIEVING SCHOOL.—The term ‘lowest achieving school’ means a school served by a local educational agency that—

“(A) is failing to make adequate yearly progress as described in section 1111(b)(2), for the greatest number of subgroups described in section 1111(b)(2)(C)(v) and by the greatest margins, as compared to the other schools served by the local educational agency; and

“(B) in the case of a secondary school, has a graduation rate of less than 65 percent.

“(47) SCHOOL LEADER.—The term ‘school leader’ means an individual who—

“(A) is an employee or officer of a school; and

“(B) is responsible for—

“(i) the school’s performance; and

“(ii) the daily instructional and managerial operations of the school.

“(48) TEACHING SKILLS.—The term ‘teaching skills’ means skills that are consistent with section 200 of the Higher Education Act of 1965 and that enable a teacher to—

“(A) increase student learning, achievement, and the ability to apply knowledge;

“(B) effectively convey and explain academic subject matter;

“(C) effectively teach higher-order analytical, evaluation, problem-solving, and communication skills;

“(D) develop and effectively apply new knowledge, skills, and practices;

“(E) employ strategies grounded in the disciplines of teaching and learning that—

“(i) are based on empirically based practice and scientifically valid research, where applicable, related to teaching and learning;

“(ii) are specific to academic subject matter;

“(iii) focus on the identification of students’ specific learning needs, (including children with disabilities, students who are limited English proficient, students who are gifted and talented, and students with low literacy levels), and the tailoring of academic instruction to such needs; and

“(iv) enable effective inclusion of children with disabilities and English language learners, including the utilization of—

“(I) response to intervention;

“(II) positive behavioral supports;

“(III) differentiated instruction;

“(IV) universal design of learning;

“(V) appropriate accommodations for instruction and assessments;

“(VI) collaboration skills; and

“(VII) skill in effectively participating in individualized education program meetings required under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

“(F) conduct an ongoing assessment of student learning, which may include the use of formative assessments, performance-based assessments, project-based assessments, or portfolio assessments, that measures higher-order thinking skills (including application, analysis, synthesis, and evaluation);

“(G) effectively manage a classroom, including the ability to implement positive behavioral support strategies;

“(H) communicate and work with parents, and involve parents in their children’s education; and

“(I) use age-appropriate and developmentally appropriate strategies and practices.”; and

(3) by redesignating paragraphs (1) through (39), the undesignated paragraph following paragraph (39), and paragraphs (41) through (48) (as amended by this section) as paragraphs (1) through (18), (21) through (28), (30) through (40), (42) through (46), (48), (19), (20), (29), (41), and (47), respectively.

SEC. 4. SCHOOL IMPROVEMENT.

Section 1003(g)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303(g)(5)) is amended—

(1) in subparagraph (B), by striking “and” after the semicolon;

(2) in subparagraph (C), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(D) permitted to be used to supplement the activities required under section 2502.”.

SEC. 5. TEACHER AND PRINCIPAL PROFESSIONAL DEVELOPMENT AND SUPPORT.

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended by adding at the end the following:

“PART E—BUILDING SCHOOL CAPACITY FOR EFFECTIVE TEACHING AND LEADERSHIP**“SEC. 2501. LOCAL SCHOOL IMPROVEMENT ACTIVITIES.**

“(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

“(1) GRANTS.—From amounts made available under section 2504, the Secretary shall award grants, through allotments under paragraph (3)(A), to States to enable the States to award subgrants to local educational agencies under this part.

“(2) RESERVATIONS.—A State that receives a grant under this part for a fiscal year shall—

“(A) reserve 95 percent of the funds made available through the grant to make subgrants, through allocations under paragraph (3)(B), to local educational agencies; and

“(B) use the remainder of the funds for—

“(i) administrative activities and technical assistance in helping local educational agencies carry out this part;

“(ii) statewide capacity building strategies to support local educational agencies in the implementation of the required activities under section 2502; and

“(iii) conducting the evaluation required under section 2503.

“(3) FORMULAS.—

“(A) ALLOTMENTS.—The allotment provided to a State under this section for a fiscal year shall bear the same relation to the total amount available for such allotments for the fiscal year, as the allotment provided to the State under section 2111(b) for such year bears to the total amount available for such allotments for such year.

“(B) ALLOCATIONS.—The allocation provided to a local educational agency under this section for a fiscal year shall bear the same relation to the total amount available for such allocations for the fiscal year, as the allocation provided the State under section 2121(a) for such year bears to the total amount available for such allocations for such year.

“(4) SCHOOLS FIRST SUPPORTED.—A local educational agency receiving a subgrant under this part shall first use such funds to carry out the activities described in section 2502(a) in each lowest achieving school served by the local educational agency—

“(A) that demonstrates the greatest need for subgrant funds based on the data analysis described in subsection (b)(3); and

“(B) in which not less than 40 percent of the students enrolled in the school are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

“(b) LOCAL EDUCATIONAL AGENCY APPLICATION.—

“(1) IN GENERAL.—To be eligible to receive a subgrant under this part, a local educational agency shall submit to the State educational agency an application described in paragraph (2), and a summary of the data analysis conducted under paragraph (3), at

such time, in such manner, and containing such information as the State educational agency may reasonably require.

“(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall include—

“(A) a description of how the local educational agency will assist the lowest achieving schools served by the local educational agency in carrying out the requirements of section 2502, including—

“(i) developing and implementing the teacher and principal evaluation system pursuant to section 2502(a)(3);

“(ii) implementing teacher induction programs pursuant to section 2502(a)(1);

“(iii) providing effective professional development in accordance with section 2502(a)(2);

“(iv) implementing mentoring, coaching, and sustained professional development for school principals and other school leaders pursuant to section 2502(a)(4); and

“(v) providing significant and sustainable teacher stipends, pursuant to section 2502(a)(6);

“(B) a description of how the local educational agency will—

“(i) conduct and utilize valid and reliable surveys pursuant to section 2502(b); and

“(ii) ensure that such programs are integrated and aligned pursuant to section 2502(c);

“(C)(i) a description of how the local educational agency will use subgrant funds to target and support the lowest achieving schools described in section 2501(a)(4) before using funds for other lowest achieving schools; and

“(ii) a list that identifies all of the lowest achieving schools that will be assisted under the subgrant;

“(D) a description of how the local educational agency will enable effective inclusion of children with disabilities and English language learners, including through utilization by the teachers, principals, and other school leaders of the local educational agency of—

“(i) response to intervention;

“(ii) positive behavioral supports;

“(iii) differentiated instruction;

“(iv) universal design of learning;

“(v) appropriate accommodations for instruction and assessments;

“(vi) collaboration skills; and

“(vii) skill in effectively participating in individualized education program meetings required under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

“(E) a description of how the local educational agency will assist the lowest achieving schools in utilizing real-time student learning data, based on evidence of student learning and evidence of classroom practice, to—

“(i) drive instruction; and

“(ii) inform professional development for teachers, mentors, principals, and other school leaders; and

“(F) a description of how the programs and assistance provided under section 2502 will be managed and designed, including a description of the division of labor and different roles and responsibilities of local educational agency central office staff members, school leaders, teacher leaders, coaches, mentors, and evaluators.

“(3) DATA ANALYSIS.—A local educational agency desiring a subgrant under this part shall, prior to applying for the subgrant, conduct a data analysis of each school served by the local educational agency, based on data and information collected from evidence of student learning, evidence of classroom practice, and the State’s longitudinal data system, in order to—

“(A) determine which schools have the most critical teacher, principal, and other school leader quality, effectiveness, and professional development needs; and

“(B) allow the local educational agency to identify the specific needs regarding the quality, effectiveness, and professional development needs of the school’s teachers, principals, and other school leaders, including with respect to instruction provided for individual student subgroups (including children with disabilities and English language learners) and specific grade levels and content areas.

“(4) JOINT DEVELOPMENT AND SUBMISSION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a local educational agency shall—

“(i) jointly develop the application and data analysis framework under this subsection with local organizations representing the teachers, principals, and other school leaders in the local educational agency; and

“(ii) submit the application and data analysis in partnership with such local teacher, principal, and school leader organizations.

“(B) EXCEPTION.—A State may, after consultation with the Secretary, consider an application from a local educational agency that is not jointly developed and submitted in accordance with subparagraph (A) if the application includes documentation of the local educational agency’s extensive attempt to work jointly with local teacher, principal, and school leader organizations.

“SEC. 2502. USE OF FUNDS.

“(a) INDUCTION, PROFESSIONAL DEVELOPMENT, AND EVALUATION SYSTEM.—A local educational agency that receives a subgrant under this part shall use the subgrant funds to improve teacher and principal quality through a system of teacher and principal induction, professional development, and evaluation. Such system shall be developed, implemented, and evaluated in collaboration with local teacher, principal, and school leader organizations and local teacher, principal, and school leader preparation programs and shall provide assistance to each school that the local educational agency has identified under section 2501(b)(2)(C)(ii), to—

“(1) implement a comprehensive, coherent, high quality formalized induction program for beginning teachers during not less than the teachers’ first 2 years of full-time employment as teachers with the local educational agency, that shall include—

“(A) rigorous mentor selection by school or local educational agency leaders with mentoring and instructional expertise, including requirements that the mentor demonstrate—

“(i) a proven track record of improving student learning;

“(ii) strong interpersonal and oral and written communication skills;

“(iii) exemplary teaching skills, particularly with diverse learners, including children with disabilities and English language learners;

“(iv) skill in enabling the effective inclusion of diverse learners, including children with disabilities and English language learners;

“(v) commitment to personal and professional growth and learning, such as National Board for Professional Teaching Standards certification;

“(vi) willingness and experience in using real-time data, as well as school and classroom level practices that have demonstrated the capacity to—

“(I) improve student learning and classroom practice; and

“(II) inform instruction and professional growth;

“(vii) skill in engaging in successful collaboration with other teachers, other school leaders, and staff;

“(viii) extensive knowledge of planning effective assessments and analysis of student data;

“(ix) ability to address needs of adult learners in professional development;

“(x) a commitment to participate in professional development throughout the year to develop the knowledge and skills related to effective mentoring;

“(xi) skill in promoting teacher reflection through formative assessment processes, including conversations with beginning teachers using evidence of student learning and evidence of classroom practice; and

“(xii) ability to improve the effectiveness of the mentor’s mentees, as assessed by the evaluation system described in paragraph (3);

“(B) a program of high quality, intensive, and ongoing mentoring and mentor-teacher interactions that—

“(i) matches mentors with beginning teachers by grade level and content area, to the extent practicable;

“(ii) assists each beginning teacher in—

“(I) analyzing data based on the beginning teacher’s evidence of student learning and evidence of classroom practice, and utilizing research-based instructional strategies, including differentiated instruction, to inform and strengthen such practice;

“(II) developing and enhancing effective teaching skills;

“(III) enabling effective inclusion of children with disabilities and English language learners, including through the utilization of—

“(aa) response to intervention;

“(bb) positive behavioral supports;

“(cc) differentiated instruction;

“(dd) universal design of learning;

“(ee) appropriate accommodations for instruction and assessments;

“(ff) collaboration skills; and

“(gg) skill in effectively participating in individualized education program meetings required under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

“(IV) using formative assessments to—

“(aa) collect and analyze classroom-level data;

“(bb) foster evidence-based discussions;

“(cc) provide opportunities for self assessment;

“(dd) examine classroom practice; and

“(ee) establish goals for professional growth; and

“(V) achieving the goals of the school, district, and statewide curricula;

“(iii) provides regular and ongoing opportunities for beginning teachers and mentors to observe each other’s teaching methods in classroom settings during the school day;

“(iv) models innovative teaching methodologies through techniques such as team teaching, demonstrations, simulations, and consultations;

“(v) aligns with the mission and goals of the local educational agency and school;

“(vi) (I) acts as a vehicle for a beginning teacher to establish short- and long-term planning and professional goals and to improve student learning and classroom practice; and

“(II) guides, monitors, and assesses the beginning teacher’s progress toward such goals;

“(vii) assigns not more than 12 beginning teacher mentees to a mentor who works full-time, and reduces such maximum number of mentees proportionately for a mentor who works on a part-time basis;

“(viii) provides joint professional development opportunities for mentors and beginning teachers;

“(ix) may include the use of master teachers to support mentors or other teachers;

“(x) improves student learning and classroom practice, as measured by the evaluation system described in paragraph (3); and

“(xi) assists each beginning teacher in—

“(I) connecting students’ prior knowledge, life experience, and interests with learning goals; and

“(II) engaging students in problem-solving and critical thinking;

“(C) paid school release time of not less than 90 minutes per week for high quality mentoring and mentor-teacher interactions;

“(D) foundational training and ongoing professional development for mentors that support the high quality mentoring and mentor-teacher interactions described in subparagraph (B); and

“(E) use of research-based teaching standards, formative assessments, teacher portfolio processes (such as the National Board for Professional Teaching Standards certification process), and teacher development protocols that supports the high quality mentoring and mentor-teacher interactions described in subparagraph (B);

“(2) implement high-quality effective professional development for teachers, principals, school librarians, and other school leaders serving the schools targeted for assistance under the subgrant;

“(3) develop and implement a rigorous, transparent, and equitable teacher and principal evaluation system for all schools served by the local educational agency that—

“(A)(i) provides formative individualized feedback to teachers and principals on areas for improvement;

“(ii) provides for substantive support and interventions targeted specifically on such areas of improvement; and

“(iii) results in summative evaluations;

“(B) differentiates the effectiveness of teachers and principals using multiple rating categories that take into account evidence of student learning;

“(C) shall be developed, implemented, and evaluated in partnership with local teacher and principal organizations; and

“(D) includes—

“(i) valid, clearly defined, and reliable performance standards and rubrics for teacher evaluation based on multiple performance measures, which shall include a combination of—

“(I) evidence of classroom practice; and

“(II) evidence of student learning as a significant factor;

“(ii) valid, clearly defined, and reliable performance standards and rubrics for principal evaluation based on multiple performance measures of student learning and leadership skills, which standards shall include—

“(I) planning and articulating a shared and coherent schoolwide direction and policy for achieving high standards of student performance;

“(II) identifying and implementing the activities and rigorous curriculum necessary for achieving such standards of student performance;

“(III) supporting a culture of learning and professional behavior and ensuring quality measures of classroom practice;

“(IV) communicating and engaging parents, families, and other external communities; and

“(V) collecting, analyzing, and utilizing data and other tangible evidence of student learning and evidence of classroom practice to guide decisions and actions for continuous improvement and to ensure performance accountability;

“(iii) multiple and distinct rating options that allow evaluators to—

“(I) conduct multiple classroom observations throughout the school year;

“(II) examine the impact of the teacher or principal on evidence of student learning and evidence of classroom practice;

“(III) specifically describe and compare differences in performance, growth, and development; and

“(IV) provide teachers or principals with detailed individualized feedback and evaluation in a manner that allows each teacher or principal to identify the areas of classroom practice that need to be strengthened, refined, and improved;

“(iv) implementing a formative assessment and summative evaluation process based on the performance standards established under clauses (i) and (ii);

“(v) rigorous training for evaluators on the performance standards established under clauses (i) and (ii) and the process of conducting effective evaluations, including how to provide specific feedback and improve teaching and principal practice based on evaluation results;

“(vi) regular monitoring and assessment of the quality and fairness of the evaluation system and the evaluators’ judgements, including with respect to—

“(I) inter-rater reliability, including independent or third-party reviews;

“(II) student assessments used in the evaluation system;

“(III) the performance standards established under clauses (i) and (ii);

“(IV) training and qualifications of evaluators; and

“(V) timeliness of teacher and principal evaluations and feedback;

“(vii) a plan and substantive targeted support for teachers and principals who fail to meet the performance standards established under clauses (i) and (ii);

“(viii) a streamlined, transparent, fair, and objective decisionmaking process for documentation and removal of teacher and principals who fail to meet such performance standards, as governed by any applicable collective bargaining agreement or State law and after substantive targeted and reasonable support has been provided to such teachers and principals; and

“(ix) in the case of a local educational agency in a State that has a State evaluation framework, the alignment of the local educational agency’s evaluation system with, at a minimum, such framework and the requirements of this paragraph;

“(4) implement ongoing high-quality support, coaching, and professional development for principals and other school leaders serving the schools targeted for assistance under such subgrant, which shall—

“(A) include a comprehensive, coherent, high-quality formalized induction program outside the supervisory structure for beginning principals and other school leaders, during not less than the principals’ and other school leaders’ first 2 years of full-time employment as a principal or other school leader in the local educational agency, to develop and improve the knowledge and skills described in subparagraph (B), including—

“(i) a rigorous mentor or coach selection process based on exemplary administrative expertise and experience;

“(ii) a program of ongoing opportunities throughout the school year for the mentoring or coaching of beginning principals and other school leaders, including opportunities for regular observation and feedback;

“(iii) foundational training and ongoing professional development for mentors or coaches; and

“(iv) the use of research-based leadership standards, formative and summative assessments, or principal and other school leader protocols (such as the National Board for

Professional Teaching Standards Certification for Educational Leaders program or the 2008 Interstate School Leaders Licensure Consortium Standards); and

“(B) improve the knowledge and skills of school principals and other school leaders in—

“(i) planning and articulating a shared and clear schoolwide direction, vision, and strategy for achieving high standards of student performance;

“(ii) identifying and implementing the activities and rigorous student curriculum and assessments necessary for achieving such standards of performance;

“(iii) managing and supporting a collaborative culture of ongoing learning and professional development and ensuring quality evidence of classroom practice (including shared or distributive leadership and providing timely and constructive feedback to teachers to improve student learning and strengthen classroom practice);

“(iv) communicating and engaging parents, families, and local communities and organizations (including engaging in partnerships among elementary schools, secondary schools, and institutions of higher education to ensure the vertical alignment of student learning outcomes);

“(v) collecting, analyzing, and utilizing data and other tangible evidence of student learning and classroom practice (including the use of formative and summative assessments) to—

“(I) guide decisions and actions for continuous instructional improvement; and

“(II) ensure performance accountability;

“(vi) managing resources and school time to ensure a safe and effective student learning environment; and

“(vii) designing and implementing strategies for differentiated instruction and effectively identifying and educating diverse learners, including children with disabilities and English language learners;

“(5)(A) create or enhance opportunities for teachers to assume new school leadership roles and responsibilities, including—

“(i) serving as mentors, instructional coaches, or master teachers; or

“(ii) assuming increased responsibility for professional development activities, curriculum development, or school improvement and leadership activities; and

“(B) provide training for teachers who assume such school leadership roles and responsibilities; and

“(6) provide significant and sustainable stipends above a teacher's base salary for teachers that serve as mentors, instructional coaches, teacher leaders, or evaluators under the programs described in this subsection.

“(b) SURVEY.—A local educational agency receiving a subgrant under this part shall conduct a valid and reliable full population survey of teaching and learning, at the school and local educational agency level, and include, as topics in the survey, not less than the following elements essential to improving student learning and retaining effective teachers:

“(1) Instructional planning time.

“(2) School leadership.

“(3) Decision-making processes.

“(4) Teacher professional development.

“(5) Facilities and resources, including the school library.

“(6) Beginning teacher induction.

“(7) School safety and environment.

“(c) INTEGRATION AND ALIGNMENT.—The system described in subsection (a) shall—

“(1) integrate and align all of the activities described in such subsection;

“(2) be informed by, and integrated with, the results of the survey described in subsection (b);

“(3) be aligned with the State's school improvement efforts under sections 1116 and 1117; and

“(4) be aligned with the programs funded under title II of the Higher Education Act of 1965 and other professional development programs authorized under this Act.

“(d) ELIGIBLE ENTITIES.—The assistance required to be provided under this section may be provided—

“(1) by the local educational agency; or

“(2) by the local educational agency, in collaboration with—

“(A) the State educational agency;

“(B) an institution of higher education;

“(C) a nonprofit organization;

“(D) a teacher organization;

“(E) a principal or school leader organization;

“(F) an educational service agency;

“(G) a teaching residency program; or

“(H) another nonprofit entity with experience in helping schools improve student achievement.

“SEC. 2503. PROGRAM EVALUATION.

“(a) IN GENERAL.—Each program required under section 2502(a) shall include a formal evaluation system to determine, at a minimum, the effectiveness of each such program on—

“(1) student learning;

“(2) retaining teachers and principals, including differentiating the retainment data by profession and by the level of performance of the teachers and principals, based on the evaluation system described in section 2502(a)(3);

“(3) teacher, principal, and other school leader practice, which shall include, for teachers and principals, practice measured by the teacher and principal evaluation system described in section 2502(a)(3);

“(4) student graduation rates, as applicable;

“(5) teaching, learning, and working conditions;

“(6) parent, family, and community involvement and satisfaction;

“(7) student attendance rates;

“(8) teacher and principal satisfaction; and

“(9) student behavior.

“(b) LOCAL EDUCATIONAL AGENCY AND SCHOOL EFFECTIVENESS.—The formal evaluation system described in subsection (a) shall also measure the effectiveness of the local educational agency and school in—

“(1) implementing the comprehensive induction program described in section 2502(a)(1);

“(2) implementing high-quality professional development described in section 2502(a)(2);

“(3) developing and implementing a rigorous, transparent, and equitable teacher and principal evaluation system described in section 2502(a)(3);

“(4) implementing mentoring, coaching, and professional development for school principals and other school leaders described in section 2502(a)(4);

“(5) ensuring that mentors, teachers, and schools are using data to inform instructional practices; and

“(6) ensuring that the comprehensive induction and high-quality mentoring required under section 2502(a)(1) and the high impact professional development required under section 2502(a)(2) are integrated and aligned with the State's school improvement efforts under sections 1116 and 1117.

“(c) CONDUCT OF EVALUATION.—The evaluation described in subsection (a) shall be—

“(1) conducted by the State, an institution of higher education, or an external agency that is experienced in conducting such evaluations; and

“(2) developed in collaboration with groups such as—

“(A) experienced educators with track records of success in the classroom;

“(B) institutions of higher education involved with teacher induction and professional development located within the State; and

“(C) local teacher, principal, and school leader organizations.

“(d) DISSEMINATION.—

“(1) IN GENERAL.—The results of the evaluation described in subsection (a) shall be submitted to the Secretary.

“(2) DISSEMINATION.—The Secretary shall make the results of each evaluation described in subsection (a) available to States, local educational agencies, and the public.

“SEC. 2504. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part \$1,000,000,000 for fiscal year 2011 and such sums as may be necessary for each succeeding fiscal year.”

By Mr. PRYOR:

S. 3243. A bill to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. PRYOR. Mr. President, I rise today to discuss the related problems of corruption at the U.S. border with Mexico, turf wars between Federal investigators of corruption, and inadequate screening for corruption of law enforcement personnel. Solving these problems is crucial to ensuring we have a system that keeps drugs out, guns in, and maintains an effective defense against efforts by drug cartels to infiltrate parts of the Department of Homeland Security tasked with border security.

The Mexican cartels that dominate drug trafficking into the U.S. are sophisticated, ruthless, and well-funded. They operate widely in Mexico through bribery and corruption and smuggle up to \$25 billion of illegal drugs as well as people into the U.S. They also smuggle illegal guns and drug money back into Mexico. In 2009, drug violence in Mexico resulted in over 9,600 murders. Already this year there have been over 3,300 murders. Some of the illegal drugs and money goes to and through my State of Arkansas.

The cartels used to operate differently in the U.S. relying mostly on stealth and a U.S. distribution network that reportedly includes operations in an estimated 230 American cities. In my State, the network includes the cities of Little Rock, Fort Smith and Fayetteville. The heightened U.S. border defenses have put a squeeze on cartels. They have tried to regain an advantage by exporting to the U.S. their experience and success in bribing and corrupting government officials who can facilitate their business.

Today, I am introducing legislation and sending a letter with three other

senators to the Secretary of the Department of Homeland Security to reverse what has become a successful campaign by drug cartels to infiltrate U.S. law enforcement. At risk here is more than drug trafficking. National security is also threatened because border weaknesses can be exploited by terrorists to transport operatives and weapons into the U.S.

At a recent hearing I chaired in a subcommittee of the Homeland Security Committee, witnesses revealed that while an array of U.S. Government agencies have been targeted for infiltration by the cartels, the U.S. Customs and Border Protection, known as CBP, has been shockingly susceptible to the threat. Federal investigators testified that 129 CBP officials have been arrested on corruption charges since 2003. In addition, the DHS Inspector General opened 576 allegations of corruption within CBP in 2009. Now, the vast majority of CBP officers are good, decent, hard-working people. That is why we need to help them root out those that are corrupting the system.

Some of CBP's susceptibility to infiltrate is the result of the high-threat environment in which CBP works. But it is also because the dramatic increases in staff levels since 2003—which is a good thing—means that the agency doesn't always meet its own guidelines for screening of job applicants and existing employees. That is not as good, and we need to take action to make sure that the processes in place to uncover infiltration and corruption are effective.

Established personnel integrity policies call for polygraph examinations and background investigations of all job applicants for CBP law enforcement positions as part of the screening process prior to being offered employment, however less than 15 percent received the full screening in 2009. CBP also has a 10,000 person backlog on these reinvestigations of existing personnel.

There are also indications that there may be coordination and information sharing problems between the DHS components responsible for investigating corruption. Evidence of these problems include a December 16, 2009, memo from the DHS Inspector General's office and a March 30, 2010, Washington Post article detailing a lack of coordination between Federal investigators regarding corruption cases.

As we seem to learn over and over again, cooperation and coordination by Federal, state, and local law enforcement is essential to identifying and defeating threats to our national security. The threat of infiltration by drug cartels is no different.

I am deeply concerned that the department responsible for the security of our homeland is falling short in these important areas.

To address these problems, I am sending a letter along with Senators FEINGOLD, WYDEN, and BURRIS to DHS

Secretary Napolitano requesting that she resolve turf issues between investigators and integrity screening shortcomings at CBP. I ask unanimous consent that this letter be inserted in the RECORD after my statement.

I am also introducing the Anti-Border Corruption Act of 2010. My bill requires DHS to address the integrity screening problems at CBP and make progress reports to Congress. Specifically, it requires that DHS take such actions as necessary to ensure that the backlog of periodic background investigations is cleared up within 60 days. It also requires job applicants to receive the polygraph test as required by DHS policy within 2 years.

Finally, I close with a message about and to the men and women at Customs and Border Protection. Despite the unfortunate actions of a few that dishonor a proud tradition at CBP, we know the vast majority of CBP employees are patriotic, honest, and hard-working. We know and value the contribution they make to the safety of America and the risks that they take on our behalf. They deserve and have our thanks, support, and commitment to help them weed out bad elements in their organization.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3243

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 "Anti-Border Corruption Act of 2010".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Office of the Inspector General of the Department of Homeland Security, since 2003, 129 U.S. Customs and Border Protection officials have been arrested on corruption charges and, during 2009, 576 investigations were opened on allegations of improper conduct by U.S. Customs and Border Protection officials.

(2) To foster integrity in the workplace, established policy of U.S. Customs and Border Protection calls for—

(A) all job applicants for law enforcement positions at U.S. Customs and Border Protection to receive a polygraph examination and a background investigation before being offered employment; and

(B) relevant employees to receive a periodic background reinvestigation every 5 years.

(3) According to the Office of Internal Affairs of U.S. Customs and Border Protection—

(A) in 2009, less than 15 percent of applicants for jobs with U.S. Customs and Border Protection received polygraph examinations;

(B) as of March 2010, U.S. Customs and Border Protection had a backlog of approximately 10,000 periodic background reinvestigations of existing employees; and

(C) without additional resources, by the end of fiscal year 2010, the backlog of periodic background reinvestigations will increase to approximately 19,000.

SEC. 3. REQUIREMENTS WITH RESPECT TO ADMINISTERING POLYGRAPH EXAMINATIONS TO LAW ENFORCEMENT PERSONNEL OF U.S. CUSTOMS AND BORDER PROTECTION.

The Secretary of Homeland Security shall ensure that—

(1) by not later than 2 years after the date of the enactment of this Act, all applicants for law enforcement positions with U.S. Customs and Border Protection receive polygraph examinations before being hired for such a position; and

(2) by not later than 180 days after the date of the enactment of this Act, U.S. Customs and Border Protection initiates or completes all periodic background reinvestigations for all law enforcement personnel of U.S. Customs and Border Protection that should receive periodic background reinvestigations pursuant to relevant policies of U.S. Customs and Border Protection in effect on the day before the date of the enactment of this Act.

SEC. 4. PROGRESS REPORT.

Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter through the date that is 2 years after such date of enactment, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress made by U.S. Customs and Border Protection toward complying with section 3.

APRIL 21, 2010.

Hon. JANET NAPOLITANO,
Secretary, Department of Homeland Security,
Washington, DC.

DEAR SECRETARY NAPOLITANO: In a recent hearing in the Homeland Security and Governmental Affairs Subcommittee on State, Local, and Private Sector Preparedness and Integration on the corruption of U.S. officials by Mexican drug cartels, senior officials of the Department of Homeland Security (DHS) testified that drug cartels are specifically targeting and infiltrating federal law enforcement agencies along the southwest border. These corruption activities encompass almost every layer of the DHS border security strategy.

Of concern are indications that there may be coordination and information sharing problems that result in duplication of investigative efforts between the DHS components responsible for investigating corruption. Evidence of these problems include the attached December 16, 2009, memo from the DHS Inspector General's office asserting jurisdiction over corruption investigations currently being carried out by the Customs and Border Protection Internal Affairs and a March 30, 2010, Washington Post article detailing a lack of coordination between Federal investigators regarding corruption cases. We ask that you assist these DHS components in developing clearly defined roles and responsibilities regarding corruption investigations to ensure proper sharing of information and prevention of duplicative investigations. It is our belief that cooperation and participation by Federal, state, and local law enforcement is essential to eliminating this growing threat to our national security.

Also of concern was testimony regarding significant, growing corruption within U.S. Customs and Border Protection (CBP) where 129 officials have been arrested on corruption charges since 2003. The DHS Inspector General reported that it had opened 576 allegations of corruption within CBP in 2009. It appears that CBP has been susceptible to infiltration and corruption because it occupies the front line in the prevention of smuggling

and illegal border crossings into the U.S., its dramatic increases in staff levels since 2003, and DHS not meeting its own guidelines for integrity screening of job applicants and existing employees.

Hearing testimony established that although DHS integrity policies call for polygraph examinations and background investigations of all new job applicants for CBP law enforcement positions as part of the screening process prior to being offered employment, less than 15% received the full screening in 2009. Testimony also established that periodic reinvestigations are required of current law enforcement personnel to uncover signs of corruption. CBP currently has a 10,000 person backlog of periodic reinvestigations, with the number expected to rise to 19,000 by the end of this year.

These shortcomings pose a clear national security risk. We believe this issue requires your immediate attention and would like you to examine and specify what DHS is currently doing to properly address these problems. We look forward to working with you to solve this problem.

Sincerely,

RUSSELL D. FEINGOLD.
MARK L. PRYOR.
RON WYDEN.
ROLAND W. BURRIS.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 59—EXPRESSING THE SENSE OF CONGRESS THAT THE UNITED STATES SHOULD NEITHER BECOME A SIGNATORY TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT NOR ATTEND THE REVIEW CONFERENCE OF THE ROME STATUTE IN KAMPALA, UGANDA IN MAY 2010

Mr. VITTER (for himself, Mr. INHOFE, Mr. KYL, and Mr. CRAPO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 59

Whereas President William Clinton signed the Rome Statute on the International Criminal Court (“Rome Statute”) through a designee on December 31, 2000, but acknowledged “significant flaws” in the treaty, and recommended that President-elect George W. Bush not submit the treaty to the Senate for advice and consent;

Whereas the “significant flaws” identified by President Clinton—including the fact that the International Criminal Court (“ICC”) claims the power to exercise authority and jurisdiction over the citizens of nations that have not ratified the treaty—persist and have not been remedied;

Whereas President Bush, through Undersecretary of State for Arms Control John Bolton, notified United Nations Secretary-General Kofi Annan on May 6, 2002, that the United States does not intend to become a party to the Rome Statute and therefore has no legal obligations arising from its signature on December 31, 2000;

Whereas the United States Government, acting through its elected representatives, is the sole arbiter regarding decisions on the use of military force in its defense or in the defense of its allies;

Whereas the Rome Statute undermines national sovereignty and established principles of customary international law by claiming

the authority in certain circumstances to investigate and prosecute citizens and military personnel of a country that is not a party to the treaty and has not accepted the jurisdiction of the court;

Whereas the United Nations Security Council—upon which the United States holds a permanent, veto-wielding seat—is conferred under the United Nations Charter with “primary responsibility for the maintenance of international peace and security”;

Whereas the authority of the ICC inappropriately intrudes upon the United Nations Security Council’s primary responsibility under the United Nations Charter for the maintenance of international peace and security;

Whereas, in September 2009, the ICC Office of the Prosecutor announced that ICC personnel were investigating accusations of war crimes and crimes against humanity allegedly committed by United States and NATO forces fighting in Afghanistan;

Whereas the parties to the Rome Statute have failed to establish a definition of the “crime of aggression”;

Whereas the United States Government has at various times been accused of “aggression”, including the congressionally authorized use of military force against Iraq in 2003;

Whereas the Rome Statute would subject United States citizens and military personnel charged with crimes before the ICC to trial and punishment without the basic rights and protections provided to criminal defendants and guaranteed by the United States Constitution, including a right to a jury trial by one’s peers, protection from double jeopardy, the right to confront one’s accusers, and the right to a speedy trial;

Whereas the first Review Conference on the Rome Statute will be held in Kampala, Uganda from May 31 to June 11, 2010, to consider amendments to the Rome Statute and to take stock of its implementation and impact; and

Whereas the draft provisional agenda of the Review Conference indicates that the Assembly of States Parties of the ICC has no intention of addressing the grave and persistent concerns of the United States regarding the Rome Statute: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the national interests of the United States are neither preserved nor advanced by becoming a State Party to the Rome Statute on the International Criminal Court;

(2) the Rome Statute undermines the sovereignty of the United States, hinders its ability to defend itself and its allies with military force, and conflicts with the principles of the United States Constitution;

(3) President Barack Obama should declare that the United States does not intend to ratify the Rome Statute and that the United States does not presently consider itself to be a signatory of the treaty; and

(4) given that the Assembly of States Parties has no discernable intention of addressing United States concerns regarding the treaty, President Obama should neither attend nor send a delegation to the Review Conference of the Rome Statute in Kampala, Uganda commencing May 31, 2010.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and

Forestry be authorized to meet during the session of the Senate on April 21, 2010, at 9:30 a.m. in room G50 of the Dirksen Senate Office Building.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on April 21, 2010, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURRIS. 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 April 21, 2010, at 10 a.m. in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BURRIS. 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 April 21, 2010, at 10 a.m. to conduct a hearing entitled “The Lessons and Implications of the Christmas Day Attack: Securing the Visa Process.”

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on April 21, 2010, at 2:30 p.m. to conduct a hearing entitled “The FY2011 budget Request for the Small Business Administration.”

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

COMMITTEE ON VETERANS’ AFFAIRS

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on April 21, 2010. The Committee will meet in room 418 of the Russell Senate Office building beginning at 9:30 a.m.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. BURRIS. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on April 21, 2010, at 10 a.m.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. BURRIS. 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 April 21, 2010, at 2:30 p.m.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BURRIS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate to conduct a hearing on April 21, 2010, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that Randy Fasnacht, a detailee with Senator REED (RI) to the Subcommittee on Securities, Insurance, and Investments, be granted the privileges of the floor for the remainder of the 111th Congress.

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

RECOGNIZING THE LEADERSHIP AND HISTORICAL CONTRIBUTIONS OF DR. HECTOR GARCIA

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 222 and the Senate proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:
A concurrent resolution (H. Con. Res. 222) recognizing the leadership and historical contributions of Dr. Hector Garcia to the Hispanic community and his remarkable efforts to combat racial and ethnic discrimination in the United States of America.

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

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 222) was agreed to.

The preamble was agreed to.

CONGRATULATING THE REPUBLIC OF SERBIA

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the For-

eign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 483.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 483) congratulating the Republic of Serbia's application for European Union membership and recognizing Serbia's active efforts to integrate into Europe and the global community.

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

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The resolution (S. Res. 483) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 483

Whereas the United States has been a strong supporter of the European Union (EU);

Whereas the year 2010 marks a full decade of efforts of the Government of Serbia to reintegrate into Europe and the global community;

Whereas, on November 30, 2009, the EU decided that the citizens of "Serbia will be able to travel without visa to the Schengen area" permitting the greater integration of Serbia into Europe;

Whereas a democratically elected Government of Serbia has committed to resolving regional disagreements through diplomacy and the tenets of international law;

Whereas, on April 29, 2008, the EU and Serbia signed a Stabilization and Association Agreement, which considered "the EU's readiness to integrate Serbia to the fullest extent into the political and economic mainstream of Europe and its status as a potential candidate for EU membership";

Whereas, on June 21, 2003, the EU stated in the Summit Declaration of the EU-Western Balkans summit at Thessaloniki that "the future of the Balkans is within the EU" and that the countries of the Western Balkans' "rapprochement with the EU will go hand in hand with the development of regional co-operation";

Whereas the United States Government has supported the diplomatic efforts of the Government of Serbia to reintegrate into the global community, including a visit by Vice President Joseph Biden in May 2009; and

Whereas the United States Government has long viewed the EU as a source of stabilization, security, and prosperity for all of Europe and the world: Now, therefore, be it

Resolved, That the Senate—

(1) applauds the people of Serbia for furthering their commitment to democracy, free markets, tolerance, nondiscrimination, and the rule of law;

(2) urges the European Council to adopt in a timely manner a clear position on Serbia's qualifications as a candidate country;

(3) welcomes the decision of the democratically elected Government of Serbia to join the NATO Partnership for Peace Program in 2006;

(4) recognizes the cooperation of the Government of Serbia with the United States Government on issues such as democratization, anti-drug trafficking, anti-terrorism, human rights, regional cooperation, and trade;

(5) strongly urges the Government of Serbia to intensify efforts to capture and trans-

fer at-large indictees Goran Hadzic and Ratko Mladic to the International Criminal Tribunal for the former Yugoslavia and otherwise to fully cooperate with the Tribunal; and

(6) encourages the European Union to also remain actively engaged with all countries in the Western Balkans regarding their aspirations for European integration.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, as amended by Public Law 105-275, appoints the following individuals as members of the Board of Trustees of the American Folklife Center of the Library of Congress: Patricia Atkinson of Nevada vice Dennis Holub of South Dakota and Joanna Hess of New Mexico vice Mickey Hart of California.

ARTICLES OF IMPEACHMENT AGAINST JUDGE PORTEOUS

The PRESIDING OFFICER. The Chair submits to the Senate for printing in the Senate Journal and in the CONGRESSIONAL RECORD the replication-errata of the House of Representatives to the Answer of Judge G. Thomas Porteous, Jr., to the Articles of Impeachment against Judge Porteous, pursuant to S. Res. 457, 111th Congress, Second Session, which replication was received by the Secretary of the Senate on April 21, 2010.

The replication-errata of the House of Representatives is as follows:

CONGRESS OF THE UNITED STATES,

Washington, DC, April 21, 2010.

Re Impeachment of G. Thomas Porteous, Jr., United States District Judge for the Eastern District of Louisiana, Replication—Errata

Hon. NANCY ERICKSON,
Secretary of the Senate, U.S. Senate,
Washington, DC.

DEAR Ms. ERICKSON: On behalf of the House Managers, I am writing to inform the Senate of the following errata in the Replication that the House filed April 15, 2010.

Page 5, first sentence in the Section entitled "Fourth Affirmative Defense," the word "voluntary" should be deleted, so that the sentence now reads: "The House of Representatives denies each and every allegation of this purported affirmative defense, which, in effect, seeks to suppress the statements of a highly educated and experienced Federal judge, made under oath, before other Federal judges."

Page 6, last sentence in the Section entitled "Fourth Affirmative Defense," the words "voluntary and" should be deleted, so that the sentence now reads: "Accordingly, there is simply no credible basis to argue that the Senate should not consider Judge Porteous's immunized Fifth Circuit testimony."

Page 9, first sentence in the Section entitled "Fourth Affirmative Defense," the word "voluntary" should be deleted, so that the sentence now reads: "The House of Representatives denies each and every allegation of this purported affirmative defense, which, in effect, seeks to suppress the statements of a highly educated and experienced Federal judge, made under oath, before other Federal judges."

Page 9, last sentence in the Section entitled "Fourth Affirmative Defense," the

words "voluntary and" should be deleted, so that the sentence now reads: "There is simply no credible basis to argue that the Senate should not consider Judge Porteous's immunized Fifth Circuit testimony."

I would request that any future published versions of this Replication incorporate and reflect the above changes. Further, in that the Replication has been published in the Congressional Record, to the extent consistent with the Senate rules, we respectfully request that this letter likewise be published.

A copy of this letter will be served upon counsel for Judge Porteous today through electronic mail.

Sincerely,

ALAN I. BARON,
Special Impeachment Counsel.

ORDERS FOR THURSDAY, APRIL 22, 2010

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, April 22; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes; that following morning business, the Senate proceed to executive session to consider the nomination of Denny Chin to be U.S. circuit judge for the Second Circuit, as provided for under the previous order.

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

PROGRAM

Mr. WHITEHOUSE. Mr. President, there will be up to 1 hour for debate prior to a vote on the confirmation of the Chin nomination. Senators will be notified when the vote is scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WHITEHOUSE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Thursday, April 22, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

FARM CREDIT ADMINISTRATION

JILL LONG THOMPSON, OF INDIANA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, VICE NANCY C. PELLETT, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF COMMERCE

FRANCISCO J. SANCHEZ, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE,

VICE CHRISTOPHER A. PADILLA, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ERIC L. HIRSCHHORN, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION, VICE MARIO MANCUSO, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

MICHAEL W. PUNKE, OF MONTANA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE PETER F. ALLGEIER, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF THE TREASURY

MICHAEL F. MUNDACA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE ERIC SOLOMON, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

ISLAM A. SIDDIQUI, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE RICHARD T. CROWDER, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF THE TREASURY

JEFFREY ALAN GOLDSTEIN, OF NEW YORK, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE ROBERT K. STEEL, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CHAI RACHEL FELDBLUM, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2013, VICE LESLIE SILVERMAN, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JACQUELINE A. BERRIEN, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2014, VICE CHRISTINE M. GRIFFIN, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL LABOR RELATIONS BOARD

CRAIG BECKER, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2014, VICE DENNIS P. WALSH, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 2010, VICE NAOMI CHURCHILL EARP, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

P. DAVID LOPEZ, OF ARIZONA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF FOUR YEARS, VICE RONALD S. COOPER, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL LABOR RELATIONS BOARD

MARK GASTON PEARCE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2013, VICE PETER N. KIRSANOV, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF HOMELAND SECURITY

ALAN D. BERSIN, OF CALIFORNIA, TO BE COMMISSIONER OF CUSTOMS, DEPARTMENT OF HOMELAND SECURITY, VICE W. RALPH BASHAM, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

RAFAEL BORRAS, OF MARYLAND, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY, VICE ELAINE C. DUKE, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

THE JUDICIARY

JAMES KELLEHER BREDAR, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE J. FREDERICK MOTZ, RETIRING.

EDMOND E-MIN CHANG, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE ELAINE F. BUCKLO, RETIRED.

ELLEN LIPTON HOLLANDER, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE ANDRE M. DAVIS, ELEVATED.

LESLIE E. KOBAYASHI, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII, VICE HELEN W. GILLMOR, RETIRED.

SUSAN RICHARD NELSON, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA, VICE JAMES M. ROSENBAUM, 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 lieutenant general

MAJ. GEN. ERIC E. FIEL

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE DENTAL CORPS, AND ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES, UNITED STATES ARMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 3036 AND 3039(B):

To be major general

COL. MING T. WONG

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5142:

To be rear admiral

REAR ADM. (LH) MARK L. TIDD

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARK J. AGUIAR
AIMEE L. ALVIAR
STEPHANIE E. AMADOR
ARTHUR D. ANDERSON
ROBERT W. BAILEY, JR.
VICTOR BARANOWSKI
JOHNIE I. BARRETT
LAURA A. BELT
JEANNIE M. BERRY
CYNTHIA L. BOND
PATRICK C. BOYLE
RALPH L. BURROUGHS III
BRANDY R. CASTEEL
JACQUELINE M. COLE
ERSKINE G. COOK, JR.
ELIANA J. CORAL
KRISTA R. COTTERILL
BRANDY L. COX
CINDY L. CRADDOCK
DARREN J. DAMIANI
KAREN M. DANIELS
SUANN DAVISON
DALE H. DESALIS
PAUL A. DEVAUGHN
ROBIN L. DUCKER
DANA LEA DUERR
TAMMY MICHELLE DUNHAM
JERRY M. EARL, JR.
SUSAN E. EATON
MICHAEL H. EDGING
YOGI D. EDLIN, JR.
MIRIAM EDOUARD
TRACY S. EDWARDS
WANDA L. EDWARDS
STEPHANIE M. ELLENBURG
ERNI L. EULENSTEIN
SARAH M. EVANS
ANTONIO L. FISHER
VINCENT M. GACILLOS
ELOISE K. GOMEZ
KIMBERLI A. GOODNER
TRACEY A. GOSSER
WANDA R. GREENE
CONSTANCE M. GRIFFIN
JASON W. GRIMM
ORANETTA L. HALL
SHERRY A. HAMMOCK
ANASTASIA ANGELA HANSEN
GARY W. HARDY
GORDON ANTHONY HAZLETTE
SADIE M. HENRY
WAYNE P. HODSON
WANDA M. HOGGARD
MATTHEW J. HOWARD
RICHARD F. HUFF
SARAH L. HUFFMAN
GREGORY W. JOHNSON
CHRISTOPHER W. KELLY
JULIA KISS
JAMES E. KRAMER
THELMA H. LAJONDIMALANTA
JESSICA L. LAMONTAGNE
BENJAMIN F. LANDRY
RICK A. LANG
MEGAN M. LAUGHLIN
ROBIN R. LECH
KAREN C. LUGG
DEBRA S. LUNDEEN
LISA S. MADISON
ERIKA J. MCCARTHY
TROY D. MEFFERT
JOSEPH C. MELDER
BOBBY D. MITCHELL
NICOLE F. MOLETT
WILLIAM C. MOORE
MICHAEL J. MORROW
VANESSA L. MOSES
TAMMY M. OSLEY
HASMIN E. NALES
FRANCES M. NICHOLS
CHRISTOPHER W. NIDELL
HOLLY ANN OCONNOR
CATHERINE C. ORTEGA
ANGELIQUE V. PATTERSON
MARTHA E. PAUL
REBEKAH P. PEERY
SYLVIA PENA
ANN M. PETCAVAGE
MICHELLE I. PLASTERER

MARQUITA N. PRICE
 TIFFANIE L. RAMPLEY
 KRIS D. RICHARDSON
 STEPHEN W. RIGGS
 KATHERINE S. ROBBEL
 TRACY LYNN RUE
 DANNY C. SANDEFUR
 DARRELL W. SAYLOR
 ANGELA K. SCHLOER
 DANIEL J. SCHWARTZ
 JIMMY D. SCOTT
 DALE M. SEIGLER
 DEBRA L. SIMS
 JULIE A. SKINNER
 DON L. SMITH
 INEZ VONCEIL SMITH
 KIRK A. SMITH
 KRISTIN L. SMITH
 MYRNA L. SPENCER
 ANNE S. STALEY
 DAPHNE SMALL STEPANEK
 DOUGLAS W. STILES
 NICOLE THOMPSON STONEBURG
 DAVID R. STRICKLAND
 CHAD A. STUCKEY
 CHI SUH
 JACQUILLA SULLIVAN MCGOWAN
 KIMBERLY NOVACK TRNKA
 SALVADOR V. VARGAS
 MELISSA K. VESSAR
 LEILA R. VON KREITOR
 LISA A. WARE
 DALLAS T. WELLS III
 DAVID A. WHITEHORN
 CAROL DAWN WILHITE
 MELINDA A. WILLIAMSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

SANDRA S. AGUILON
 JEFFREY L. ALCORN
 CALVIN J. ANDERSON
 BRUCE D. AUVILLE
 JAMES F. BEST, JR.
 RAMA BHRIVARHOTLA
 ALEXSA BILLOPS
 JEFFREY S. BOSLEY
 PAUL W. BOTT
 JOEL E. BRADY
 MEGAN S. BRANDT
 KITO D. BROOKS
 ROBERT S. BROWN
 BRUCE W. CALLAHAN
 JEFFREY W. CATHEY
 COREY J. CHRISTOPHERSON
 CAMERON D. CLEMENT
 WARREN G. CONROW
 SCOTT A. COREY
 JAMIE D. CORNETT
 ROBERT J. CURTIS
 LAURIE R. DAVIS
 JAMES W. DAVIS
 HEATHER D. DESHONE
 KIERAN K. DHILLON DAVIS
 LUTHER E. DHILLON DAVIS
 MICHAEL J. DOIRON
 MELISSA M. DURHAM
 JAMISON L. EARLEY
 JAMES C. ENDERBY
 JERRY M. FAUSCH
 HEATHER WINFREE FENZL
 MATTHEW R. FERRERI
 BRIGHTTE C. FRENCH
 MOHAMMED FUAD
 JENNIFER M. GIOVANNETTI
 MATTHEW D. GLYNN
 GABRIEL GONZALEZ
 BELTECEZAR C. GOROSPE
 MALAYSIA H. GRESHAM
 MARTHA G. HAINNEY
 EYDIN D. HANSEN
 TIMOTHY G. HARRELSON, JR.
 TRACY L. HARRELSON
 ERIC M. HENDRICKSON
 CRYSTAL A. HILAIRE
 SUNNY M. HOLDEN
 PATRICIA E. HOOGEVEEN
 KARI L. HUNTER
 VINCENT X. HUONG
 JARRETT R. JACK
 EMBER J. JOHNSTON
 BRIAN L. JONES
 STEVEN A. KELHAM
 JEREMY RICHRD KERSEY
 ADAM B. KLEMENS
 JEREMY A. KOVACS
 JENNIFER JONES LAACK
 DANIEL R. LANE
 ROBERT A. LARKOWSKI
 JUNG B. LEE
 ROGER A. LEE
 NANCY S. LESTER
 ERIC N. LITTLEFIELD
 GERARDO LOPEZ
 TRAVIS K. LUNASCO
 MONIKA LUNN
 JOHN T. MACGREGOR
 MICHAEL R. MCCARTER II
 RENE M. MCQUEEN
 MIKEL M. MERRITT
 PAUL R. NELSON
 MIA Y. NEURELL
 JEFFREY A. NEWSOM
 DARREN ELOF NORDIN

RANDALL A. PAPE
 CHRISTOPHER S. PECHACEK
 ANDREW G. PUCKETT
 JOSEPH N. PUGLIESE
 CHRISTOPHER M. PUTNAM
 MICHAEL A. RAETHKA
 CARY C. REGISTER
 DENNIS J. ROBINSON
 TOMAO L. ROSE
 ROSALIND R. ROSS PERRY
 AMANDA L. SAGER
 SCOTT W. SCHAFER
 ROBERT D. SCHMIDTGOESSLING
 ROBERT R. SCHROPE IV
 CHRISTA L. SECHRIST
 JASON B. SHIRAH
 JENNIFER L. SHIRLEY
 STEPHEN M. STOUDEFER
 JOHN E. STUBBS
 DARRELL R. STUTTS
 TISHA D. SUTTON
 DARRELL K. TEGTMEYER
 MATTHEW A. THOMAS
 CHRISTINE L. TOLBERT
 JOSHUA L. TOMCHESSON
 CHARLES B. TOTH
 TU T. TRAN
 AARON D. TRITCH
 DAN T. VINCECRUZ
 DAVID E. WAGNER
 ERICH W. WANAGAT
 SCOTT M. WHIPPLE
 SUNDONIA J. WONNUM
 DAVID C. WRIGHT
 SHAWNA A. ZIERKE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LORI A. ADAMS
 REGINA D. AGEE
 NICOLE H. ARMITAGE
 CONSTANCE C. BANKS
 KIMBERLY A. BRIDGE
 DAWN B. BROOKS
 JANET D. BRUMLEY
 MARYJO BURLEIGH
 KRISTIN L. CARLSON
 JONI M. CLEMENS
 CYNTHIA A. CONNER
 ZINA M. CRUMP
 SUSAN F. DUKES
 KATHLEEN T. FOULK
 MICHELLE L. GONZALES
 KIMBERLY A. GRAHAM
 GERALD W. HALL, JR.
 ROCHELLE L. HAYNES
 KAREE M. JENSEN
 PATRICIA I. JOHN
 KELLIE A. JOHNSON
 MICHAEL J. JOHNSON
 MARINA L. JOHNSON
 PHYLLIS F. JONES
 MICHELIN Y. JOPLIN CONERLY
 DEEANN M. LEES
 LESTER P. LORETO
 KIMBERLY L. MANNINGWRIGHT
 ELIZABETH A. MCDOWELL
 KIMBERLY B. MERRITT
 BRADLEY D. NIELSEN
 NICOLE R. OGBURN
 JULIE R. OSTRAND
 JOEY P. PASKEVICIUS
 DONNA L. RAU
 RHONDA L. RICHTER
 JERRY D. RUMBACH
 MICHELE Y. SHELTON
 DEBRA A. SMITH
 PENNY E. SPAID
 JAMES S. SPEIGHT
 KATHERINE S. SPENCE
 BONNIE J. STIFFLER
 JAMES A. STRYD
 BARBARA A. SUSEN
 LANE C. TAYLOR
 LINDA J. THOMAS
 KARIN P. VANDOREN
 CANDY S. WILSON
 KEITH A. WILSON
 PAULA M. WINTERS
 SHANNON G. WOMBLE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

VERONA BOUCHER
 DANE V. CAMPBELL
 BRETT R. CARNER
 JAMES R. COKER
 BRIAN L. COSTELLO
 ERIC M. COX
 AMIE W. DARYANANI
 JAMES A. DAUBER
 MICHAEL P. DEMPSEY
 DAVID R. ENGLERT
 MAUREEN A. FARRELL
 BENJAMIN J. FRANKLIN
 STEPHEN GABORIAULTWHITCOMB
 CLARENCE D.A. GAGNI
 REVONDA L. GRAYSON
 NADINE Y. GRIFFIN
 DERYCK K. HILL
 NEIL A. HOLDER

NEIL MICHAEL HORNER
 TIMOTHY D. HOWERTON
 DEREK J. LARBIE
 DAVID A. LINCOLN
 WINNIE LOKPARK
 PAULINE M. LUCAS
 CHRISTIAN L. LYONS
 CRAIG A. MCLUER
 TIFFANY J. MORGAN
 BRIAN T. MUSSELMAN
 ERIC V. OLSEN
 DENNIS OSULLIVAN
 SHANNON L. PHARES
 NICOLE H. RANEY
 JUDY A. RATTAN
 JESSE W. RICHARDSON
 MICHAEL D. ROSS
 STEPHANIE P. SCHULTZ
 THOMAS L. SHAAK
 JAMES E. SHIELDS
 JOSEPH W. SILVERS
 JULIA N. SUNDBSTROM
 JAMES C. TANNER
 DAVID C. WALMSLEY
 ROSS K. WHITMORE
 DREW E. WIDING
 RICHARD L. WOODRUFF, JR.
 BRIAN A. YOUNG
 JAMES A. YOUNG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

WILLARD B. AKINS II
 VINCENT J. ALCAZAR
 ALEJANDRO J. ALEMAN
 JOHN J. ALLEN
 MARK S. ALLEN
 NEIL T. ALLEN
 RICHARD C. AMBURN
 KATHLEEN F. AMONIN
 BYRON B. ANDERSON
 WILLIAM D. ANDERSON, JR.
 JOSEPH F. ANGEL
 RUSSELL K. ARMSTRONG
 DAVID C. ARNOLD
 BRUCE A. ARRIETA
 MARK R. AUGUST
 DOYLE R. BABE
 DAVID D. BANHOLZER
 DAVID W. BARNES
 DAVID J. BAYLOR
 CHARLES E. BEAM
 BRIAN R. BEERS
 PAUL R. BEINEKE
 THOMAS A. BELL
 DAVID B. BELZ
 ROBERT E. BENNING
 SCOTT I. BENZA
 ALEXANDER BERGER
 KURT A. BERGO
 BRUCE A. BEYERLY
 TIMOTHY J. BILTZ
 DAVID R. BIRCH
 KEVIN E. BLANCHARD
 JULIE G. BOIT
 ROBERT T. BOQUIST
 MICHAEL F. BORCERT
 JAMES R. BORTREE
 ANDREW R. BRABSON
 JAMES A. BRANDENBURG II
 HELEN E. BASHER
 JAMES E. BRECK, JR.
 DAVID P. BRIAR
 MICHAEL F. BRIDGES
 LORING C. BRIDGEWATER
 GREGORY S. BRINSFIELD
 RYAN L. BRITTON
 TODD M. BROST
 KENNETH J. BROWNELL
 BRIAN R. BRUCKBAUER
 ROBERT J. BRUCKNER
 DALE S. BRUNER
 CHRISTOPHER J. BRUNNER
 ROBERT A. BUENTE
 STEVEN C. BUETOW
 PAUL A. BUGENSKIE
 KURT W. BULLER
 JOHN G. BUNNELL
 JEFFREY B. BURCHFIELD
 PATRICK C. BURKE
 SCOTT D. BURNSIDE
 DEANNA M. BURT
 BRADLEY J. BUXTON
 EANN J. CAHILL
 DANIEL B. CAIN
 MICHAEL O. CANNON
 DANN S. CARLSON
 KURT J. CARRAWAY
 MATTHEW D. CARROLL
 ERIC D. CASLER
 MARC E. CAUDILL
 TYRELL A. CHAMBERLAIN
 DAVID E. CHELEN
 MIKE G. CHRISTIAN
 MARK K. CIERSHAW
 ANDRA B. CLAPSADDLE
 JAMES A. CLARK
 CHAD M. CLIFTON
 THOMAS C. COGLITORE
 JOHN COLLEY
 MIGUEL J. COLON
 STEPHEN R. CONKLING
 MICHAEL R. CONTRATTO

ANTHONY G. COOK
 DAVID L. COOL
 EDWARD R. CORCORAN
 TOBY L. COREY
 MATTHEW J. CORNELL
 SEAN C. CORNFORTH
 DAVID A. CORRELL
 JAMES A. COSTEY
 JODY D. COX
 MATTHEW D. COX
 KEVIN M. COYNE
 KENNETH S. CRANE
 DAVID M. CREAN
 THOMAS D. CRIMMINS
 BRYAN L. CRUTCHFIELD
 JARED P. CURTIS
 DANIEL D. CZUPKA
 THOMAS D. DAACK
 DENNIS P. DABNEY
 MATTHEW R. DANA
 CHRISTOPHER O. DARLING
 JUSTIN C. DAVEY
 MATTHEW W. DAVIDSON
 JONATHAN P. DAVIS
 THEODORE L. DAVIS, JR.
 JERI L. DAY
 MICHAEL E. DEBRECZENI
 JEFFREY W. DECKER
 JOHN M. DELAPP, JR.
 JAMES E. DENBOW, JR.
 EVAN C. DERTIEN
 TED A. DETWILLER
 JOHN M. DEVILLIER
 JEFFREY W. DEVORE
 TIMOTHY C. DODGE
 PAUL B. DONOVAN
 DWIGHT K. DORAU
 DAVID R. DORNBERG
 DENIS P. DOTY
 MICHAEL L. DOWNS
 JAMES H. DRAPE
 GARY T. DROUBAY
 DAVID T. DUHADWAY
 CARL R. DUMKE
 LOUIS F. DUPUIS, JR.
 LOURDES M. DUVAL
 ANTHONY T. DYESS
 ALTON D. DYKES
 BILLIE S. EARLY
 CASEY D. EATON
 DANIEL C. EDWARDS
 RICHARD J. EDWARDS
 PETER K. ELDE
 KENNETH P. EKMAN
 NEVIN K. ELDEN
 TODD C. ELLISON
 THOMAS E. ENGLE
 CHRISTINE M. ERLEWINE
 MARK W. EVANS
 ANNE MARIE FENTON
 DONALD J. FIELDEN
 JOHN N. FISCH
 JEFFREY H. FISCHER
 SCOTT C. FISHER
 TYRON FISHER
 MICHAEL P. FLAHERTY
 TODD J. FLISCH
 PATRICK M. FLOOD
 RICHARD L. FOLKS II
 DAVID E. FOOTE
 TERESA L. FOREST
 ANDREAS J. FORSTNER
 JAMES R. FOURNIER
 DEREK C. FRANCE
 SCOTT G. FRICKENSTEIN
 ERIC H. FROELICH
 DON C. FULLER III
 DAVID M. GAEDDEKE
 ANDREW J. GALE
 PHILIP A. GARKANT
 KURT H. GAUDETTE
 ANDREW J. GEBARA
 ANTHONY W. GENATEMPO
 WILLIAM W. GIDEON
 SCOTT L. GIERAT
 CAMERON L. GILBERT
 RANDALL S. GILHART
 PAUL G. GILLESPIE
 WILLIAM U. GILLESPIE IV
 DIANE CHOY GILLINGS
 ERIK W. GOEPNER
 REGINA T. GOFF
 PATRICK J. GOOLEY
 CLAYTON M. GOYA
 SCOTT D. GRAHAM
 GARY L. GRAPE
 CHRISTOPHER P. GRAZZINI
 GABRIEL V. GREEN
 PAULA D. GREGORY
 MICHAEL A. GREINER
 KYLE D. GRESHAM
 JOHN M. GRIFFIN
 JANET W. GRONDIN
 CLARK M. GROVES
 WILLIAM C. GRUND
 ALEXUS G. GRYNKEWICH
 BRYAN K. HADERLIE
 CURTIS R. HAFER
 EILEEN R. HAMBY
 CHARLES T. HAMILTON
 SHANE P. HAMILTON
 JOHN T. HANNA
 JASON L. HANOVER
 DAVID E. HANSEN
 LISA K. HANSEN
 KRAIG M. HANSON
 DOUGLAS D. HARDMAN

JEANNE I. HARDRATH
 MICHAEL R. HARGIS
 DAVID A. HARRIS, JR.
 VALERIE L. HASBERRY
 BRETT R. HAUSTEIN
 TIMOTHY D. HAUGH
 TRACEY L. HAYES
 JERRY W. HAYNES II
 MICHELLE L. HAYWORTH
 GREGORY L. HEBERT
 CARLIN R. HEIMANN
 MICHAEL W. HELVEY
 ANTHONY A. HIGDON
 ERIC T. HILL
 MARK A. HIRYAK
 DAVID J. HLUSKA
 MICHAEL T. HOEPFNER
 TIMOTHY J. HOGAN
 STEPHANIE A. HOLCOMBE
 MICHAEL R. HOLMES
 WILLIAM G. HOLT II
 WILLIE O. HOLT, JR.
 MICHAEL S. HOPKINS
 DAVID J. HORNYAK
 JED L. HUDSON
 STEPHEN A. HUGHES
 GINA C. HUMBLE
 THERESA B. HUMPHREY
 KIRK W. HUNSAKER
 CLINT H. HUNT
 STEVEN R. HUSS
 ROBERT E. INTRONE
 MATTHEW C. ISLER
 DAVID R. IVERSON
 BRICK IZZI
 ROBERT S. JACKSON, JR.
 JOSEPH S. JEZAIIRIAN
 DAVID A. JOHNSON
 DAVID D. JOHNSON
 JOHN H. JOHNSON
 KENNETH F. JOHNSON
 MALCOLM T. JOHNSON
 ROGER F. JOHNSON
 KIMBERLEE P. JOOS
 RUSSELL T. KASKEL
 ADAM B. KAVLICK
 DAVID A. KAWECK
 DAWN D. KEASLEY
 TIMOTHY L. KEEPORTS
 ROBERT W. KEIRSTEAD, JR.
 D. EDWARD KELLER, JR.
 MICHAEL B. KELLY
 ANDRE L. KENNEDY
 FRED G. W. KENNEDY III
 KEVIN B. KENNEDY
 COREY J. KEPLER
 ROBERT E. KIEBLER
 THOMAS J. KILLEEN
 KIRK A. KIMMETT
 DEAN D. KING
 RICHARD L. KING, JR.
 TIMOTHY R. KIRK
 KONRAD J. KLAUSNER
 JEFFREY T. KLIGMAN
 WILLIAM J. KLUG
 DAVID W. KNIGHT
 CHARLES W. KNOCZYNSKI
 TRACEY D. KOP
 LEONARD J. KOSINSKI
 ROBERT C. KRAUSE
 JOHN P. KRIEGER
 TODD C. KRUEGER
 DAVID P. KUENZLI
 DAVID J. KUMASHIRO
 KURT W. KUNTZELMAN
 ANDREW A. LAMBERT
 SEAN P. LARKIN
 ROBERT H. LASS
 LORI S. LAVAZZI
 HYON K. LEE
 RUSSELL E. LEE
 SCOTT T. LEFORCE
 STEVE A. LEFTWICH
 AARON D. LEHMAN
 LAURA L. LENDERMAN
 BROOK J. LEONARD
 NORMAN J. LEONARD
 GARY N. LEONG
 TIMOTHY J. LINCOLN
 FRANK J. LINK
 KENNETH A. LINSERMAYER
 THOMAS K. LIVINGSTON
 MATTHEW J. LLOYD
 STACY LOCKLEAR, JR.
 JOHN H. LONG
 SCOTT N. LONG
 LESTER R. LORENZ
 ROBERT K. LYMAN
 DAVID F. LYNCH
 DAVID BRADLEY LYONS
 JEFFREY D. MACCLOUD
 JACK W. MAIXNER
 DAVID J. MAJONEY
 LORALEE R. MANAS
 CHRISTOPHER R. MANN
 CHRISTOPHER M. MARCELL
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 MAX R. MASSEY, JR.
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 CHARLES B. SHEA
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 ANDREW J. SMITH
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 MAUREEN J. SMITH
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 RHONDA M. SOTO
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 MARCUS S. STEFANOU
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 ROSEMARY L. THORNE
 THOMAS J. TIMMERMAN
 ANDREW TORELLI
 WILLIAM R. TRACY
 JEROME T. TRAUGHBER

PETER J. TREMBLAY
 JOHN M. TRUMPFHELLER
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 WILLIAM M. UHLMAYER
 WILLIAM K. UPTMOR
 GREGORY N. URTSO
 RICHARD B. VAN HOOK
 GREGG D. VANDERLEY
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 JEANETTE M. VOIGT
 JOHN W. WAGNER
 RAYMOND J. WAGNER
 ALLAN P. WAITE, JR.
 CRAIG J. WALKER
 CURTIS D. WALKER
 WILLIAM N. WALKER
 STEPHEN B. WALLER
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 DEAN A. WARD
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 TRACEY L. WATKINS
 KATHLEEN E. WEATHERSPOON
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 STEVEN W. WESSBERG
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 STEPHANIE P. WILSON
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THOMAS E. WOLCOTT
 JOSEPH L. WOLFER
 JOHN C. WOMACK
 DEANNA C. WON
 STEPHEN D. WOOD
 TODD K. WOODRICK
 THOMAS L. WOODS
 TODD A. WORMS
 CYNTHIA A. WRIGHT
 JASON R. XIQUES
 BRIAN A. YATES
 JON E. YOST
 ANTHONY C. YOUNG
 GREGORY J. YUEN
 CATHERINE M. ZEITLER
 MICHAEL J. ZIGAN
 MARK A. ZIMMERHANZEL
 MICHAEL J. ZUBER

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RAMSEY B. SALEM

CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, April 21, 2010:

THE JUDICIARY

THOMAS I. VANASKIE, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT.

DEPARTMENT OF JUSTICE

CHRISTOPHER H. SCHROEDER, OF NORTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL.