United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156 WASHINGTON, MONDAY, JUNE 7, 2010 No. 84

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, June 8, 2010, at 2 p.m.

Senate

MONDAY, JUNE 7, 2010

The Senate met at 2 p.m. and was called to order by the Honorable MARK WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Eternal God, let Your glorious Name be duly honored and loved by all who call You Lord. Send forth Your blessed spirit into our hearts that we may live worthy of Your love.

Bless our lawmakers and use them as instruments for good. Pour down Your wisdom upon them that they may ever promote liberty and justice for all. Strengthen their hearts against temptation, transforming them into more than conquerors by Your grace. Lord, make them one in the common cause for justice, righteousness, and truth.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK WARNER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 7, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

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

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECOGNITION OF THE MINORITY LEADER

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

FOCUSING ON THE CRISES

Mr. MCCONNELL. Mr. President, first, I welcome everyone back. I hope they had a good break.

As a nation, our focus continues to be on the disaster in the gulf. This is a national tragedy, the full dimensions of which we still do not know. But one thing is clear: The top priority at this point, as it should have been from the start, is to stop the leak. Americans are far less interested in how tough the administration plans to be after the leak is fixed than they are in fixing it. People want action more than they want accusations. There will be plenty of time to assess blame and to tighten regulations after the crisis is met. But weeks of blame has done absolutely nothing to plug the leak. Let's focus on the crisis at hand.

As we work to stem the crisis in the gulf, Congress cannot continue to ignore another pressing crisis—an exploding Federal debt that threatens our very way of life.

This week, the Senate will debate the deficit extenders bill the House passed just before the recess. Just for a little context, let's remind ourselves what this bill is. The original purpose of this bill was to give America's job creators an assurance that the longstanding tax benefits they are counting on to retain workers will not be pulled out from under them. But because Democrats cannot seem to resist any opportunity to use a must-pass bill such as this as a vehicle for more deficit spending, they have piled tens of billions of dollars in unrelated spending and debt on top of it, all at a moment when the national debt has now reached $13 trillion for the first time in history. This is fiscal recklessness, plain and simple.

The time has come for hard choices. Americans see what is happening in Europe, and they are begging us to bring the debt under control, to cut it down before we face a similar fate here. Instead, Democrats in Washington just

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keep piling on as if they are oblivious to the consequences.

Some Democrats in the House started to rebel last week, and some Democrats in the Senate have indicated they will ask for amendments on this bill as well. They are demanding that party leaders make an effort to at least acknowledge that this debt crisis exists. But Americans want more than lip-service.

Here is what the protests of squeamish Democrats in the House achieved: A bill that was supposed to increase the debt by $175 billion will now only increase the debt by $54 billion. In other words, instead of agreeing that the debt is out of control, Democrats played politics—they spent as much money as they could on this bill without losing the votes needed to pass it.

Even in the face of public outrage, Democrats are showing that either they just do not get it on this issue of debt or they just simply do not care. But it is even worse than that because not only are Democrats clearly unserious about this issue, they are not giving the American people the whole picture. They did not lower the price tag on this bill by making tough choices; they just shortened the timetable on the programs it funds by openly promising to add that spending back later. They do not plan to spend any less; they just plan to spend it all by putting it in separate bills, which is a little bit like arguing that you have less debt because you put it on different credit cards.

Clearly, Democrats do not see a $13 trillion national debt for the emergency it is. So let's remind ourselves where we stand so there is no confusion about the gravity of the situation. As I stand here this afternoon, every man, woman, and child in America would have to cough up more than $42,000 to pay down our debt. That is $42,000 for every man, woman, and child in the United States. And that is just the current debt. Remember, it took two centuries—two centuries—to accumulate a $10 trillion debt. In the first 500 days of this administration, Democrats added $2.4 trillion to the debt and plan to add another $1 trillion this year. Americans are as worried as I have ever seen them about the course we are on, and they have a simple message for Congress: Stop spending money we do not have.

One more thing. If all the domestic crises of the past few years have taught us anything, it is that more government is not a solution in itself. Yet this administration has approached virtually every crisis it has faced with more government as the primary solution.

Right now, among other challenges, we have a debt crisis, a jobs crisis, a housing crisis, a financial crisis, and an oilspill to which the American people clearly do not believe government is effectively responding. One can understand the American people's skepticism when they are told that simply adding more government is the solution to government's previous failures. They are being told that adding more government is the solution to government's previous failures.

Now is not the time to propose more government as a solution to these crises. It is time to rethink the model to start focusing on accountability and on results. And a good place to start is the debt. Americans expect action on this issue, and they expect it right now. Unfortunately, Democrats in Congress do not seem to be listening on this issue any more than they did on health care or the stimulus or financial regulatory reform or, for that matter, anything else.

Mr. President, I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each. At 4:30 p.m. today, we will turn to executive session to consider three nominations, with debate until 5:30 p.m. equally divided and controlled between Senators LEAHY and SESSIONS or their designees. At 5:30 p.m., the Senate will proceed to a series of up to three rollcall votes. Those votes will be on the confirmation of Audrey Fleissing, of Missouri, to be a U.S. district judge for the Eastern District of Missouri; Lucy Koh, of California, to be U.S. district judge for the Northern District of California; and Jane Magnus-Stinson, of Indiana, to be a U.S. district judge for the Southern District of Indiana.

This week, the Senate will consider the House message with respect to the tax extenders legislation. Also, on Thursday, June 10, we will consider S.J. Res. 26, a joint resolution disapproving a rule submitted by the Environmental Protection Agency with respect to greenhouse gases, under provisions of an agreement reached May 25.

JUNE WORK PERIOD, OILSPILL, AND IMPERFECT GAME IN DETROIT

Mr. REID. Mr. President, I welcome back my colleagues from their travels back home. It is always good to see them and my staff. I am grateful for all who are here working hard. I know we all benefit from seeing and speaking with our neighbors and constituents, honoring our Nation's bravest on Memorial Day, and talking about the good work we have done this year.

We have really done a lot. Long overdue health care reform is now the law of the land. To show how much we have done, Norm Ornstein, one of the most celebrated pundits, columnists, journalists in all of Washington, reported a few weeks ago that this is the most productive Congress in the history of the country. That comes from someone who is not from the left or the right but someone who is a mainstream journalist in America today. The House and Senate have each passed bills to clean up Wall Street. Three million Americans who are going to work today have the Recovery Act to thank for their jobs. In Nevada, the Recovery Act created or saved more than 4,000 jobs in just the past 4 months alone. Again, that is in Nevada.

But every time I go home, I am reminded how much more we have to do and become reenergized to do it. The work period between now and July 4 is short, but our to-do list is very long. We have to pass an emergency extension of unemployment benefits and other matters related to job creation, which will be in the bill that will be put on the Senate floor this afternoon. These benefits have now expired and so should our patience for excuses. These people lost their jobs through no fault of their own. They are struggling to put food on the table and to take their kids to the doctor. It is important that we recognize that. It is an emergency for these families and for our entire country.

Many who oppose this extension gave tax breaks to rich CEOs who shipped American jobs overseas. Now their constituents are looking for a lifeline in a job market they helped sink. I hope both sides can come together to give them the help both they and our economy need.

This legislation cuts taxes for middle-class families and small businesses. This bill includes a host of tax credits, tax extenders, and tax incentives, all of which will help put people back to work—something Democrats and Republicans should come together to finish because it is something we can all support and be proud we did. More than that, it is something each of our States desperately needs.

To this legislation we intend to add a bill for FMAP funding, that is, Medicaid money to ensure the poorest in our communities can afford to stay healthy, which will protect jobs in States such as Nevada and prevent deep cuts to critical services all over the country.

Mr. President, just a few comments about the remarks of my friend, the Republican leader. We all know the debt of our country is significant and of concern to us. But I am stunned by my friend's short memory of history. One reason we have this red ink that is flowing so strongly is we had two wars that weren't paid for. The Iraq war alone cost $1 trillion. Many say it was a war of choice, not of necessity.

The financial meltdown came about as a result of decisions Republicans made. For example, in the last 3 years

of the Clinton administration, we were paying down the national debt. We were spending less money than we were taking in. Some said we were paying down the debt too fast. It was a shock to the markets. We had, in effect, during the Clinton years, something called pay-go, meaning if you had a new program you had to pay for it or raise the revenue to pay for it. It worked extremely well. That is why we were paying down the debt. When President Bush came in, that was eliminated. Pay-go rules went out the window. We have replaced them, in spite of Republicans voting against that.

Mr. President, to show the short memory of my friend, the Republican leader, there was legislation worked on here for a long time—well more than a year—by KENT CONRAD, the chairman of the Budget Committee, and the ranking member, JUDD GREGG. They put together a piece of legislation that had wide support here in the Senate to create a debt commission, similar to what we did with our base closing activities. So I brought this up for a vote. Democrats overwhelmingly voted for it. My Republican colleagues—seven of them who sponsored that legislation—wouldn't vote for it.

We couldn't get the base closing legislation done because every time we wanted to close a base, there would be a Senator from that State who would say: No, we can't do that, and so it was difficult. So we brought that base closing legislation to the floor, and there was an up-or-down vote on it, no amendments. That is the same legislation Senator CONRAD and Senator GREGG brought before the Senate. Because of the Republicans, it was voted down.

To his credit, President Obama, still concerned about the debt, created a commission that must report by the end of this year. We know the debt is an issue. But for my friends to start now criticizing what has always been emergency spending to pay for people who are long-term unemployed I think shows memories are a little short. We should realize Democrats have not created the problems. President Obama, when he was elected, found himself in a real hole created by the prior administration, and we are working our way out of that.

After we finish the bill that will be on the floor this afternoon, we have to pass a bill designed specifically for small businesses—to help them grow and to help them hire more workers. This bill will include more tax incentives and also establishes a new lending facility for small businesses.

This week, we will debate a resolution of disapproval that will prevent the Department of Transportation and the Environmental Protection Agency from working together to slow the pollution from heavy-duty vehicles. The result of this resolution, if passed, would be to waste at least 450 million more barrels of oil than we need to. That is wrong.

We also would like to finish two important conference reports. One, we have the supplemental war appropriations bill that will give our commanders and troops the equipment and resources they need to succeed and fund disaster assistance in the parts of the world that need it the most. Our military is about to undertake the most important mission of the war in Afghanistan, the largest operation since the war started. We have given them this mission, and now we have to give them what they need to accomplish the mission. Two, we have to finish the Wall Street reform bill. This is legislation that protects families' life savings and seniors' pensions. The bills both the House and Senate passed will enforce the toughest protections ever against Wall Street greed and will guarantee taxpayers they will never again be asked to bail out a big bank and will make sure no bank will become too big to fail. We hope to send our bill to the President this month, after the conference is completed.

There are other items on our agenda as well. We must protect voters and ensure our elections are being decided by the people, not by the richest corporations with the most money to spend. We want to empower public safety employees, such as firefighters, police officers, and paramedics, with a voice in decisions that affect their lives and their livelihoods. We want to ensure they have the same rights in the workplace as everyone else. We have a food safety and child nutrition bill to consider. We have a Defense authorization bill to pass. The Judiciary Committee will start its hearings this month on President Obama's tremendous nominee for the Supreme Court, Elena Kagan.

Although we may not get to it in this short work period, the Senate must take definitive action to hold companies such as BP more accountable for disasters such as the one that is poisoning our waters and shores more and more every day.

About that oilspill. Oil has gushed into the gulf for more than a month and a half now, but we have finally started to see a trickle of good news. BP managed to control some of the spill this weekend, and it is estimated that from 50 to 80 percent of the oil that is bubbling out of the middle of the Earth is being captured. That still leaves a leak of too many barrels every day. That is an enormous and unacceptable amount of pollution harming our water, wildlife, beaches, and businesses. As much as 35 million gallons has already leaked, and that oil is now making its way to the south of Florida, up the eastern seaboard. It is estimated that the Exxon Valdez, which was an awful mess, was only one-third as big as the BP spill currently is.

Beyond the immediate damage and our anger at those whose irresponsibility allowed it to happen in the first place, this bill underscores our need for a new energy policy. We need a policy that fully recognizes the obvious costs of the way we produce and consume energy today. We need to confront and limit the risks of future catastrophes. We cannot wait to act until after more tragedies and disasters happen.

A new energy policy must strongly encourage companies to invest rapidly in technology that makes us safer, more competitive, and more energy independent. That means immediately refocusing our efforts on clean and renewable energy, such as the Sun, the wind, and geothermal energy, and improving energy efficiency and using more biofuels. We need better options than oil, and we need it done yesterday.

Finally, I wish to say a word about the biggest story in sports over this past week; that is, the near-perfect game thrown by Detroit Tigers pitcher Armando Galarraga. It would have been just the 21st time in 150 years—although, remarkably, already the third time in this young season—that a pitcher had retired every opposing batter over nine innings—no hits, no walks, no errors. The perfect game is one of the most special, most difficult, most coveted accomplishments in sports. It is exceedingly rare, which, by the way, makes it all the more incredible that one of our own colleagues, the junior Senator from Kentucky, JIM BUNNING, himself once a Detroit Tiger like Galarraga, achieved the feat for the Philadelphia Phillies on Father's Day in 1964.

A perfect game means 27 men up, 27 men down. Galarraga had taken care of 26. We all know what happened to the 27th. The play was made, the runner was out, the game should have been over. Galarraga's name should have been added to an elite list that includes giants of the game such as Cy Young, Sandy Koufax, and Randy Johnson. But it didn't end that way. The first base umpire, Jim Joyce, badly blew the call. In an instant, a superhuman success story was spoiled by an all-too-human error.

Yet what makes this story so significant is not what happened in the split second between the pitcher getting the out and the umpire yelling ''safe.'' It is what happened right after that. First of all, the umpire, Jim Joyce, admitted he was wrong. He apologized to the pitcher, the players, and the fans he let down. He didn't make any excuses. This umpire didn't hire a PR firm or run television ads defending the indefensible or try to spin his mistake; he just owned up to it.

Armando Galarraga graciously accepted the apology and moved on. He didn't raise his voice or point his finger. When every sports fan in America pitied the pitcher, the pitcher pitied the umpire. The 28-year-old player summoned the strength to throw the game of his life but then somehow summoned the grace not to throw the tantrum some say he was entitled to. It

was an incredible act of class and compassion, an incredible display of perspective and sympathy. It was, appropriately enough, perfect.

In recent days, we have seen insurance companies try to avoid responsibility for denying health care to the sick. We have seen Wall Street executives try to avoid responsibility for millions of layoffs and millions more foreclosed homes. We have seen oil companies try to avoid responsibility for environmental disasters of historic proportions. We have seen too many fail to own up to their own mistakes or take responsibility for their own actions. But more than that, we have seen too many actively turn away when others have tried to hold them to account. In that context, what Jim Joyce did was as exceptional as the perfect game itself.

One call may be just one of hundreds that an umpiring crew makes each day. A single game may be just one of 162 each team will play each year. And even though baseball is the national pastime, it is merely that—a diversion. But in this episodes lies a lesson for athletes about sportsmanship, for adversaries about forgiveness, for Members of Congress and for our children about integrity, and for all of us about accountability.

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. There will now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that the debate time controlled today by Senator LEAHY with respect to Executive Calendar Nos. 730, 731, and 759 be divided as follows: 5 minutes each for Senators BOXER and MCCASKILL and the remaining 20 minutes under the control of Senator LEAHY.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent to speak for up to 45 minutes.

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

SENATE'S ROLE IN SUPREME COURT NOMINATIONS

Mr. SPECTER. Mr. President, I have sought recognition to comment on the way in which the Senate discharges its constitutionally assigned responsibility to consent to the appointment of Justices to the Supreme Court of the United States.

With almost 30 years of experience, my thinking on this subject has evolved and changed. At the outset, I thought the President was entitled to considerable deference, providing the nominee was academically and professionally well qualified, under the principle that elections have consequences. With the composition of the Supreme Court a Presidential campaign issue, it has become acceptable for the President to make ideological selections. As the Supreme Court has become more and more of an ideological battleground, I have concluded that Senators, under the doctrine of separation of power, have equal standing to consider ideology.

For the most part, notwithstanding considerable efforts by Senators, the confirmation process has been sterile. Except for Judge Bork, whose extensive paper trail gave him little choice, nominees have danced a carefully orchestrated minuet, saying virtually nothing about ideology.

As I have noted in the past, nominees say only as much as they think they have to in order to be confirmed. When some nominees have given assurances about a generalized methodology, illustrated by Chief Justice Roberts and Justice Alito, their decisions have been markedly different. In commenting on those Justices, or citing critical professorial evaluations of their deviations, I do not do so to challenge their good faith. There is an obvious difference between testimony before the Judiciary Committee and deciding a case in controversy. But it is instructive to analyze nominees' answers for Senators to try to figure out how to get enough information on judicial ideology to cast an intelligent vote.

In seeking to determine where a nominee will go once confirmed, a great deal of emphasis is placed on the nominee's willingness to commit to, and in fact follow, stare decisis. If the nominee maintains that commitment, then there are established precedents to know where the nominee will go. But, as has frequently been the case, the assurances on following stare decisis have not been followed. I use the illustrations of Chief Justice Roberts and Justice Alito as two recent confirmation processes—in 2005 and 2006—as illustrative.

Chief Justice Roberts testified extensively about his purported fidelity to stare decisis. For example, during his confirmation hearing, he said:

> I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness. It is not enough—and the Court has emphasized this on several occasions. It is not enough that you may think the prior decision was wrongfully decided. . . . I think one way to look at it is that the Casey decision itself, which applied the principle of stare decisis to Roe v. Wade, is itself a precedent of the Court, entitled to respect under principles of stare decisis.

He went on to say:

> Well, I think people's personal views on this issue derive from a number of sources, and there's nothing in my personal views based on faith or other sources that would prevent me from applying the precedents of the Court faithfully under principles of stare decisis.

Less than a year later, Justice Alito was no less emphatic. He testified:

> I think the doctrine of stare decisis is a very important doctrine. It's a fundamental part of our legal system, and it's the principle that courts in general should follow their past precedents. . . . It's important because it protects reliance interests and it's important because it reflects the view that courts should respect the judgment and the wisdom that are embodied in prior judicial decisions.

He went on to say:

> There needs to be a special justification for overruling a prior precedent.

Of consequence, along with adhering to the principle of stare decisis, is the Justices' willingness to accept the findings of fact made by Congress through the extensive hearing processes in evaluating the sufficiency of a record to uphold the constitutionality of legislative enactments. Here again, Chief Justice Roberts and Justice Alito gave emphatic assurances that they would give deference to congressional findings of fact.

Chief Justice Roberts testified as follows:

> The Court can't sit and hear witness after witness after witness in a particular area and develop a kind of a record. Courts can't make the policy judgments about what kind of legislation is necessary in light of the findings that are made. . . . We simply don't have the institutional expertise or the resources or the authority to engage in that type of a process. . . . The courts don't have it. Congress does. It's constitutional authority. It's not our job. It is your job. So the deference to Congressional findings in this area has a solid basis.

Chief Justice Roberts went on to say:

> [A]s a judge, you may be beginning to transgress into the area of making a law . . . when you are in a position of reevaluating legislative findings, because that doesn't look like a judicial function.

But what happened in practice was very different, illustrated by the decision where the Chief Justice, in discussing McConnell v. Federal Election Commission, did not say whether McConnell was correctly decided. But the Chief Justice did acknowledge, as the Court emphasized in its decision, that the act was a product of an ''extraordinarily extensive [legislative] record. . . . My reading of the Court's opinion,'' said Chief Justice Roberts in his testimony, ''is that that was a case where the Court's decision was driven in large part by the record that had been compiled by Congress. . . . [T]he determination there was based . . . that the extensive record carried a lot of weight with the Justices.''

When the issue of campaign finance reform came up later before the Court,

Chief Justice Roberts took a very different view of the weight to be given to congressional findings of fact. On the issue of the deference to be given to congressional findings of fact, Justice Alito's testimony was equally emphatic. He testified as follows:

> [The] judiciary is not equipped at all to make findings about what is going on in the real world, not this sort of legislative findings. And Congress, of course, is in the best position to do that. . . . Congress can have hearings and examine complex social issues, receive statistical data, hear testimony from experts, analyze that and synthesize that and reduce that to findings. . . . I have the greatest respect for [Congressional] findings. This is an area where Congress has the expertise and where the Congress has the opportunity to assemble facts and assess the facts. We on the appellate judiciary don't have that opportunity.

In practice, there was very material deviation by both Chief Justice Roberts and Justice Alito, when it came to evaluating legislation with the point being what deference would be given to congressional factfinding. The commentators have been very critical of both of the Justices. For example, Prof. Geoffrey Stone, the Edward H. Levi Distinguished Service Professor of Law at the University of Chicago Law School, had this to say, referring to the testimony just referred to, given by Chief Justice Roberts in his confirmation hearing. Professor Stone wrote that their records on the Court " . . . speak much louder than their words to Congress." Their "abandon[ment] of stare decisis" in "case after case" has required Chief Justice Roberts to "eat" his words.

Professor Stone has written that the two Justices have:

> . . . abandoned the principle of stare decisis in a particularly insidious manner, and their approach to precedent has been "dishonest."

A similar judgment was rendered by Prof. Ronald Dworkin of the New York University School of Law. Professor Dworkin said Chief Justice Roberts and Justice Alito, "who . . . promised fidelity to the law" during their confirmation hearings, have "brazenly ignore[d] past decisions."

None of the decisions of the Roberts Court speaks more directly to these issues than the case of Citizens United v. the Federal Election Commission. In that case, the Supreme Court overruled two decisions—McConnell v. Federal Election Commission, decided in 2003, where Justices had, just 7 years earlier, upheld section 203 against a facial challenge to constitutionality; and Austin v. Michigan Chamber of Commerce, a 1990 decision where the Supreme Court upheld the constitutionality of even a broader State statute regulating corporate campaign-related expenditures. Overruling Austin was especially significant because Congress had specifically relied on that decision in drafting the McCain-Feingold Act.

Justice Stevens said about that decision, in dissent, that "pulling out the rug beneath Congress," in this manner, "shows great disrespect for a coequal branch."

Justice Stevens emphasized the deviation from the kinds of commitments which had been made to deference to congressional findings, noting that in that decision the Court, with the backing of Chief Justice Roberts and Justice Alito, can't decide the "virtual mountain of evidence" establishing the corrupting influence of corporate money on which Congress relied in drafting section 203.

So there you have a much heralded recent decision in Citizens United, which has put the campaign finance area upside down; really on its head. In the context of the extensive congressional hearings, the finding of the corrupting influence of money and politics, the forceful assurance given by those two Justices to have it so cavalierly set aside, is a factor which has to be taken into account in how we evaluate the testimony of the nominees.

Where, then, are Senators to look to try to make an evaluation of what is the judicial ideology of the nominee? I suggest there may be a way, looking into the earlier writings of the nominee, paying relatively little if any attention to the testimony on confirmation, to find out what the nominees believe, where they stand on the ideological spectrum.

Some indicators as to where Chief Justice Roberts stood can be gleaned from views he expressed on the remediation of racial discrimination while serving in a political capacity as a member of the Reagan administration, much earlier in his career. His views attracted a great deal of attention when he commented on the 1982 reauthorization of the Voting Rights Act. He then wrote more than two dozen documents urging the administration to reject a provision of the then-pending House bill that would have allowed plaintiffs to establish a violation of the act, not only by establishing that a voting practice was impermissibly motivated, but also by establishing that it had a discriminatory effect.

He claimed the so-called "effects test" would establish a quota system in elections and, more disturbingly still in light of the extensive record of voting rights amassed by congressional committees, he said that "there was no evidence of voting abuses nationwide." Hardly consistent with the factual record which had been amassed giving some indication as to this predilections at that time.

He then made the comment in a memorandum on the same subject: "Something must be done to educate the Senators on the seriousness of this problem." Another example in the race discrimination context was a 1981 memorandum that Roberts wrote to the Attorney General questioning the legality of regulations promulgated by the Department of Labor to enforce Executive Order 11246.

Issued in 1965, that order requires private-sector employers to contract with the Federal Government to evaluate whether qualified minorities and women are underutilized in their workforce; that if so, to adopt roles to increase their representation by encouraging women and minorities to apply for positions. It does not require or authorize employers to give any racial or sex-based preference. In fact, its implementing regulations expressly prohibit such preferences.

Roberts then attacked the regulations on the ground that they conflicted with the color blindness principle of Title VII of the Civil Rights Act of 1964 and used "quota-like concepts." In that context only the most extreme conservatives have questioned the legality of that Executive order.

Roberts, as a younger man, working in the Federal Government, wrote despairingly about "so-called fundamental rights," including the right to privacy.

Similar traces may be found in examining Justice Alito's earlier writings. Among them was his characterization of Judge Bork as "one of the most outstanding nominees of this century."

Justice Alito shared Bork's antipathy, in particular, to the abortion right first recognized in Roe v. Wade. While Justice Alito was serving as assistant to Solicitor General Charles Fried in 1985, he took it upon himself to outline, in the words of Prof. Lawrence Tribe, "a step-by-step process toward the ultimate goal of overruling Roe."

That year, when applying for a position as Assistant Attorney General in the Office of Legal Counsel, Judge Alito unequivocally stated in his cover letter that the Constitution does not provide for a right to terminate a pregnancy.

Justice Alito's extrajudicial writings also evidence an expansive view of executive power. Among them, in 1989, was a speech defending Justice Scalia's lone dissent in Morrison v. Olson. There the Court upheld the constitutionality of the independent counsel law passed by Congress in the wake of Watergate.

Justice Scalia was the lone dissenter. He also expressed his agreement with the "unitary" executive theory around which Justice Scalia had framed that dissent. Justice Alito's conservative views were again evidenced in his support of the expansion of executive power at the expense of Congress reflected in the memorandum he wrote supporting the use of Presidential signing statements to advance a President's interpretation of a Federal statute. So that in seeking to make a determination of ideology, we have seen from the analysis, the extensive testimony of both Chief Justice Roberts and Justice Alito on two core issues—stare decisis and the deference to be afforded to congressional factfinding—a disregard of the platitudes of the generalizations of the methodology so emphatically testified to before the Judiciary Committee, and requiring a

search into their views as expressed in other contexts where there is not the motivation for Senate confirmation.

The kinds of answers given by other nominees require similar scrutiny. The Judiciary Committee, for example, should no longer tolerate the sort of answer which Justice Scalia gave during his confirmation hearing when I asked him whether Marbury v. Madison was settled precedent. One would think that that would be about the easiest kind of questions to answer.

In 1986, in the so-called courtesy hearing, I asked Justice Scalia, then Judge Scalia, about a bedrock case like Marbury v. Madison. As evidenced during the hearing, he refused to answer with a yes or no on the question. He acknowledged only that Marbury was a ''pillar of our system'' and then said:

> Whether I would be likely to kick away Marbury v. Madison, given not only what I just said, but also what I have said concerning my respect for the principle of stare decisis, I think you will have to judge on the basis of my record as a judge in the Court of Appeals, in your judgment as to whether I am, I suppose on that issue, sufficiently intemperate or extreme.

In effect, he was saying that a nominee who kicks the legs out from under Marbury v. Madison should be considered ''intemperate or extreme,'' and hence presumably denied appointment to the Court. Yet he would not forthrightly rule out a possible overturning of Marbury v. Madison. And so went the balance of the testimony Justice Scalia gave in his confirmation hearing. It is my suggestion that that kind of response ought no longer to be tolerated. There is an abbreviation for Justice Scalia's testimony of the famous limitation of comment by someone arrested in a time of war to give only name, rank, and serial number. I think, by any fair standard, Justice Scalia would only give his name and rank, and we ought to be looking for something substantially more.

Nor can the committee, in my judgment, any longer accept a statement given by Justice Clarence Thomas in 1991 that he did not have an opinion as to whether Roe was properly decided, and, more remarkably still, could not recall ever having had a conversation about it.

In searching for some of the bedrock principles which I would suggest the Senators ought to look for in the confirmation process, I would enumerate five. First, I believe a nominee should accept that the 14th and 15th amendments confer substantial power on Congress to enforce their substantive provisions.

In the past 13 years since the case in the City of Boerne v. Flores, the Court has adopted a concept of proportionality and congruence, a standard which is impossible to understand, certainly impossible for Congress to know on our legislative findings and our legislative enactments as to what will satisfy the Supreme Court of the United States on what they may, at some later day, consider to be ''proportional and congruent.''

I suggest that Justice Breyer has the correct standard when he said the courts should ask no more than whether ''Congress could reasonably have concluded that a remedy is needed and that the remedy chosen constitutes an appropriate way to enforce the amendments.''

A second guiding principle I would suggest is, a nominee should accept that the Constitution, and in particular the due process clause of the 14th amendment, protects facets of individual liberty not yet recognized by the Court. The Court has repeatedly held, through the due process clause of the 14th amendment, the Constitution protects facets of liberty, a realm of personal liberty which the government may not enter, and in accordance with the shifting values of our society has expanded the reach of the due process clause.

A third principle which I suggest the Senate should adopt is a nominee should accept that liberty protected by the Constitution's due process clause includes the right to terminate a pregnancy before the point of viability. I recognize that abortion remains a divisive moral and social issue. But the constitutional status of abortion rights has been settled. The Court has declined the opportunity to overrule Roe v. Wade in nearly 40 cases. In Casey v. Planned Parenthood, three Republican nominees to the Court joined two other Justices in affirming Roe's central holding.

Even conservative Federal Judge Michael Luttig has characterized Casey as ''super stare decisis.'' Even some of Roe's most vociferous critics, including President Reagan's Solicitor General Charles Fried, who urged the Court in the 1980s to overturn the decision, and the late John Hart Ely, perhaps Roe's most prominent academic critic, have said that the Supreme Court should not at this late date overrule Roe.

The fourth principle which I suggest ought to be accepted is that a nominee should accept the equal protection clause of the 14th amendment does not prohibit narrowly tailored race-based measures, that is, does not mandate color blindness so long as the measures do not amount to quotas.

A fifth principle which I think ought to be a standard is that a nominee should accept the constitutionality of statutory restrictions on campaign contributions to candidates for office.

The statement which I have made is an abbreviation of a much more extended written statement, which I ask unanimous consent to have printed in the RECORD with these introductory remarks as I have just made them.

I make this explanation to give a reason why there is obviously some repetition between what I have said in abbreviated form and the full text of the statement.

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

FLOOR STATEMENT ON CONFIRMATION OF SUPREME COURT NOMINEES

Mr. President, I have sought recognition to comment on the way in which the Senate discharges its constitutionally assigned responsibility to consent to the appointment of Justices to the Supreme Court.

With almost 30 years of experience, my thinking on this subject has evolved and changed. At the outset, I thought the President was entitled to considerable deference providing the nominee was academically and professionally well qualified. Under the principle that elections have consequences with the composition of the Supreme Court a presidential campaign issue, it has been accepted for the President to make ideological selections. As the Supreme Court has become more and more of an ideological battleground, I have concluded that Senators, under the doctrine of separation of power, have equal standing to consider ideology.

For the most part, notwithstanding considerable effort by Senators, the confirmation process has been sterile. Except for Judge Bork, whose extensive paper trail gave him little choice, nominees have danced a carefully orchestrated minuet, saying virtually nothing about ideology. Nominees say only as much as they think they have to in order to be confirmed. When some nominees have given assurances about a generalized methodology, illustrated by Chief Justice Roberts and Justice Alito, their decisions have been markedly different.

In commenting on those Justices or citing critical professorial evaluations of their deviations, I do not do so to challenge their good faith. There is an obvious difference between testimony before the Judiciary Committee and deciding a case in controversy. But it is instructive to analyze nominees answers for Senators to try to figure out how to get enough information on judicial ideology to cast an intelligent vote.

I. As a member of the Committee on the Judiciary since entering the Senate, I have participated in the confirmation hearings of eleven nominees to the Court (Sandra Day O'Connor, Antonin Scalia, Robert Bork, Anthony Kennedy, David Souter, Clarence Thomas Ruth Bader Ginsburg, Stephen Breyer, John Roberts, Samuel Alito, and Sonya Sotomayor) and the nomination of then-Associate Justice William Rehnquist to serve as Chief Justice. I chaired the confirmation hearings on two of these nominees, John Roberts and Samuel Alito.

I voted to confirm all but one of the nominees, Judge Robert Bork. His own testimony placed him well outside the judicial mainstream. Judge Bork made clear his view, for instance, that the Fourteenth Amendment's due process clause imposes no substantive limits on governmental actions that infringe upon fundamental rights to conduct one's intimate relations in private, to control one's reproduction, to choose one's spouse, and so forth. Not even Justice Scalia, who reads the due process clauses narrowly, has taken that position. Nor have the Court's newest conservative members, Chief Justice Roberts and Justice Alito.

Still more troubling were Judge Bork's extreme views on the constitutionality of racial discrimination. He went so far as to say that the Court wrongly decided Bolling v. Sharpe (1954), which held unconstitutional racial segregation in Washington, DC's public education system; and Shelly v. Kraemer (1948), which held unenforceable race-based restrictive covenants in residential housing. Both were unanimous decisions joined by conservative justices.

It was not his mere criticism of these and many other important decisions alone that led me to vote against Judge Bork. It was

the very real possibility that he would vote to overturn or resist the application of bedrock precedents of the Court. (Arlen Specter, Why I Voted Against Bork, New York Times, Oct. 9, 1987.) So objectionable was Judge Bork's judicial ideology that it drew rebukes even from some prominent Republicans. Among them was William Coleman, Jr., one of America's leading lawyers of the twentieth century, and along with Justice Scalia, a member of the Ford Administration.

My vote on Judge Bork proved the right decision. Judge Bork's post-hearing writings beginning with the The Tempting of America: The Political Seduction of the Law in 1988 left no doubt that his testimony was but a preview of the extremism he would have brought to the Court.

II. I have never demanded that a nominee satisfy an ideological litmus test whether liberal or conservative much less demanded that a nominee commit to reaching a particular certain outcome in any given case. What I have demanded is that a nominee, first, affirm his or her commitment to the doctrine of stare decisis (the policy of following precedent rather than interpreting constitutional and statutory provisions anew in each case, unless compelling reasons demand otherwise); and, second, pledge to honor the legislative powers the Constitution assigns to the Congress, especially its remedial powers to enforce the Fourteenth and Fifteenth Amendments.

Nominees committed to stare decisis and respectful of Congress' lawmaking powers are much less likely to indulge their ideological preferences whether left or right in interpreting the open-ended provisions of the Constitution and federal statutes to which very different meanings could be ascribed. They are, in short, less likely to become activists. Noted Court commentator Jeffrey Rosen made just that point soon before the Roberts confirmation hearing. He said that the best way to find out whether Chief Justice Roberts was a conservative activist (in the mold of Justices Scalia and Thomas) or a moderate, cautious, and restrained conservative (in the mold of Justice O'Connor) would be to explore Judge Roberts's view of precedents, which the lawyers call stare decisis, or let the decision stand. (In Search of John Roberts, The New York Times, July 21, 2005.)

That is why when I questioned Roberts and Alito in 2005 and 2006, respectively, I focused heavily on the issue of stare decisis. Several other Senators did as well. Both Chief Justice Roberts and Justice Alito provided extensive testimony on the subject. Their testimony warrants extensive quotation.

Chief Justice Roberts testified:

Judges are like umpires. Umpires don't make the rules, they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules, but it is a limited role. Nobody ever went to a ball game to see the umpire. Judges have to have the humility to recognize that they operate within a system of precedent shaped by other judges equally striving to live up to the judicial oath. . . .

[T] importance of settled expectations in the application of stare decisis is a very important consideration.

I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness. It is not enough and the Court has emphasized this on several occasions. It is not enough that you may think the prior decision was wrongly decided.

Well, I think people's personal views on this issue derive from a number of sources, and there's nothing in my personal views based on faith or other sources that would prevent me from applying the precedents of the Court faithfully under principles of stare decisis.

I think one way to look at it is that the Casey decision [Casey v. Planned Parenthood of Southeastern Pennsylvania (1992)] itself, which applied the principles of stare decisis to Roe v. Wade [1973], is itself a precedent of the Court, entitled to respect under principles of stare decisis. And that would be the body of law that any judge confronting an issue in his care would begin with, not simply the decision in Roe v. Wade but its reaffirmation in the Casey decision. That is itself a precedent. It's a precedent on whether or not to revisit the Roe v. Wade precedent. And under principles of stare decisis, that would be where any judge considering the issue in this area would begin.

Testifying a year later, Justice Alito was no less emphatic. He testified:

I think the doctrine of stare decisis is a very important doctrine. It's a fundamental part of our legal system, and its the principle that courts in general should follow their past precedents, and its important for a variety of reasons. Its important because it limits the power of the judiciary. Its important because it protects reliance interests, and its important because it reflects the view of the courts should respect the judgments and the wisdom that are embodied in prior judicial decisions. It's not an inexorable command, but it's a general presumption that courts are going to follow prior precedents.

I agree that in every case in which there is a prior precedent, the first issue is the issue of stare decisis, and the presumption is that the Court will follow its prior precedents. There needs to be a special justification for overruling a prior precedent.

I don't want to leave the impression that stare decisis is an inexorable command because the Supreme Court has said that it is not, but it is a judgment that has to be based, taking into account all of the factors that are relevant and that are set out in the Supreme Court's cases.

It was not only the nominees themselves who testified that they would follow stare decisis. Numerous hearing witnesses made that claim on their behalf. One prominent practitioner before the Court (Maureen E. Mahoney) told the Committee that Chief Justice Roberts had the deepest respect for legal principles and legal precedent. Charles Fried, the conservative Solicitor General during the Reagan Administration, testified that he did not believe that Chief Justice Roberts would vote to overturn Roe v. Wade (1973). Commenting in 2007, federal circuit judge Diane Sykes wrote that Chief Justice Roberts's and his supporters hearing testimony portrayed a cautious judge who would be attentive to the discretion-limiting force of decisional rules and precedent (Of a Judiciary Nature: Observations on Chief Justice's First Opinions, 34 Pepperdine Law Review 1027 (2007)). In the case of Justice Alito, the late Edward Becker, the former Chief Judge of and Justice Alito's colleague on the Court of Appeals for the Third Circuit, a nationally acclaimed judicial centrist, testified that as circuit court judge Justice Alito scrupulously adhere[d] to precedent. A group of Third Circuit judges backed Judge Becker by speaking out in favor of Justice Alito's confirmation.

Numerous liberal commentators also noted Chief Justice Roberts's and Justice Alito's professed respect for precedent despite their apparent ideological conservatism. New York Times Court reporter Linda Greenhouse, for instance, noted that [b]oth Chief Justice John G. Roberts, Jr. and Justice Samuel Alito, Jr., assured their Senate questioners at their confirmation hearing that they . . . respected precedent (Precedents Begin to Fall for Roberts Court, The New York Times, July 21, 2007). Chief Justice Roberts's commitment to stare decisis even earned him the support of some noted liberal constitutional scholars. Among them was Laurence Tribe, the renowned professor of constitutional law at Harvard Law School, and Geoffrey Stone, the Edward H. Levi Distinguished Service Professor at the University of Chicago Law School. Professor Stone wrote in an op-ed that Chief Justice Roberts is too good of a lawyer, too good a craftsman, to embrace . . . a disingenuous approach to constitutional interpretation. Everything about him suggests a principled, pragmatic justice who will act cautiously and with a healthy respect for precedent (President Bush's Blink, Chicago Tribune, July 27, 2005, at 27). He noted in a subsequent law review article that [b]ased largely on Chief Justice Roberts's testimony on stare decisis, I publicly supported his confirmation. (The Roberts Court, Stare Decisis and the Future of Constitutional Law, 82 Tulane Law Review 1533 (2008).) Professor Cass Sunstein of Harvard Law School, who now heads the Obama Administration's Office of Information and Regulatory Affairs (OIRA), likewise supported Chief Justice Roberts's confirmation for this reason. (Minimalist Justice, The New Republic, Aug. 1, 2005 [check].) So, too, did Court commentator Jeffrey Rosen. (Jeffrey Rosen, In Search of John Roberts, The New York Times, July 21, 2005.)

In addition to stare decisis, the confirmation hearings also addressed what I bluntly referred to during the Roberts hearing as the denigration by the Court of Congressional authority. I noted several important cases in which the Court had disregarded legislative fact-findings made incidental to Congress's constitutionally assigned legislative powers.

The issue has taken on particular importance with respect to two of the civil rights amendments: the Fourteenth, which forbids a state from (among things) abridging the right of any person within its jurisdiction the equal protection of the laws, and the Fifteenth, which forbids the states and the federal government from denying any citizen the right to vote on account of race. Both amendments give Congress the power to enforce their prohibitions by appropriate legislation. Difficult questions have arisen as to the contours of Congress's powers under the Fourteenth and Fifteenth Amendments. This much, though, should be beyond debate: Congress alone has the institutional fact-finding capacity to investigate whether state practices result in systemic deprivations of the rights guaranteed by these amendments and, having found such deprivations, to fashion appropriate measures to remediate them.

Just as they did on the subject of stare decisis, both Chief Justice Roberts and Justice Alito gave the Committee assurances that they would defer to Congressional findings of fact that underlay the exercise of Congress's powers not only under the civil rights amendments but also the Commerce Clause. Chief Justice Roberts testified:

The reason that congressional fact finding and determination is important in these cases is because the courts recognize that they can't do that. Courts can't have, as you said, whatever it was, the 13 separate hearings before passing particular legislation. . . . [The Supreme] Court can't sit and hear witness after witness after witness in a particular area and develop that kind of a record. Courts can't make the policy judgments about what type of legislation is necessary in light of the findings that are made . . . We simply don't have the institutional expertise or the resources or the authority to engage in that type of a process. So that is sort of the basis for the deference to the

fact finding that is made. It's institutional competence. The courts don't have it. Congress does. It's constitutional authority. It's not our job. It is your job. So the deference to congressional findings in this area has a solid basis.

I appreciate very much the differences in institutional competence between the judiciary and the Congress when it comes to basic questions of fact finding, development of a record, and also the authority to make the policy decisions about how to act on the basis of a particular record. It's not just disagreement over a record. It's a question of whose job it is to make a determination based on the record . . . [A]s a judge, you may be beginning to transgress into the area of making a law . . . when you are in a position of re-evaluating legislative findings, because that doesn't look like a judicial function.

Chief Justice Roberts also addressed the issue of legislative fact-finding when discussing the Court's decision in McConnell v. Federal Election Commission (2003). There the Court rejected a First Amendment facial challenge to a provision of the Bipartisan Campaign Reform Act (commonly known as McCain-Feingold Act) that bars corporations and labor unions from funding advertisements in support of or opposition to a candidate for federal office soon before an election. Although he would not say whether McConnell was correctly decided, Chief Justice Roberts did acknowledge, as the Court emphasized in its decision, that the Act was the product of an extraordinarily extensive [legislative] record. . . . My reading of the Court's opinion . . . is that that was a case where the Court's decision was driven in large part by the record that had been compiled by Congress. . . . [T]he determination there was based . . . that the extensive record carried a lot of weight with the Justices.

On the subject of legislative fact-finding, Justice Alito's testimony was in accord. Justice Alito testified:

I think that the judiciary should have great respect for findings of fact that are made by Congress. . . .

[The] judiciary is not equipped at all to make findings about what is going on in the real world, not this sort of legislative findings. And Congress, of course, is in the best position to do that.

Congress can have hearings and examine complex social issues, receive statistical data, hear testimony from experts, analyze that and synthesize that and reduce that to findings.

I have the greatest respect for [Congressional] findings. This is an area where Congress has the expertise and where Congress has the opportunity to assemble facts and to assess the facts. We on the appellate judiciary don't have that opportunity.

And when Congress makes findings on questions that have a bearing on the constitutionality of legislation, I think they are entitled to great respect.

III. The record of the newly constituted Roberts Court and, in particular, that of Chief Justice Roberts and Samuel Alito raises serious questions as to the adequacy of the prevailing standard for evaluating nominees to the Court. Although barely four years old, the Roberts Court has already amassed a record of conservative judicial activism that the country has not seen since the early New Deal era. This has manifested, most significantly, in the Court's willingness to overrule precedent and usurp the lawmaking powers of Congress in service of conservative political objectives.

Numerous commentators have highlighted the contradiction between Chief Justice Roberts's and Justice Alito's testimony, and their actions on the Court. Professor Stone, whose words in support of Chief Justice Roberts I just quoted, has written that their records on the Court speak much louder than their words to Congress. Their abandon[ment] of stare decisis in case after case has required Chief Justice Roberts to eat his words about commitment to precedent. (The Roberts Court, Stare Decisis, and the Future of Constitutional Law, 82 Tulane Law Review 1533 (2008).) Another prominent academic lawyer, Professor Ronald Dworkin of New York University Law School, has said that Justices Roberts and Alito had both declared their intention to respect precedent in their confirmation hearings, and no doubt they were reluctant to admit so soon how little those declarations were worth. (Quoted in Linda Greenhouse, Precedents Begin to Fall for Roberts Court, The New York Times, June 21, 2007). Professor Dworkin later said that Chief Justice Roberts and Justice Alito, who . . . promised fidelity to the law during their confirmation hearings, have brazenly ignore[d] past decisions (Justice Sotomayor: The Unjust Hearing, The New York Review of Books, Sept. 24, 2009). And Jeffrey Rosen of The New Republic recently asked in an article, and later in a hearing before the Judiciary Committee, whether the John Roberts who testified before the Senate was the same John Roberts who now sits on the Court (Roberts Versus Roberts: How Radical is the Chief Justice? The New Republic, Feb. 17, 2010).

No decision of the Roberts Court supports these assessments more powerfully than Citizens United v. Federal Election Commission (2010). A five-four majority of the Court struck down as facially unconstitutional section 203 of the Bipartisan Campaign Act of 2002 (commonly known as the McCain-Feingold Act), which prohibits corporations and unions from making independent campaign expenditures (independent because they are not coordinated with a campaign) to fund any broadcast, cable, or satellite communication that refers to a clearly identified candidate for federal office and is made within 30 days of a primary or 60 days of a general election. (Federal law leaves corporations free to finance television ads, during a campaign or otherwise, addressing whatever political issues they wish and to engage in express advocacy for or against a candidate in print or through other mediums of communication not covered by the statute. It also leaves them free to engage freely in political advocacy, as they often do, through PACs.)

The upshot is that election-related speech by corporations including foreign corporations now apparently enjoys the same constitutional protection as campaign-related speech by citizens. It is little wonder that even three-fourths of Republicans polled have expressed disagreement with the Court's decision.

The much-discussed rebuke of the Court by the President during the last state-of-the-union address was deserved. For the Court's decision did not merely reflect an erroneous, but reasonable, interpretation of the First Amendment. It reflected five Justices willingness to repudiate precedent, history, and Congressional findings to an extraordinary degree. To highlight: (1) The Court went out of its way to overrule two decisions: McConnell v. Federal Election Commission (2003), where six Justices (including most notably Chief Justice Roberts's and Justice Alito's predecessors, Chief Justice Rehnquist and Justice O'Connor) had just seven year earlier upheld section 203 against a facial challenge to its constitutionality, and Austin v. Michigan Chamber of Commerce (1990), where the Court upheld the constitutionality of even broader state statute regulating corporate campaign-related expenditures. Overruling Austin was especially significant because Congress specifically relied on that decision in drafting the McCain Feingold Act. Pulling out the rug beneath Congress in this manner, Justice Stevens noted in dissent, shows great disrespect for a coequal branch. (2) The Court eschewed a number of narrower grounds (both constitutional and statutory) for ruling in favor of the corporate litigant. (3) The Court, in Justice Stevens's words, rewr[ote] the law relating to campaign expenditures by for-profit corporations and unions (emphasis) by putting for-profit corporations on the same constitutional footing as individuals, media corporations, and nonprofit advocacy corporations, and made a dramatic break from our past by repudiating a century's history of federal regulation of corporate campaign activity. (4) And the Court, to quote Justice Stevens once more, cast aside the virtual mountain of evidence establishing the corrupting influence of corporate money on which Congress relied in drafting ' 203. Recall the words I quoted earlier of the Chief Justice during his confirmation hearing as to the extensive legislative record on which McConnell was based.

Citizens United is the most visible demonstration of Chief Justice Roberts' and Justice Alito's troubling disregard of precedent and usurpation of Congress' constitutionally assigned powers. It is not the only. Let me offer some additional examples first in cases interpreting the Constitution and then in cases interpreting federal statutes.

Especially troubling is Parents Involved in Community Schools v. Seattle School District No. 1 (2007). The Court struck down narrowly tailored race-conscious remedial plans adopted by two local boards designed to maintain racially integrated school districts. In his opinion for the Court, Chief Justice Roberts concluded that only upon establishing that it had intentionally discriminated in the assignment of students may a school district voluntary adopt such a plan that is to say, only when the Fourteenth Amendment's equal protection clause would actually require race-conscious remedial efforts. But as Justice Breyer emphasized in his dissenting opinion, a longstanding and unbroken line of legal authority tells us that the Equal Protection Clause [of the Fourteenth Amendment] permits local school boards to use race-conscious criteria to achieve positive race-related goals, even when the Constitution does not compel it. The majority's disregard of that precedent, Justice Breyer wrote in dissent, threatens to substitute for present calm a disruptive round of race-related litigation, and . . . undermines Brown's promise of integrated . . . education that local communities have sought to make a reality. Justice Breyer pointedly asked: What has happened to stare decisis? [S]o extreme was Chief Justice Roberts position, New York Times Court reporter Linda Greenhouse has written, that concurring Justice Anthony Kennedy, himself a conservative on the equal protection clause, refused to sign it (Op-ed, The Chief Justice on the Spot, The New York Times, Jan. 9, 2009).

Hein v. Freedom from Religion Foundation, Inc., 127 S. Ct. 2553 (2007), written by Justice Alito, and Morse v. Frederick, 127 S. Ct. 1610 (2007), written by Chief Justice Roberts, present two additional examples in the area of constitutional law. Hein held that an individual taxpayer did not have standing to challenge the constitutionality of government expenditures to religious organizations under the Bush administration's faith-based initiatives program. That conclusion ran counter to a four-decade-old precedent holding that taxpayers have standing to challenge federal expenditures as violative of the

Establishment Clause (Flast v. Cohen (1968)). Justice Alito distinguished the precedent on the ground that it involved a program authorized by the legislative branch rather than the executive branch. But as Justice Souter explained in dissent, Justice Alito's distinction has no basis in either logic or precedent.

The second case, Morse, held that the suspension of high school students for displaying a banner across the street from their school that read BONG Hits 4 JESUS did not violate the First Amendment. That holding ran counter to another long-standing precedent, Tinker (1969), which held unconstitutional the discipline of a public-school student for engaging in First Amendment-protected speech unless it disrupts school activities. Chief Justice Roberts attempted to distinguish Tinker on the ground that the banner in the case before him could be read to encourage illegal drug use. That distinction is unpersuasive. The communicative display held protected in Tinker the wearing of an arm band protesting the Vietnam war might just as plausibly be interpreted to encourage illegal activity, i.e., draft dodging.

Nowhere has Chief Justice Roberts's and Justice Alito's disrespect for precedent manifested itself more consistently, perhaps, than in their statutory decisions favoring business and corporate interests over consumers, employees, and civil rights plaintiffs. During the Court's last Term alone, Chief Justice Roberts and Justice Alito voted in three five-to-four decisions to upend precedent in favor of business interests, twice ruling against civil rights claimants. The most recent such case upended the Court's unanimous 1974 decision in Alexander v. Gardner-Denver Co. (1974), which held that an employee cannot be compelled to arbitrate a statutory discrimination claim under a collectively bargained-for arbitration clause to which he did not consent. The Court held otherwise in 14 Penn Plaza, LLC v. Pyett (2009), thereby depriving many employees of their right to bring statutory discrimination claims in federal court. Rather than acknowledge that it was overruling Gardner-Denver, however, the Court cast that decision's holding in implausibly narrow terms. This prompted the dissenters to lament the Court's subversion of precedent to the policy favoring arbitration. Other examples are cataloged in the record of a 2008 Judiciary Committee hearing on the subject of decisions favoring big business. (Courting Big Business: the Supreme Court's Recent Decisions on Corporation Misconduct and Laws Regulating Corporations, Hearing Before the S. Comm. on the Judiciary, July 23, 2008.)

During the Court's 2006 Term, Chief Justice Roberts and Justices Alito and Thomas joined the majority in two major cases (also decided by bare five-four majorities) overruling precedents so as to favor large corporate interests: Leegin Creative Leather Products, Inc. v. PSKS (2007), where the Court overturned a century-old precedent holding that vertical price-fixing agreement per-se violate the federal antitrust laws; and Ashcroft v. Iqbal (2009), where the Court, drawing on Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), changed the long-standing rules governing what a plaintiff must allege at the outset of his or her case in order to get into federal court. One reporter has noted that Iqbal gives corporate defendants a gift that keeps on giving. (Tony Mauro, Plaintiffs Groups Mount Effort to Undo Supreme Courts Iqbal Ruling, The National Law Journal, Sept. 21, 2009.)

It is not just that Chief Justice Roberts and Justice Alito have disregarded precedent. It is the matter in which they have done it by distinguishing it on unpersuasive grounds or outright ignoring it without forthrightly overruling it. Professor Stone has written that the two Justice have abandoned the principle of stare decisis in a particularly insidious manner and that their approach to precedent has been dishonest (Geoffrey Stone, The Roberts Court, Stare Decisis, and the Future of Constitutional Law, 82 Tulane Law Review 1533 (2008)). Another notes that [t]his may be a long-term characteristic of the Roberts Court, changing the law, even dramatically, but without expressly overruling precedent. But this may also be a short-term phenomena and reflective of the recent confirmation hearings of John Roberts and Samuel Alito. At both, there was considerable discussion of precedent and even super precedent. Perhaps with these confirmation discussions still fresh in mind, these Justices did not want to expressly overrule recent precedent. But as time passes, the hesitancy may disappear . . . . (Erwin Chemerinsky, Forward, Supreme Court Review, 43 Tulsa L. Rev. 627 (2008).)

Even fellow conservative Justices Scalia and Thomas have criticized Chief Justice Roberts and Justice Alito for the way in which they dispense with precedent without forthrightly overruling it. In Federal Election Commission v. Wisconsin Right to Life (2007), for instance, Justice Scalia went so far as to accuse Chief Justice Roberts and Justice Alito of practicing what he called faux judicial restraining by effectively overruling McConnell v. Federal Election Commission without expressly saying so.

Numerous distinguished academics have criticized the Roberts's Courts record with respect to stare decisis. Professor Stone has even said that Chief Justice Roberts's and Alito's conduct during the first term during which they both sat on the Court was the most disheartening judicial performances he has ever witnessed. (The Roberts Court, Stare Decisis, and the Future of Constitutional Law, 82 Tulane Law Review 1533 (2008).) Similarly, Professor Dworkin has charged Chief Justice Roberts and Justice Alito with leading a revolution Jacobin in its disdain for tradition and precedent, and said of their testimony before the Judiciary Committee that it was actually a coded script for the continuing subversion of the American constitution. (The Supreme Court Phalanx, New York Review of Books, Sept. 27, 2007, at 92.) And Dean Erwin Chemerinsky has noted the Roberts Court's pronounced willing[ness] to depart from prior rulings, even recent precedents. (Forward, Supreme Court Review, 43 Tulsa L. Rev. 627 (2008).)

As for the Roberts Court's denigration of Congressional power, its record is not as extensive as it is with respect to stare decisis, but it is troubling nonetheless. I have already discussed Citizens United, where the Court overturned a precedent (Austin v. Michigan Chamber of Commerce (1990)) on which Congress relied in drafting the McCain-Feingold Act and disregarded a record of legislative fact-finding establishing the corruption of our electoral system by the influx of independent corporate campaign-related expenditures. Two other cases support that assessment.

The first is Northwest Austin Municipal Utility District v. Holder (2009). At issue was the constitutionality of '5 of the Voting Rights Act of 1965. Section 5 prohibits changes in the election procedures of states with a history of racial discrimination in voting unless the Attorney General or a three judge district court determines that the change neither has the purpose nor will have the effect of denying or abriding the right to vote on account of race or color. Congress passed the Act under the express power conferred on it by article 2 of the Fifteenth Amendment to enforce the Amendments first section which prohibits racial discrimination in voting by appropriate legislation. Congress reauthorized the Act in 1970 (for five years), in 1975 (for seven years), in 1982 (for twenty-five years), and in 2006 (for another twenty five years). The Court upheld the first three extensions. At issue in Austin was whether the 2006 extension was supported by an adequate legislative record.

There was no question that it was. Writing for the Court in Northwest Austin, Chief Justice Roberts himself conceded that '2 of the Fifteenth Amendment empowers Congress, not the Court, to determine in the first instance what legislation is needed to enforce it and that Congress amassed a sizeable record [over ten months in 21 hearings] in support of its record to extend ['5s] preclearance requirements, a record the District Court determined document[ed] contemporary racial discrimination in covered states. Ultimately the Court avoided the constitutional question in Austin by deciding the case on a narrow statutory ground. But during oral argument in the case, Chief Justice Roberts made clear that he was disinclined to accept Congress' legislative finding as to the need for '5. He said that, in extending '5s so-called preclearance requirements, Congress was sweeping far more broadly than they need to, to address the intentional discrimination under the Fifteenth Amendment. Numerous Court commentators have suggested that it was only because Chief Justice Roberts could not muster a majority for striking down '5 that he agreed to decide the case on narrow statutory grounds. (E.g., Linda Greenhouse, Down the Memory Hole, The New York Times, Oct. 2, 2009.) It is difficult to resist that conclusion. There was no reason for four Justices to have granted certiorari in the case unless they wanted to strike down '5. The statutory issue the Court decided was unimportant.

Another example is Ashcroft v. Iqbal (2009). Building on its earlier decision in Bell Atlantic v. Twombly (2007), the Court there changed the long-standing rules of pleadings the rules governing what a plaintiff must allege in a complaint to have his case heard in federal court under the Federal Rules of Civil Procedure. Until Twombly and Iqbal, the Federal Rules required no more of a complaint than that it provide a short and plain statement of the claim, sufficient to give the defendant fair notice of what the plaintiffs claim is and the grounds upon which it rested. Conley v. Gibson (1957) (quoting Rule 8(a)(2)). A plaintiff was not required to plead the specific facts underlying his allegations. Only if a complaints allegations, accepted as true, failed to support a viable theory of relief that is, fail[ed] to state a claim upon which relief can be granted (Fed. R. Civ. P. 12(b)(6)) could the complaint be dismissed. That rule makes eminent sense: not until receiving a plaintiff's post-discovery evidentiary submission can the court evaluate the sufficiency of his factual allegations. Twombly jettisoned notice pleading by requiring that a complaint include sufficiently detailed factual allegations to render its key allegations plausible. Iqbal went a substantial distance beyond Twombly by requiring courts to draw on [their] judicial experience and common sense in effect, to indulge their subjective judgments without the benefit any evidence in evaluating a complaint's plausibility. No one yet knows the extent to which these new rules will limit Americans' access to the courts. But so far the signs especially in civil rights cases are not encouraging.

The significance of the two decisions, apart from whatever effect they may have on access to the federal courts, is that the Court end ran the Congressionally established

process for changing the rules of civil procedure. In the Rules Enabling Act of 1938, Congress delegated to the federal judiciary its power to promulgate procedural rules for cases in the federal courts, but not through the normal mechanism of case-by-case adjudication. Congress recognized that establishing procedural rules is not a judicial function; it is a legislative function. Therefore, Congress required that any proposed rule change be noticed and subjected to public comment (much as a proposed rule by a administrative agency is subjected to notice-and-comment rulemaking procedures), carefully reviewed by the relevant committees of the Judicial Conference in open proceedings that allows for public participation, and then approved by the Conference. The rule must then be presented to the Supreme Court for approval and, if approved, sent to Congress, which has six months to review and disapprove the rule. Twombly and especially Iqbal represent a brazen disregard for these Congressionally established procedures. No one should let the technical nature of the issues in these cases obscure that fact.

IV. Where does all this leave us? It is clear that we can no longer content ourselves with assurances from a nominee that he or she will respect precedent a promise all nominees now seem to employ, in Laurence Tribe's words, as a magic elixir [citation] and defer to the legitimate exercise of Congressional power (including legislative fact-finding). Chief Justice Roberts' and Justice Alito's performance on the Court demonstrate how little those promises tell us about how a nominee will decide particular cases once seated on the Court. Still less can we content ourselves with vague promises of the sort that we have heard repeatedly from nominees of both Democratic and Republican Presidents in the post-Bork era that they will decide cases according to the law, honor the rule of law, approach each case with an open mind, put aside personal policy preferences when donning their robes, and so on. None of these promises tells us anything meaningful about how a Justice will decide cases.

Nor will a nominees testimony about what interpretative methodologies he or she will employ in deciding cases or what role he or she envisions for judicial review in our system usually tell us much, if anything useful, about what sort of voting record he or she will have on the Court. As one academic who has carefully studied the confirmation hearing of every nominee beginning with Justice O'Connor in 1982 observes, most Supreme Court nominees say more or less the same thing when answering inquiries about the nominee's general approach to constitutional philosophy or interpretation. (Lori A. Ringhand, I'm Sorry, I Can't Answer That: Positive Scholarship and the Supreme Court Confirmation Process, University of Pennsylvania Journal of Constitutional Law 331 (2008).) Solicitor General Kagan made much the same point in 1995 when, in a law review article whose key arguments she still stands by, wrote that a nominee's statements of judicial philosophy may be so abstract as to leave uncertain, especially to the public, much about their real-world consequences. (Elena Kagan, Confirmation Messes, Old and New, University of Chicago Law Review, 62 University of Chicago Law Review 919, 935 (1995).)

Consider one interpretative methodology that, beginning with Robert Bork, has taken on special prominence in the confirmation process: original intent, sometimes called original meaning. Conservatives claim that only by interpreting the Constitution according to its original intent can judges avoid reading their personal ideological views into the Constitution. But as Christopher Eisgruber, the Provost of Princeton University and a former law professor at New York University School of Law, has observed in an important book, originalist accounts of constitutional meaning . . . reflect the ideological values of the judges who render them, no less than do other interpretations of the Constitution.

Original intent is not the exclusive province of conservatives. Both liberal and conservatives regularly appeal to original intent to justify their positions. One prominent liberal academic lawyer, paraphrasing another, claims that w[e] are all originalists now. (Laurence H. Tribe, Comment in Antonin Scalia, A Matter of Interpretation (1997), p. 67.) It is not surprising that during their confirmation hearings both Judge Bork and Justice Souter Republican nominees who, we later learned, shared very different judicial ideologies subscribed to original intent as an interpretative methodology. The problem is that liberals and conservatives reach competing conclusion as to what the original intent requires with respect to contested constitutional provisions. Sometimes even conservatives disagree among themselves about original intent in particular cases. Professor Eisgruber notes: The originalist Justice Antonin Scalia insists that the framers intended for the free speech clause to establish a principle that protects flag burning; the orignalist former judge . . . Robert Bork says that they did not. Scalia says that the framers did not intend the free exercise clause to provide religious believers with exemptions from generally applicable laws; the originalist scholar and federal judge Michael McConnell says that they did. John Paul Stevens and four other moderate-to-liberal justices say that the framers intended to provide term limits for federal legislators; four more conservative justices say that they did not. (The Next Justice (2007), p. 40.) Another of many more recent examples relates to gun rights. Two years ago in District of Columbia v. Heller (2008), the Supreme Court was presented with the question whether the Second Amendment guarantees an individual right to bear arms unconnected with service in a state militia. The Court's five conservative Justices answered definitively yes; the Court's four more liberal members answered definitively no. Both relied on the framers' original understanding of the Second Amendment to reach their conclusions. Here, as in many cases where original is invoked, to quote Professor Eisgruber again, the judges' conclusions about the framers wanted align with their own constitutional values.

One reason that neither originalism nor any other neutral interpretative approach will dictate the result in the difficult cases that come before the Court is that the Constitution's most contested provisions set forth general principles using abstract language. The First Amendment prohibits Congress from making a law that respecting an establishing of religion or abridging the freedom of speech. The Fifth and Fourteenth Amendments prohibit the federal government and the states, respectfully, from depriving any person of life, liberty, or property without due process of law. The Eighth Amendment prohibits the imposition of cruel and unusual punishment. And the Fourteenth Amendment prohibits the states from depriving any person within their jurisdiction the equal protection of the laws. Many statutes are similarly open-ended and no less demanding of judicial interpretation. Think, for instance, of the Sherman Antitrust Act, whose main provision declares only that [e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.

What meaning a Justice gives to such open-ended provisions in particular cases will depend on a judge's ideology his or her understanding of what these provisions mean when applied to the types of governmental actions that regularly come before the Court. Consider, for example, the Fourteenth Amendment's equal protection clause, perhaps the most open-ended of the open-ended provisions to which I have referred. Does it forbid all (or nearly all) state action based on racial classifications? Does it, that is, always require the state to be color-blind? Or does it allow states to take race into account and sometimes even prefer a person over one race over a person of another in order to diminish inequality, promote diversity, render public institutions more representative of the population (and thereby more legitimate), or otherwise? The text of the equal protection clause cannot answer these questions. Nor, in many cases, can precedent. Only the judges ideology or, if you will, his or her understanding of the clause's purpose can.

The situation is no different when it comes to the interpretation of statutes. On the subject of affirmative action, consider Title VII of the Civil Rights Act of 1964's seemingly straightforward prohibition on employment discrimination because of race. Does this prohibition extend to every sort of differential treatment based on race, in which case affirmative action programs nearly always violate Title VII, or does it just extend to invidious forms of discrimination, in which case at least some carefully drawn affirmative action programs do not violate Title VII? The text of the statute does not answer these questions. Again, only a judge's views of what discrimination means can. That is why, more than forty five years after Title VII's enactment, the Justices have not reached a consensus as to the legality of affirmative action.

The inescapable conclusion I draw from all this that, in future confirmation hearings, the Senate should consider a nominee's substantive judicial ideology or, to use Solicitor General Kagan's words in the article to which I just referred, a nominee's constitutional views and commitments. (Elena Kagan, Confirmation Messes, Old and New, 62 University of Chicago Law Review 919, 942 (1995).) I say judicial rather than political ideology because a judge may hold subscribe to a judicial ideology that dictates substantive results he or she would not vote for if sitting as a legislator. A judge may, for instance, be opposed to affirmative action as a political matter but believe that the Constitution cuts a wide swath for Congress to pass raced-based remedial measures (as the framers of the Reconstruction Amendments may well have believed). Or a judge may believe legislatures should not ban abortions but that the constitution allows them to do so. Of course, there will often be substantial overlap between a judge's political and legal ideologies, and it may sometimes be difficult to distinguish between the two.

To those who say that it is inappropriate for the Senate, in discharging its advice and consent function, to consider ideology, I would remind them of an oft-reflected reality: presidents choose among candidates for nomination based on ideology. Christopher Eisgruber notes in The Next Justice that when people discuss Supreme Court nominations, they usually focus on the Senates role . . . Much less attention gets paid to the process by which presidents nominate justices. . . . However understandable this focus may be, it produces a distorted picture of how Supreme Court Justices get chosen. Handwringing polemics about [Senate] confirmation wars presuppose that presidents choose nominees on apolitical grounds and

that partisanship enters only at the confirmation stage. That is nonsense. Ideological and political considerations have always figured in presidential decisions about whom to nominate to the Court. If the President may consider a nominees ideology, why may not the Senate do so? Then-Senator Obama made just that point during his well-known floor statement on then-Judge Alitos nomination when he said that the Senates advice-and-consent function, like the Presidents nominating function, requires an examination of a judges philosophy, ideology, and record (January 26, 2006).

This raises two questions: First, to what substantive ideological principles should we be confident a nominee subscribes before confirming him or her? And second, how should the Senate ascertain a nominees position on these matters during a confirmation hearing?

As for the first question, I would be reluctant to suggest a definitive list. Many commentators have offered suggestions as to how the Senate should go about ascertaining a nominees judicial ideology, but few have offered any specific suggestions as to what that ideology should be, except to say that we should generally prefer ideological moderates. (E.g., Christopher Eisgruber, The Next Justice (2007).) The objective would be to identify certain important principles that are specific enough to tell us something about what outcomes a nominee is likely to reach in broad categories of cases, but not too specific as to require the nominee to prejudge the outcome of particular cases. Let me suggest a tentative list:

(1) A nominee should accept that the Fourteenth and Fifteenth Amendments confer substantial power on Congress to enforce their substantive provisions. Over the last fifteen years, considerable attention has been given to Congress's express power to enforce the Fourteenth and Fifteenth Amendment by appropriate legislation. The Court has significantly limited Congress's remedial powers under those amendments. The main issue in these cases is how much deference the Courts should accord Congress in deciding whether remediation is necessary and, if so, what remedies are appropriate. The Courts conservatives have accorded Congress virtually none. But the drafters of the Fourteenth and Fifteenth Amendment did not make the Court Congress's taskmaster. The Court should ask no more than whether, in Justice Breyer's words, Congress could reasonably have concluded that a remedy is needed and that the remedy chosen constitutes an appropriate way to enforce the amendments. (Board of Trustees of the University of Alabama v. Garrett (2001) (Breyer, J., dissenting).) The Senate should look askance at any nominee who does not share Justice Breyer's view.

(2) A nominee should accept that the Constitution and, in particular, the due process clause of the Fourteenth Amendment protects facets of individual liberty not yet recognized by the Court. The Court has held repeatedly that, through the due process clause of the Fourteenth Amendment, the Constitution protects facets of personal liberty a realm of personal liberty which the government may not enter (Casey v. Planned Parenthood of Southeastern Pennsylvania (1992)) not tethered to any of the rights expressly enumerated in the Constitution's other amendments. These rights include the right to terminate a pregnancy (Roe v. Wade (1973), Casey)), the right to marry (Loving v. Virginia (1967) (alternative holding)), and the right to enter into intimate personal relationships (Lawrence v. Texas (2003). No nominee since Robert Bork has taken the position that the due process clause is limited to procedure. Not even Justice Scalia has taken that position on the Court. Some Justices, though, have taken an unduly restrictive view of the liberty interests protected by the due process clause so restrictive as to drain it of any meaningful content. Justice Scalia, for instance, has demanded that a personal liberty interest not only be fundamental before it is given constitutional protection but also that it can be shown have been protected against government interference by other rules of the law when the Fourteenth Amendment was ratified. Justice Thomas may have an even more restrictive view. We should ask of nominees that they embrace the proposition that the due process clause protects facets of personal liberty whether involving privacy or otherwise not yet recognized by the Court. This is important because no one can predict what future government actions will infringe on facets of liberty yet unaddressed by the Court.

(3) A nominee should accept that the liberty protected by the Constitutions due process clauses includes the right to terminate a pregnancy before the point of viability. I realize that abortion remains a divisive moral and social issue. But the constitutional status of abortion rights has been settled. The Court has declined the opportunity to overrule Roe v. Wade (1973) in nearly forty cases. In Casey v. Planned Parenthood (1992), three Republican nominees to the Court (Justices Kennedy, O'Connor, and Souter) joined two other Justices in affirming Roe's central holding. Even conservative federal judge Michael Luttig, a former clerk of Justice Scalia, has characterized Casey as super stare decisis. (Richmond Medical Center for Women v. Gilmore (4th Cir. 1998). Roe should now be taken off the table as a candidate for overruling, just as Brown v. Board of Education (1954), Griswald v. Connecticut (1965), and other bedrock precedents have been taken off the table by recent nominees to the Court (including Justice Alito) in their confirmation testimony. Even some of Roe's most vociferous critics including President Reagan's Solicitor General, Charles Fried, who urged the Court in the 1980s to overturn the decision, and the late John Hart Ely, perhaps Roe's most prominent academic critic, have said that the Supreme Court should not, at this late date, overrule Roe.

(4) A nominee should accept that the equal protection clause of the Fourteenth Amendment does not prohibit narrowly tailored race-based remedial measures that is, does not mandate color-blindness so long as they do not amount to quotas. Two of the Courts conservative Justices Scalia and Thomas have adopted the extreme and a historical interpretation of the equal protection clause that denies the government any ability to adopt any race-based preferences to remedy past discrimination, no matter how narrowly drawn. Neither Justice has justified this position, ironically, by reference to the views of the Fourteenth Amendment's framers. Their position is based, rather, on their nakedly political position that, in Justice Scalia's words, affirmative action reinforce[s] and preserve[s] . . . the way of thinking that produced race slavery, race privilege, and race hatred, and in Justice Thomas's words, that affirmative action undermine[s] the moral basis of the equal protection principle. (Adarand Constructors, Inc. v. Pena (1995).) Language in Chief Justice Roberts's opinion in Parents Involved in Community Schools v. Seattle School District No. 1 (2007) suggests that he may well share this strong antipathy to race-based remedies.

(5) A nominee should accept the constitutionality of statutory restrictions on campaign contributions to candidates for office. In Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court upheld limits on contributions by individuals, even as it struck down a provision of federal law prohibiting independent expenditures in support of candidates for office. The Court accepted Congress finding that allowing large individual financial contributions threatens to corrupt the political process and undermine public confidence in it. Id. at 26. Buckley's holding on this point has been well-settled law for nearly 35 years.

Let me be clear about what we should not demand of nominees. We should not demand that they promise to reach particular outcomes in particular cases before the Court or likely to come before the Court, or even require that they to state their views on issues with so much specificity that we know how they will probably rule in particular cases. We should not demand, for instance, that a nominee promises to recognize a right to engage in assisted suicide, or to uphold ' 5 of the Voting Rights Act, or to recognize that a particular state regulation imposes an undue burden on the right to an abortion under Casey. Nor should we condition a nominees confirmation on passing a single-issue litmus test. We should not demand ideological purity of nominees. Some ideological diversity on the Court is a good thing.

The second question I have asked how do we ascertain a nominees judicial ideology? is more easily answered. I would first carefully evaluate the nominees pre-hearing record for clues to his or her ideology, much as the Presidents staff does. They may provide important clues about a nominees ideology, especially if the nominee has a limited judicial record on which to draw, as did Chief Justice Roberts, or, also like the Chief Justice, avoided writing law review articles of the sort condemned Robert Bork during his confirmation hearing.

Chief Justice Roberts's and Justices Justice Alito's statements before becoming lower court judges at least raised serious questions (admittedly with the benefit of some hindsight) as to whether they were conservative judicial ideologues. Let me offer some examples.

Most revealing in Chief Justice Roberts's record, perhaps, were the views he expressed on the remediation of racial discrimination while serving in a political capacity as a member of the Reagan administration. None attracted more attention than his views on the 1982 reauthorization of the Voting Rights Act. The Chief Justice wrote more than two dozen documents urging the administration to reject a provision of the then-pending House bill that would have allowed plaintiffs to establish a violation of the Act not only by establishing that a voting practice was impermissibly motivated, but also by establishing that it had a discriminatory effect. Roberts claimed that the so-called effects test would establish a quota system in elections and, more disturbingly still in light of the extensive record of voting-rights abuses amassed by Congressional committees, claimed that there was no evidence of voting abuses nationwide. In one memorandum, for instance, he wrote that something must be done to educate the Senators on the seriousness of this problem. Roberts's position did not prevail. Congress passed a reauthorization bill that included an effects test, and President Reagan signed into law. The law has worked well to prevent discrimination in voting. No one has seriously contended that the reauthorization established an electoral quota system.

Another example in the race discrimination context (this one not, unfortunately, raised at the confirmation hearing) was a 1981 memorandum that Roberts wrote to the Attorney General questioning the legality of regulations promulgated by the Department of Labor to enforce Executive Order 11246. Issued in 1965, that order requires private-

sector employers that contract with the federal government to evaluate whether qualified minorities and women are underutilized in their workforces and, if so, to adopt goals to increase their representation by encouraging women and minorities to apply for positions. It does not require or authorize employers to give any racial or sex-based preferences; in fact, its implementing regulations expressly forbid such preferences. Roberts attacked the regulations on the ground that they conflicted with the color-blindness principle of Title VII of the Civil Rights Act of 1964 and use quota-like concepts. Only the most hardened conservatives have questioned the legality of Executive Order 11246 in this manner.

That is not all. For example, Roberts wrote disparagingly about so-called fundamental rights (including the right to privacy) recognized by the courts, in his view, to arrogate power to themselves; questioned whether Congress had the authority to terminate an overseas military engagement by joint resolution without treading on the Presidents inherent executive powers; and, in one case involving alleged systemic gender discrimination at a prison, urged the Attorney General to reject the advice of the Civil Rights to intervene in the case because, among things, gender classifications should not receive any heightened constitutional scrutiny.

Justice Alito's extra-judicial statements while serving in the Reagan Administration were more even revealing than Chief Justice Roberts's. Among them was his characterization of Robert Bork as one of the most outstanding nominees of this century. Alito shared Borks antipathy, in particular, to the abortion right first recognized in Roe v. Wade (1973). While serving as an assistant to Solicitor General Charles Fried in 1985, Alito took it upon himself to outline, in the words of Professor Laurence Tribe, a step-by-step process toward the ultimate goal of overruling Roe. That same year, when applying for a position as the Assistant Attorney General in the Office of Legal Counsel, Judge Alito unequivocally stated in his cover letter the Constitution does not provide for the right to terminate a pregnancy.

Justice Alito's extra-judicial writings also evidenced an expansive view of executive power. Among them was 1989 speech defending Justice Scalias lone dissent in Morrison v. Olson (1988). There the Court upheld the constitutionality of the independent counsel law passed by Congress in the wake of Watergate. Justice Scalia was the lone dissenter. Justice Alito expressed his agreement with the unitary executive theory around which Justice Scalia framed his dissent. Alito did so again in 2000 during a speech to the Federalist Society. Justice Alito's support for the expansion of executive at the expense of Congressional power was also reflected in memoranda he wrote supporting the use of presidential signing statements to advance a presidents interpretation of a federal statute. Such statements, Justice Alito contended, could serve as part of a statute's legislative history to compete with floor statements, committee reports, and other expressions of Congressional intent. Professor Erwin Chemerinsky testified that Alitos objective was to shift power from the legislature . . . to the executive. Justice Alito's views on the subject surfaced soon after he was seated on the Court. In Hamdan v. Rumsfeld (2006), Justice Alito joined a dissenting opinion by Justice Scalia chiding the majority for relying on legislative history without also consulting President Bush's signing statement.

Another oft-neglected source of information about a nominees ideology that should be taken for granted are those made by the nominating Presidents. Presidents often promise the public to select candidates of particular ideological stripe. President George W. Bush, for instance, said that he would nominate Justices in the mold of Justices Scalia and Thomas. Maybe we should take presidents at their word. Presidents, after all, select nominees to the Court for ideological reason, and presidents, notes Christopher Eisgruber in The Next Justice, have numerous opportunities to gather information from Washington insiders about a potential nominee before nominating him or her information to which Senators are often not privy. Professor Eisgruber reports, for example, that Clarence Thomas told White House counsel C. Boyden Gray that he was opposed to affirmative action. That important piece of information did not surface during Justice Thomas's confirmation hearing. (Christopher L. Eisgruber, The Next Justice (Princeton, 2007), p. 146.) It is no surprise that Justice Thomas has turned out to be the Court's most unyielding opponent of affirmative action.

What, if any, weight should we give to a nominees own testimony? A few commentators have suggested that the Senate should return to the practice that prevailed before the mid-1950s and dispense with testimony from the nominee altogether. (E.g., Richard Brust, No More Kabuke Confirmations, ABA Journal, Oct. 2009.) They say that the nominees reveal nothing important about a nominee's judicial ideology. I have made that complaint myself. At the outset of the Roberts confirmation hearing, I said: It has been my judgment . . . that nominees answer about as many questions as they think they have to in order to be confirmed. It is a subtle minuet . . . Nominees of both parties do the dance. In fact Justice Sotomayor, whose nomination I supported, took the dance to a new level. She said repeatedly that her judicial philosophy was fidelity to the law. That told us nothing about Judge Sotomayor. It is unfathomable to think that any nominee no matter how liberal or conservative would testify that he or she would be unfaithful to the law.

I do not agree, however, that we should dispense with a nominee's testimony. It can be an important and, if the nominee has a limited paper record, critical source of information about the nominee's ideology. It is also important to allow nominees to explain whether positions imputed to her in fact reflected her views and, if so, whether they still do. Perhaps a position a nominee once took was really not his own, but instead his clients. Or perhaps a nominee has abandoned a once-held position. Nominees should be given the opportunity to explain their records. Senators can judge the sincerity of their testimony. Moreover, dispensing with a nominee's testimony would deprive members of the public of an important opportunity to evaluate the nominee while watching live on television.

Instead, the Judiciary Committee should insist that a nominee actually provide meaningful testimony. Repetitiously reciting platitudes such as I will follow the law or apply the law to the facts or address each case on its merits or approach each case with an open mind can no longer do. They tell us nothing about a nominee's ideology or judicial philosophy. One type of question the Senate might make better use of is to ask the nominee for his opinion on cases already decided by the Court. As Robert Post of Yale Law School has argued, this sort of question, if answered, will reveal information about the nominee's ideology that vague questions about his or her approach to interpretation cannot. (Robert Post & Reval Siegel, Questioning Justice: Law and Politics in Judicial Confirmation Hearings, Yale L.J. (The Pocket Part), Jan. 2006.) Senators have asked that sort of question before, but often without adequate follow-up or without demanding answers. A nominee who answers such a question is no more guilty of prejudging a case that may come before the Court than a sitting Justice who decided the particular case in question. Recall that, during Justice Ginsburg's confirmation hearing, she testified that she believed that the Court reached the right result in Roe, although she disagreed with its reasoning, just as she had previously done in her academic writings. We need more testimony like that.

Whatever particular mode of questioning is employed, the important point is that, when the Senate cannot ascertain the nominee's judicial ideology from his or her pre-nomination record, the Senate must insist that the nominee be forthcoming with it. The Judiciary Committee should no longer tolerate the sort of answer Justice Scalia gave during his confirmation hearing when I asked him whether Marbury v. Madison, the 1803 case holding that the Court has the authority to pass on the constitutionality of a federal law, was a settled precedent not subject to reconsideration. Justice Scalia refused to answer with the yes or no my question deserved. He acknowledged only that Marbury was a pillar of our system and then said: Whether I would be likely to kick away Marbury v. Madison given not only what I just said but also what I have said concerning my respect for the principle of stare decisis, I think you will have to judge on the basis of my record as a judge in the court of appeals, and your judgment as to whether I am, I suppose, on that issue sufficiently intemperate or extreme. In effect, Justice Scalia was saying that a nominee who kicked the legs out from under Marbury should be considered intemperate or extreme and hence presumably denied appointment by the Senate and yet he would not forthrightly rule out the possibility of overturning Marbury. Nor can the Committee accept a statement like Clarence Thomas's in 1991 that he did not have an opinion as to whether Roe was properly decided and, more remarkably still, could not recall ever even having a conversation about it.

It is not just the nominees of Republican Presidents, of course, who have withheld their substantive views from the Judiciary Committee. Every nominee since Robert Bork has done so. In her 1995 law review article on the confirmation process, the current nominee to the Court, Elena Kagan, highlighted the testimony of President Clinton's two Supreme Court appointments, Justices Ginsburg and Breyer to show what was wrong with confirmation hearings. (Elena Kagan, Confirmation Messes, Old and New, University of Chicago Law Review, 62 University of Chicago Law Review 919, 935 (1995)). Justice Ginsburg refused to answer even as simple a question as to whether the Korean War was, in fact, a war, just as Justice Souter had done over a decade earlier. Justice Breyer, to quote Solicitor General Kagan, declined to answer not merely questions concerning pending cases, but questions relating in any way to any issue that the Supreme Court might one day face. And as I have already noted, Justice Sotomayor, whose confirmation I supported, was even less forthcoming with her views than her two immediate predecessors Chief Justice Roberts and Justice Alito. Numerous commentators supportive of her nomination share my assessment.

And of course, a nominee's testimony must not be the final word. A nominee's testimony should be evaluated, as Professor Laurence Tribe testified during the Alito confirmation hearing, not as though it were burned onto a blank CD to be evaluated on its own, but

against an extensive backdrop of the nominee's pre-hearing record.

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

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

The legislative clerk proceeded to call the roll.

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

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

BORDER SECURITY

Mr. KYL. Mr. President, I rise to speak on a subject that has certainly had a lot of press coverage, and that is the trip by the Arizona Governor to Washington to speak with the President about the immigration issue in Arizona, recent legislation that was passed, and what we can do to secure the border. Something caught my eye in the Congress Daily which I want to quote and discuss.

The article is entitled ''Arizona Gov. Pushes for Obama's Help.'' It was dated Thursday, June 3, and it talked about the meeting between the Governor and the President. It says they didn't appear to come to any agreements, and then it reads:

> White House Press Secretary Robert Gibbs said that both sides expressed their viewpoints, with Obama stressing that border security must be coupled with comprehensive immigration reform.

Why is that? Why is securing the border being held hostage to comprehensive immigration reform? The President has a responsibility and we have a responsibility to enforce our laws. That includes securing our border. So why does the President insist we are not going to secure the border until we have comprehensive immigration reform?

The reality is, if we do secure the border, it will be easier for Congress to pass comprehensive reform, because people will then understand that the Federal Government is serious about securing the border. They don't believe that today. With articles such as this, why should they? In effect, the President is saying: We are not going to secure the border until we have comprehensive reform.

We don't need comprehensive reform to secure the border, and I submit we do need to secure the border for comprehensive immigration reform.

I have talked a lot on this floor—and so has Senator MCCAIN—about efforts to secure the border and the different segments of the border. In the State of Arizona, there are two segments. One is called the Yuma sector and the other is called the Tucson sector. The Yuma sector has basically been secured in terms of illegal immigration. There is still a lot of illegal drugs crossing in that sector. They are working on that. The Tucson sector is not secure in terms of illegal immigration or drug smuggling. In fact, about half of all illegal immigration comes through the Tucson sector.

Why is the Yuma sector pretty well secured and the Tucson sector not? There are a variety of reasons. First, the Yuma sector pretty much completed the fencing, particularly in the urban area there, the double fencing that has enabled the Border Patrol to apprehend illegal immigrants who try to cross. Secondly, there is an adequate number of Border Patrol agents. Third, in the Yuma sector, there is a program called Operation Streamline, the essence of which is, instead of catch and release, where illegal immigrants are apprehended and then returned to the border in a bus, these illegal immigrants are taken to court and provided a lawyer. But the reality is, almost all of them end up pleading to having crossed the border illegally, and they spend at least 2 weeks in jail. About 17 percent of the people are criminals. Obviously, they don't want to do this so they don't cross in that area anymore. The rest want to come work and make money so they can send it back to their families. They obviously can't do that while they are serving time in jail. The net result is that there is a big deterrent to crossing in the Yuma sector. If they cross there, they go to jail. So they cross somewhere else.

If we had a similar operation in other segments of the border, it appears to me we could go a long way toward having operational control of the border.

The reality is, we can secure the border. I know there are some on the other side who believe if we secured the border, then there would be less incentive for Republicans to support comprehensive immigration reform. Think of that. That is holding national security, border security, hostage to passing a bill in Congress. That should not be. We have a job to secure the border. We should do that irrespective of whether Congress then passes comprehensive reform.

I remind my colleagues that in 2007, I helped to draft, along with Senator Kennedy, the legislation we brought to the floor. Unfortunately, it was not successful. It was opposed by both Republicans and Democrats. It was supported by both Republicans and Democrats. In the end, it didn't have the votes to pass. The point is, there were many on our side of the aisle as well as the other side who were willing to draft and support legislation for comprehensive reform. It is not true to say that if we secure the border, many of us will, therefore, not have an incentive to support comprehensive reform.

The American people don't believe the Federal Government is serious about securing the border. They are not going to support comprehensive reform until they see some seriousness on the part of the Federal Government. When we hear comments such as those from Robert Gibbs, who says the President stressed that border security must be coupled with comprehensive immigration reform, I say the American people are apparently right. The Federal Government—at least the President—does not appear to be serious about enforcing the laws at the border and securing the border. Otherwise, he wouldn't couple that with a requirement that we have to pass comprehensive reform. We are not going to pass comprehensive reform this year for a variety of reasons. That is a fact. But that doesn't mean we can't secure the border. Indeed, we should.

JOB CREATION

Mr. KYL. Mr. President, I rise to speak about an editorial in the Wall Street Journal. I ask unanimous consent that this June 4 editorial titled ''Employers on Strike'' be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KYL. It begins with this comment which caught my eye:

> It's too bad we can't do the Census every year, because maybe the U.S. economy would then show some jobs growth.

That is pretty interesting. The reason is because of the news last week that was greeted with some degree of concern by folks on Wall Street and elsewhere. Despite the fact that we created a net total of 431,000 jobs in May, 411,000 of those were temporary Census hires. Yes, we created a lot of jobs by hiring temporary Census workers, but those are not private-sector, permanent jobs. That is what we should be doing.

This article notes that:

> The private economy—that is, the wealth creation part, not the wealth redistribution part—gained only 41,000 jobs, down sharply from the encouraging 218,000 in April, and 158,000 in March.

The point being that these temporary Census jobs are not our ticket to economic recovery. These are temporary, government, and they do not add to the employment base that produces wealth.

It is interesting that those who supported the stimulus package, which cost $862 billion, said there was an economic factor here called the Keynesian multiplier effect, that somehow a dollar in government spending was supposed to produce a dollar and a half in economic output. This is truly the creation of something out of nothing or, more accurately, taking a dollar out of the private sector and somehow creating a dollar and a half worth of value. It turns out it didn't happen. It never does. This is very fuzzy thinking. We cannot take money out of the private sector and expect that it is going to somehow multiply an economic output or job creation factor, when the government spends the money. That is $862 billion that has been taken out of the productive private sector.

What happens? We either have to borrow it, which makes it harder for the

private sector to borrow money, or we have to tax the private sector, thereby reducing the private sector's ability to create jobs in the future. The bottom line, as this editorial notes:

> Almost everything Congress has done in recent months has made private businesses less inclined to hire new workers.

That problem is exacerbated by the bill which we take up tomorrow. This is the so-called jobs bill. It is a bill which will cost $116 billion. It will add $54 billion to our national debt. It will further weaken the private sector's ability to create jobs.

As this Wall Street Journal editorial notes:

> It's too bad we can't do the Census every year, because maybe the U.S. economy would then show some job growth.

That is being facetious, obviously. Those are not the kind of jobs that will productively create economic growth, because they are not in the private sector. They are simply temporary. I hope as we debate the bill over the course of the next several days, the so-called stimulus, we can get away from this notion that somehow or other if we take money out of the productive part of our economy and have the government spend it, that somehow or other, magically, that is going to help engineer economic recovery. It doesn't. Instead what we have is an economic recovery that is exceedingly slow and will be more so, the more regulation and taxation we impose on our private sector.

EXHIBIT 1

[From the Wall Street Journal, June 4, 2010]

EMPLOYERS ON STRIKE

It's too bad we can't do the Census every year, because maybe the U.S. economy would then show some jobs growth. That quip was one of the rueful asides we heard yesterday as Americans learned that the economy created a net total of 431,000 new jobs in May, including 411,000 temporary Census hires.

The private economy—that is, the wealth creation part, not the wealth redistribution part—gained only 41,000 jobs, down sharply from the encouraging 218,000 in April, and 158,000 in March. The unemployment rate did fall to 9.7% from 9.9%, but that was mainly because the labor force contracted by 322,000. Millions of Americans, beyond the 15 million Americans officially counted as unemployed, have given up looking for work.

Worst of all, nearly half of all unemployed workers in America today (a record 46%) have been out of work for six months or more. Normally job growth accelerates during the early stages of an economic rebound, but this dismal report suggests that the recovery remains well short of becoming a typical expansion.

There were some slivers of good news in the May jobs report. For those who have jobs, the average work week rose by 0.1 hours to 34.2 hours and earnings nudged upward by 0.3%. Manufacturers added 29,000 workers, and their hours worked jumped 5.1%, the best since 1983.

Perhaps this is what White House chief economist Christina Romer was looking at yesterday when she cited ''encouraging developments'' in the jobs market and ''continuing signs of labor market recovery.'' We doubt this was the private reaction in the Oval Office, whose occupant was told by Ms. Romer and economic co-religionist Jared Bernstein that the February 2009 stimulus would kick start a recovery in growth and jobs. Whatever happened to the great neo-Keynesian ''multiplier,'' in which $1 in government spending was supposed to produce 1.5 times that in economic output?

Imagine if Ms. Romer had instead promised in 2009 that Congress could spend nearly $1 trillion, and 16 months later the unemployment rate would be nearly 10% and that more than 2.5 million additional Americans would be without jobs. Would Congress have still spent the cash? Well, sure, Congress will always spend what it can get away with, but the American public would have turned against the stimulus even faster than it has.

The multiplier is an illusion because that Keynesian $1 has to come from somewhere in the private economy, either in higher taxes or borrowing. Its net economic impact was probably negative because so much of the stimulus was handed out in transfer payments (jobless benefits, Medicaid expansions, welfare) that did nothing to change incentives to invest or take risks. Meanwhile, that $862 billion was taken out of the more productive private economy.

Almost everything Congress has done in recent months has made private businesses less inclined to hire new workers. ObamaCare imposes new taxes and mandates on private employers. Even with record unemployment, Congress raised the minimum wage to $7.25, pricing more workers out of jobs. The teen unemployment rate rose to 26.4% in May, and for those between the ages of 25 and 34 it rose to 10.5%. These should be some of the first to be hired in an expansion because they are relatively cheap and have the potential for large productivity gains as they add skills.

The ''jobs'' bill that the House passed last week expands jobless insurance to 99 weeks, while raising taxes by $80 billion on small employers and U.S-based corporations. On January 1, Congress is set to let taxes rise on capital gains, dividends and small businesses. None of these are incentives to hire more Americans.

Ms. Romer said yesterday that to ''ensure a more rapid, widespread recovery,'' the White House supports ''tax incentives for clean energy,'' and ''extensions of unemployment insurance and other key income support programs, a fund to encourage small business lending, and fiscal relief for state and local governments.'' Hello? This is the failed 2009 stimulus in miniature.

It's always a mistake to read too much into one month's jobs data, and we still think the recovery will lumber on. But if Ms. Romer wants this to be more than a jobless recovery, she and her boss should drop their government-creates-wealth illusions and start asking why so many private employers remain on strike.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I congratulate the Senator from Arizona. There is no one more thoughtful on finance matters and job creation than he. He has made a very important point. It was a well-intentioned effort by the administration to say: We have an economic recession so we need to stimulate the economy through some government spending. There were proposals on the Republican side to do that to a much lesser extent. But what has happened is, as the Senator has pointed out, the focus has been much too heavily on creating more government jobs, when what we need is an environment for job growth in the private sector. In fact, as the Senator from Arizona pointed out, the actions the government has taken over the last year during this great recession too often make it harder to create jobs in the private sector.

The health care bill taxes job creators and investors. Those are the ones who create the jobs. The stimulus package runs up the debt. The higher the debt goes, the more money it sucks out of the system, and the harder it is to get money and to create jobs. The financial regulation bill makes credit harder to get on Main Street, as we now see it going through the Congress. If you can't get credit, you can't create a job.

Jobs are at the front of everyone's mind. Our friend, the former Governor from Virginia, is here. He knows this very well. The Governor of Tennessee, Phil Bredesen, said the other day that in my State, if he had 100 conversations, 95 would be about jobs. I agree. But clearly a fundamental difference of opinion we seem to have in the Senate is our focus on creating an environment for job growth in the private sector. The Democratic focus seems to me to be much more focused on creating more government jobs. That is not working. Because if the economy continues to grow for the rest of the year at approximately the rate it has grown for the first part of the year, we will end the year with 10 percent unemployment. As we all know, that burden falls most heavily on lower income Americans.

OILSPILL RESPONSE

Mr. ALEXANDER. Mr. President, I rise to speak on what I call an oilspill response for grownups. The tragic gulf oilspill has produced overreaction, demagoguery, and bad policy. I would cite ''Obama's Katrina, end offshore drilling, produce 20 percent of our electricity from windmills'' as three examples of overreaction, demagoguery, and bad policy. None of these options helps clean up and move forward a country using 25 percent of the world's energy, as the United States does year-in and year-out.

If we Americans want both clean energy and a high standard of living, then here are 10 steps for thoughtful grownups:

No. 1, figure out what went wrong and make it unlikely to happen again. We do not stop flying after a terrible airplane crash, and we are not going to stop drilling offshore after this terrible spill. Thirty percent of U.S. oil production and 25 percent of our natural gas production come from thousands of active wells in the Gulf of Mexico. Without it, gasoline prices would skyrocket, and we would depend more on tankers from the Middle East with worse safety records than American offshore drillers.

No. 2, learn a safety lesson from the U.S. nuclear industry. That lesson is accountability. For 60 years, reactors

on U.S. Navy ships have operated without killing one sailor. Why? The career of a ship's commander can be ended by one mistake. Incidentally, the number of deaths from nuclear accidents at U.S. commercial reactors is also zero.

No. 3, what was the President's cleanup plan and where were the people and equipment to implement it? In 1990, after the Exxon Valdez spill, a new law passed by Congress required that the President ''ensure'' the cleanup of a spill and have the people and equipment to do it. That is what the law has said since 1990. President Obama effectively delegated this job to the spiller, BP. Is that the President's only real option today? If so, what should future Presidents have on hand for backup if the spiller of oil cannot perform?

No. 4, put back on the table more onshore resources for oil and natural gas. Drilling in a few thousand acres along the edge of the 19 million-acre Alaska National Wildlife Refuge and at other onshore locations would produce vast oil supplies. A spill on land could be contained much more easily than 1 mile deep in water.

No. 5, electrify half our cars and trucks. This is an ambitious goal, but it is the single best way to reduce U.S. oil consumption. Electrifying half our cars and trucks could cut our oil consumption by about one-third, to about 13 million barrels of petroleum product a day. A Brookings Institution study says we can electrify half our cars and trucks without building one single new powerplant if we plug in our cars at night. Last week, Senator DORGAN, Senator MERKLEY, and I introduced legislation to jump-start America's effort to electrify half our cars and trucks. This is a subject about which Republicans and Democrats in the Senate agree.

No. 6, invest in energy research and development. This is another subject about which Republicans and Democrats in the Senate agree. A cost-competitive 500-mile battery would virtually guarantee eventual electrification of half our cars and trucks. While we are at it, reducing the cost of solar power by a factor of 4 would be a good response to a clean energy challenge, as would finding a way for utilities to actually make money from the CO_2 their coal plants produce.

No. 7, stop pretending wind power has anything to do with reducing America's dependence on oil. Windmills generate electricity, not transportation fuel. Wind has become the energy pet rock of the 21st century, as well as a taxpayer ripoff. According to the Energy Information Administration, wind produces only 1.3 percent of U.S. electricity but receives Federal taxpayer subsidies 25 times as much per megawatt hour as subsidies for all other forms of electricity production combined. Wind can be a useful energy supplement, but it has nothing to do with ending our dependence on oil.

No. 8, if we need more green electricity, build nuclear plants. This is another subject upon which Republicans and Democrats agree. The 100 commercial nuclear plants we already have produce 70 percent of our pollution-free, carbon-free electricity. Yet the United States has not broken ground on a new reactor in 30 years, while China starts one every 3 months and France is 80 percent nuclear. We would not put our nuclear navy in mothballs if we were going to war. We should not put our nuclear plants in mothballs if we want low-cost, reliable green energy.

Finally, Nos. 9 and 10.

No. 9, focus on conservation. In the region where I live, the Tennessee Valley Authority could close four of its dirtiest coal plants if we residents of the TVA region reduced our per capita use of electricity just to the national average.

No. 10, make sure liability limits are appropriate for spill damage. The Oil Spill Liability Trust Fund, funded by a per-barrel fee on industry, should be adjusted to pay for cleanup and to compensate those hurt by spills. An industry insurance program like that of the nuclear industry is also an attractive model to consider.

So I offer this afternoon these 10 grownup steps—grownup steps forward that could help turn a tragic event into a stronger America.

I thank the Acting President pro tempore and yield the floor.

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. NELSON of Florida. 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. NELSON of Florida. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. Yes.

OILSPILL CLOSES IN

Mr. NELSON of Florida. Mr. President, my worst fears are coming true. The wind that had so blessed us in our State of Florida for going on 7 weeks now shifted a few days ago, and this big spill of oil is moving to the east and to the northeast, and it is closing in on the gulf coast, the northwest gulf coast of Florida.

Thus far, most of the more concentrated oil is well off shore. Under the command of the Coast Guard, there are skimmers 25 to 50 miles out from the coast that have a boom that goes out from a fairly decently sized ship that then scoops up that oil into a concentrated area. Then they have what is kind of like a vacuum pump. It is almost like a vacuum cleaner. It sits and floats on top of the water, on top of the oil, and it sucks it up into a pipe, and that goes into a tank or a rubber bladder on top of the ship. Thus far, they have been able to take care of a good bit of that oil.

Of course, that is the strategy—to keep the oil offshore; don't let it get to shore because when it does, it messes up your beach and, even worse, it messes up the wetlands. As a matter of fact, when oil gets into wetlands, into marsh grass, into mangroves, you have a problem. More than likely, it is going to take a while for that marsh grass to come back. Mangroves and oil do not mix. Of course, then we are talking about these unique estuaries that spawn so much of our marine life in the Gulf of Mexico. So what we have is a nightmare that potentially is coming to reality.

There are a lot of people who are working awfully hard. The Coast Guard is working hard, but right now the Coast Guard is stretched to the limit. There are only so many Coastguardsmen. They still have to do all the things the Coast Guard has to do all over the world, including the gulf coast. They still have to do rescue. They still have to do search missions. Down in south Florida, we still have to have the Coast Guard there going after the drug runners. So there is a limited amount we can have. As good as those men and women are, they are stretched to the limit. They are going around the clock.

As the oil continues to gush, this problem is going to become more and more acute. It could become acute in a number of ways. We are being told—and I can certainly say this Senator has become a skeptic about what is correct information. Remember when we were told it was only 1,000 barrels of oil a day that was gushing into the gulf? A couple of weeks later, that was revised to 5,000 barrels of oil a day, and then that was revised to 12,000, but the report was omitted that said it could be as high as 25,000.

Now we are told that this attempt called the top hat; that is, an attempt to put a cap on the top of that blowout preventer where they cut off the riser pipe, and the oil is going up to the surface to a tanker—they are saying that is now 10,000 barrels a day, but look at the live video and see how much of it is still gushing outside of that top hat.

So how much is going into the gulf? Well, if it is 25,000 barrels a day, if that is the accurate figure, there is still 15,000 barrels of oil a day going into the gulf. And if it keeps going—and the Coast Guard admiral said yesterday it is going to go until September, until they can get the relief wells down and try to plug it with cement down near the oil reservoir, which is some 18,000 feet below the seabed. If it keeps gushing that amount all the way to September, it will be close to the largest oilspill there has ever been on planet Earth in the sea, which was the Ixtoc in the Bay of Campeche spill that spewed for 10 months. By the way, it was only in 150 feet of water, and they couldn't get it stopped. This is in 5,000 feet of water.

If I sound a little distressed and frustrated, it is that I am because this Senator is reflecting the feelings of his people.

What about the fishermen—those fishermen who have offered to use their boats for BP but have not been contracted to use them, but they can't use their boats because the waters are closed or even if the waters are not closed, the fish houses won't buy their fish because fish houses from all over the country are calling in and saying: We don't want your gulf fish; we think it is tainted.

What about those charter boat captains, in the height of the season, summer, on the gulf coast of Florida? Those boat captains don't have the recreational fishermen coming and chartering their boats to go out because over a third of the gulf is closed, and for the same reasons—they are worried about the fish. Are they getting hired by BP? Why are they hiring people from Tennessee and Arkansas and North Carolina with boats? Why aren't they hiring the Florida fishermen whose livelihoods have vanished?

I am expressing some of the frustration my people are expressing to me.

What about the poor hotel owners? They are at the height of the season. It starts Memorial Day and goes all the way to Labor Day. What about them? What about the restaurants that are in the height of the season? We hope people will come, because the beaches are still some of the most beautiful in the world. But the fact that they now see these silver-dollar-size tar balls—in some cases, hamburger-patty-size tar balls—that are all over the beach, are they still going to come and honor their reservation at the hotel? Will they go to the local restaurant? And if they do go there, will they order the local seafood?

There are a lot of frustrated folks. By the way, Mr. President, the Presiding Officer is the former chief executive of his State. What about the local and State revenues? The State of Florida doesn't have an income tax. The State of Florida has a sales tax. The sales tax—if people are not staying in hotel rooms, and they are not buying meals in restaurants, and if they are not buying down at the local stores, the revenue is starting to dip. What is going to happen to the budgets of the local and the State governments and the revenues they come to expect?

In the midst of all of this, we hear that BP says it will be accountable. Yet, we come out here on this floor—Senator MENENDEZ, Senator LAUTENBERG, and I—and ask unanimous consent that in order to eliminate the artificially low cap of $75 million on liability for economic losses, there is always an oil State Senator who will stand up and object to our consent request to raise this artificially low cap. BP says it is going to, in fact, take care of legitimate expenses. But at the same time, BP was quick to point out in hearings that have gone on for several weeks—and certainly the nine hearings this week will go on—it will point out that there is a certain responsibility of the operator of the rig, Transocean, and the operator of putting the cement down into the well, around the casing that was supposed to be set, but obviously was imperfect—that operator was Halliburton.

So, in effect, what we are going to have, and already have, is people pointing both ways. There are going to be so many lawsuits that will go on by the time they get to the bottom of this. And the investigation is going to go on for so long. In the meantime, what about our people and their livelihoods? What are they going to do?

I was told by the fishermen that you have to have 14 days in which to actually send in the requisition after you have done your work, once you have been signed up, and you then expect to be paid within 14 days after you submitted your request for payment. Plus 14 is 28, so where is the fisherman going to get any money within that month in order to pay his deckhands, his assistants, and to pay his bills? It can continue to multiply. You wonder why I sound frustrated? There is so much uncertainty and people are scared.

In the meantime, BP indeed has given some money for an advertising campaign—and that is a good thing—for Florida to run advertisements to say that our beaches are open, come on. But you know the reality of what they are hearing. I hope people will, because I can tell you those tar balls that are there—if people will get out there and clean it up—oh, by the way, it has to be an appropriately recognized group to go out and clean up the tar balls contracted by BP. Why can't we get our local governments to go out there and get those tar balls off the beach, so our guests and visitors can enjoy our God-given assets?

All of these are questions that are still to be answered. So I am going to try several times with my colleagues to continue to get this artificially low cap raised so it will send a message to any oil company that in the future you better not cut corners. You better not have that cozy, incestuous relationship with the government regulator you have had for the last two decades. You better not think you are going to influence the government regulator as you have—as has been stated by the inspector general's report in 2008—with sex, drugs, booze, gifts, trips. And the revolving door, as stated by the most recent IG report last month—the revolving door, where they come out of the industry, the door revolves, and they come in as the MMS, the Minerals Management Service, the government regulator; and then the door revolves and they go right back into the employ of the oil industry. That is a conflict of interest. That is not government oversight of an industry, and it has led to this circumstance, where three apparatuses did not work as back-up mechanisms on the blow-out preventer, and it has led to the sad condition that we now have, where oil is gushing, and has been for 49 days, into the Gulf of Mexico and is ruining a culture and a way of life.

I want to say that the Presiding Officer's State is not immune, and the other Senator on the floor right now, his State—an Atlantic coast State as well—is not immune, because, sadly, sooner or later the winds are going to continue to carry this oilspill to the South. It is going to get in what is known as the Loop Current and some of it is already entrained in the Loop Current.

The Loop Current goes up into the northern Gulf of Mexico and loops back South, all the way down around the Florida Keys, and it becomes the gulf stream. It then moves North as the gulf stream up the coast of Florida, off the Keys. It then comes in and hugs the southeast coast of Florida quite close—very close—mostly in places less than a mile off the beach. It continues on up to the middle of the peninsula of Florida, and then it takes a turn to the Northeast and parallels the east coast of the United States. It goes up to Cape Hatteras, NC, and depending on winds, I would say to the two Senators who are hearing my words, even though that current, called the gulf stream, that goes off of Cape Hatteras across the Atlantic to Scotland—depending on winds and wave action, it can carry some of that oil to the rest of the Atlantic seaboard and to the States represented by the two very distinguished Senators here on the floor. So this could have profound effects.

The question is, how do we get it stopped and, thus far, nothing has happened. So I think it is time for all hands on deck. I think it is time to realize that we have to throw in every asset we have to try to keep this oil off the coast, and especially out of the wetlands, and don't let what happened to Louisiana happen to the rest of our States, especially those delicate wetlands where you cannot get oil out of them. Then maybe this nightmare will be over.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF AUDREY GOLDSTEIN FLEISSIG, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI

NOMINATION OF LUCY HAERAN KOH, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

NOMINATION OF JANE E. MAGNUS-STINSON, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations concurrently, which the clerk will report.

The legislative clerk read the nominations of Audrey Goldstein Fleissig, of Missouri, to be United States District Judge for the Eastern District of Missouri; Lucy Haeran Koh, of California, to be United States District Judge for the Northern District of California; and Jane E. Magnus-Stinson, of Indiana, to be United States District Judge for the Southern District of Indiana.

The PRESIDING OFFICER. Under the previous order, the nominations will be debated concurrently until 5:30 p.m. with the time equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, it is interesting, as the distinguished Presiding Officer reported, that we are going to have these nominees. I say it is interesting because the Senate is being allowed to confirm only 3 of 19 judicial nominations that have been reported unanimously by the Senate Judiciary Committee over the past several months, but they have been stalled by the Republican leadership.

The distinguished Presiding Officer is one of the most valued members of the Senate Judiciary Committee. He has seen time and time again, we vote a nominee out, with every single Republican voting for the person and every single Democrat voting for the person. Then the nominee spends months waiting because they are being stalled by the Republican side of the aisle.

Of course, it is far more than just an annoyance to the nominees who are being stalled. Say, for instance, that someone receives a nomination from the President of the United States to become a judge. Perhaps they are in a law firm. The partners all come in, congratulate the nominee, and say: This is absolutely wonderful. When are you leaving?

Now, as a practical matter this person cannot take on new cases, and the law firm has to be hesitant about what they take on so they do not have a conflict of interest later on before the Court. One can see how almost childish it becomes now to hold up a nominee who, eventually, when they are finally allowed to have a vote, will be confirmed unanimously or close to unanimously.

In the meantime, their lives have been disrupted, the judiciary itself is put in disarray, people question our judiciary which is supposed to be nonpolitical, nonpartisan, and all of a sudden, looks as though it is ping pong.

The nominees we have here, these three women, were confirmed in early March. The distinguished Presiding Officer and I were there. They all were reported out without a single objection from the Senate Judiciary Committee, in early March. Three exceptional women. And these three women have been delayed for this considerable period of time by the Republican objections. There is no explanation; no excuse; no reason for these months of delay of these women, especially when all members of the Senate Judiciary Committee, Democratic and Republican, voted for these three women.

But they are just 3 of the backlog of 26 judicial nominees awaiting final Senate action, and 19 of the 26 were reported by the Judiciary Committee without a single negative vote from any Republican or Democratic Senator on the committee. This is not fair to the nominees, certainly not fair to these three women. It is not fair to any of the other nominees. In addition, 6 of the 7 Republicans on the Committee voted in favor of nominee Judge Wynn to the Fourth Circuit, and nearly half of the Republicans on the Committee supported the nomination of Jane Stranch to the Sixth Circuit. It is not fair to these nominees and it is not fair to the Federal judiciary. Still Republicans refuse to enter into time agreements on these nominations. This stalling and obstruction is unprecedented.

The Senate is well behind the pace I set for President Bush's judicial nominees in 2001 and 2002. By this date in President Bush's presidency—and I was chairman at that time—the Senate had confirmed 57 of his judicial nominees, both district court judges and courts of appeal.

Even after the three today will all be confirmed unanimously, the comparison will stand at 28 to 57. That is still less than half of what we were able to achieve by this date in 2002. I mention that because we had a Democratic majority and a Republican President, and we were treating President Bush's nominees far more fairly than they are treating President Obama's nominees.

What makes it even worse than playing politics with the independent judiciary is that Federal judicial vacancies around the country hover around 100. It has been nearly a month since the Senate confirmed a judicial nominee. None of the more than two dozen available for consideration before the Memorial Day recess were considered. This Republican obstruction is unprecedented. This is not how the Senate should act, nor how the Senate has conducted its business in the past. This is new and this is wrong.

In May, just before the last recess, the Republican leader implied in a statement before this body that the Republican obstruction is merely a ''sequencing'' of judicial nominations that ''is acceptable to both sides''. That is not true.

Over the recess, I sent a letter to Senator MCCONNELL and to the majority leader concerning these matters. In that letter, I urge as I have since last December, that the Senate schedule votes on judicial nominees without further obstruction and delays; vote them up or vote them down. I called on Republican leadership to work with the majority leader to schedule immediate votes on consensus nominations—many of which I expect will be confirmed unanimously—and consent to time agreements on those which debate is requested. As I said in the letter, if there are judicial nominations that Republicans truly wish to filibuster—after they argued during the Bush administration that such actions would be unconstitutional and wrong—then they should so indicate to allow the majority leader to seek cloture to end the filibuster. Otherwise it is time to vote.

I would think that there should also be some respect for the committee where every single Republican and every single Democrat voted for them. Vote for them. Vote up or vote down. We are not elected to vote ''maybe.'' There are only 100 of us for 300 million Americans, and the American people expect us to say ''yes'' or say ''no,'' not ''maybe.'' This delay is a big ''maybe.'' It is wrong. It is unfair to these judicial nominees. It is unfair to the independence of the Federal judiciary. It is unfair to the people of America. It is certainly unprecedented in my 36 years here. I have never seen anything such as this.

I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1).

Mr. LEAHY. The Judiciary Committee unanimously reported the nomination of Judge Fleissig to the Eastern District of Missouri more than three months ago, on March 4. She is currently a Federal magistrate judge in that district, previously serving as that district's U.S. Attorney, as an Assistant U.S. Attorney, and a civil litigator. Judge Fleissig earned the highest possible rating—unanimously well qualified—from the ABA Standing Committee on the Federal Judiciary. She has the support of both of her home state Senators, Republican Senator KIT BOND and Democratic Senator CLAIRE MCCASKILL.

Judge Lucy Koh is nominated to fill a vacancy on the Northern District of California determined by the Administrative Office of the U.S. Courts to be a judicial emergency. Judge Koh's nomination was reported favorably by the Judiciary Committee by voice vote with no dissent on March 4, more than three months ago. If confirmed, she will be the first Korean American woman in the Nation to serve as a Federal judge. In addition, she would become the first Asian American to serve on the district court bench in the 150-year history of the Northern District of California. Currently a judge on the Santa Clara County Superior Court, Judge Koh previously practiced law at two Northern California firms and worked as a Federal prosecutor in Los Angeles. She also served in the U.S. Department of Justice and she worked for one year as a fellow on the U.S. Senate Judiciary Committee. Judge Koh has the strong support of both her home state Senators, Senator FEINSTEIN and Senator BOXER.

Judge Jane E. Magnus-Stinson has been nominated to the Southern District of Indiana. If confirmed, Judge Magnus-Stinson will be the third female district court judge in Indiana history. The Judiciary Committee favorable reported her nomination, by unanimous consent, on March 11, nearly three months ago. Judge Magnus-Stinson is currently a Federal magistrate judge on the court to which she is now nominated. She has 15 years of judicial experience, including 12 years as a judge in the major felony division of the Marion Superior Court in Indianapolis. The American Bar Association's Standing Committee on the Federal Judiciary unanimously rated Judge Magnus-Stinson well qualified to serve on the U.S. District Court for the Southern District of Indiana. Judge Magnus-Stinson has the support of both home state Senators, Republican Senator LUGAR and Democratic Senator BAYH.

I congratulate the three nominees who will finally be considered and confirmed today.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 2, 2010.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATE LEADERS: I was very disappointed that in his statement last Thursday evening about the lack of progress on filling judicial vacancies Senator McConnell left the impression that the halting pace of Senate consideration of President's Obama's judicial nominations is merely a ''sequencing'' of judicial nominations that ''is acceptable to both sides.'' I do not think that is an accurate description of what has led to only 12 Federal circuit and district court nominees being considered all last year and only 13 so far this year.

As you know, I have spoken to these matters a number of times over the last several months and have since last December been urging the Republican leadership to agree to consider and approve the noncontroversial nominees and enter into time agreements to debate those they believe require Senate discussion, but to end the obstruction and unnecessary delays.

As the Senate recessed for Memorial Day, there remained a backlog of 26 judicial nominees awaiting final Senate action. Nineteen of the 26 were reported by the Judiciary Committee without a single negative vote from any Republican or any Democratic Senator on the Committee. In my view the cause of that backlog is Republican refusal to agree to consider these nominations in a timely fashion. In addition, six of the seven Republicans on the Committee voted in favor of Judge Wynn to the Fourth Circuit, and nearly half the Republicans on the Committee supported Jane Stranch's nomination to the Fourth Circuit. I have been supporting Senator Alexander's efforts to get Senate consideration of the Stranch nomination for months.

The same is true of the two North Carolina nominees to the Fourth Circuit supported by Senators Hagan and Burr. It is Republican refusal to enter into time agreements on these nominations that has preventing their consideration and confirmation by the Senate. In all, 26 judicial nominations are currently being stalled from consideration and confirmation of which only three have been scheduled for consideration next week.

Senate Republicans have only allowed the Senate to consider 25 Federal circuit and district court nominations during the entire Obama presidency. The dozen considered in 2009 was the lowest confirmation total in more than 50 years. The stalling and obstruction is unprecedented.

The Senate is well behind the pace I set for President Bush's judicial nominees in the second half of 2001 and through 2002. By this date in President Bush's presidency, the Senate had confirmed 57 of his judicial nominees. Despite the fact that President Obama began sending us judicial nominations two months earlier than President Bush had, the Senate has only confirmed 25 of his Federal circuit and district court nominees to date. The comparison is 25 to 57—and this is while Federal judicial vacancies around the country remain over 100 with 40 of those vacancies categorized as ''judicial emergency vacancies'' by the Administrative Office of the United States Courts.

During the 17 months that I chaired the Judiciary Committee during President Bush's first two years in office, the Senate confirmed 100 of his judicial nominees. Rather than continue that kind of cooperation, Senate Republicans have chosen to delay consideration of virtually every judicial nominee of President Obama's. Judge David Hamilton was unsuccessfully filibustered. The Majority Leader was forced to file cloture to get votes on the nominations of Judge Barbara Keenan and Judge Denny Chin. Both were then confirmed unanimously by the Senate. These are a few of the more than 20 nominations on which the Majority Leader has had to file cloture in order to secure a vote.

Before the Memorial Day recess in 2002, there were only six judicial nominations reported by the Senate Judiciary Committee left awaiting final consideration by the Senate and they had all been reported within the last week before the recess began. They were each confirmed promptly in the June 2002 work period. This year, by contrast, Senate Republicans have stalled nominations reported as long ago as last November and only one of the 26 was reported close to this recess. More than two dozen judicial nominees have been languishing without final Senate action because of Republican obstruction. This is not how the Senate should act, nor how the Senate has conducted its business in the past. This is new and it is wrong.

The judicial nominations on the Senate Executive Calendar number 26. They were each considered and favorably reported by the Senate Judiciary Committee after a hearing. They are each still awaiting final Senate action because the Republican leadership has refused for some time to agree to their consideration. As I have consistently urged since last December, the Senate should vote on all of them without further obstruction or delay.

The way to do that is for the Republican leadership to work with the Majority Leader and agree to time agreements on those on which debate is requested. If there are judicial nominations that Republicans truly wish to filibuster—after arguing during the Bush administration that such action would be unconstitutional and wrong—then they should so indicate and the Majority Leader can proceed to that matter and seek cloture to end the filibuster.

I again urge the Republican leadership, as I have consistently since last December, to work with the Majority Leader to take up and confirm the judicial nominees that are not controversial and can be confirmed without further delay by voice vote or a roll call and to enter into time agreements on the others so that the Majority Leader can schedule their consideration by the Senate.

Sincerely,

PATRICK LEAHY,
Chairman.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I ask unanimous consent that I be yielded 5 minutes from Senator SESSIONS' time.

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

GULF OILSPILL

Mr. LEMIEUX. Mr. President, I come today to the floor of the Senate to discuss the environmental and economic disaster that is happening right now with the oilspill from the British Petroleum and Transocean rig in the Gulf of Mexico.

This past weekend I had the opportunity to be in Pensacola, FL, and to walk on the beautiful beaches. The good news is, and the news that is not being reported as much as it is should be by the press, our beaches are open, they are beautiful, people are out there enjoying the Sun and the surf, and it is still safe to go to the beach. It is still safe to go fishing in the Gulf of Mexico off the shores of Florida and do all of the other things people enjoy doing in our beautiful State.

Unfortunately, we are starting to see oil wash up onshore. It is washing up not in the form so much as a tar ball but sort of a goopy substance. We are spotting that on the beach. I have walked on the beaches, and it is distressing to see that. When you pick it up and touch it, it has sort of a pudding-like consistency. It obviously has the touch and feel of oil.

The concern we have, as this disaster approaches day 50, is, how much can this ecosystem bear? How much oil can be spewed into the water before it has a tremendously damaging impact upon the beaches in Florida? We have already seen what it has done to the

marshland of Louisiana. Florida has more than 1,200 miles of coastline around the State. Potentially, this oil could impact up to 1,000 miles if the oil gets itself into the Loop Current and makes its way around the southern tip of Florida up the east coast. That is everyone's worst nightmare.

The good news is the people of Florida who are working in city government, local government, and State government are doing an excellent job to prepare. I had the opportunity to meet with Mayor Mike Wiggins of Pensacola, with commission chairman Grover Robinson of the Escambia County Commission, as well as Larry Newsome, county administrator, who are doing a great job of preparing. There are teams of people on the beaches picking up the oil and debris where needed. They have folks on standby, ready to go to work if needed in western Florida.

We need to do more. There needs to be a coherent plan on how we are going to prevent the oil from coming ashore and to mitigate its impact if and when it does. Tourism is tremendously important to Florida. In Florida, our environment and economy are inextricably linked. We cannot have any more damage than the State can sustain in the marsh or beach areas. We do not want oil washing up on the shore all along the coast of Florida.

I have called upon this administration to be more aggressive. I want to see the President in Florida. I want to see him more than just a couple hours there. I want to see him working through the solutions like Governor Jindal is doing in Louisiana, like Governor Crist is doing in Florida, like former Governor Jeb Bush did when we had 9 or 10 hurricanes in 2004 and 2005—on the ground, managing through the crisis, pushing people for solutions. It is not enough to have the good work of the Coast Guard. And they are doing good work. It is not enough to call on the Department of Interior or the Department of Homeland Security. We need the President on the ground pushing for those solutions. He is a very bright man. He is the President of the United States. If he is there, working through these problems the way the Governors do, we will get better solutions.

We need more skimmers off the coast of Florida. I am sure my other Gulf State friends would like to see skimmers as well. They prevent the oil from coming ashore.

Are we thinking outside the box? Are we looking for every other possible alternative? Are there skimmers that can be brought in, large supertanker skimmers such as were used in the Persian Gulf when they had oilspills?

Who is leading the effort to push for new solutions and new ideas? Who is vetting all of the possible opportunities presented to clean up the oil? We want to see this leadership from the top, from the Commander in Chief. The worst-case scenario is that none of the efforts going on right now are going to stop the oil from spilling. We have this cap collector BP has put on. It is having some success. That is good news. Let's hope it has all the success in the world. But if we have to wait until the end of the summer for the relief wells to go into effect—and what if they don't work as well as intended, what if there are setbacks along the way, what if it is the fall—how many tens of thousands of barrels of oil are going to spill into the Gulf of Mexico? What is the plan? What is being prepared?

We need to see the President show more leadership. The people of Louisiana, Texas, Mississippi, Alabama, and Florida need that. While BP is at fault, this is not a BP problem; this is an American problem. We need to see the President more thoroughly involved. The claims process has already started. British Petroleum has paid out about $48 million. There is now a claims process center in Pensacola. Senator VITTER and I have put together a piece of legislation to expedite claims. That should get passed by this body. There is a lot we can do here in Washington to help relieve the pain of our fellow Floridians and others in the gulf. Ultimately, job 1 is to stop the oil from spilling. Job 2 is to mitigate and prevent the oil from coming ashore. We want to see the President of the United States leading the effort.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. MCCASKILL. Mr. President, I rise to spend a couple minutes talking about Judge Audrey G. Fleissig, one of the nominees we will hopefully be voting on within the hour. This is a woman I have known for many years who has an outstanding career in the legal community in Missouri. She was an assistant U.S. attorney in the Eastern District of Missouri and went on to be the first woman to hold the position of U.S. attorney in the Eastern District of Missouri. Currently, she serves as U.S. magistrate judge in the Eastern District.

I could go on about her background as a litigation attorney for 11 years in one of the most respected law firms in Kansas City. I could spend some time talking about how much she loves to teach and how she has been a trial advocacy teacher for a good deal of the last 20 years. She has taught pretrial practice, trial advocacy, and now evidence at the Washington University School of Law, one of the finest universities in the country. She was also a student intern to the Honorable Edward Filippine, who was a U.S. district judge in the Eastern District of Missouri 30 years ago. She has a J.D. degree, a Dean's Honor Scholar and an Order of the Coif from Washington University Law School and was magna cum laude from Carleton College for her undergrad years.

She has been one of the stars of the legal community in Missouri, but she has also been a mom. She has managed her career while she raised children, and her children are now in their twenties. I have such deep respect for someone who has done well with the demands of a legal career and a judicial career and also done very well on the family front.

She is somebody who believes very much that putting on a robe does not mean one exits the community. We have a lot of judges who take that particular attitude, especially on the Federal bench, that once they become a Federal judge, then they no longer participate in community activities that are so important to the health and vibrancy of our country, our States, and certainly of our metropolitan areas.

When she worked with her children as they were growing up, she was very active in their schools and tried to instill in them a love of reading. Now that her children are grown, she has for the last 10 years worked with Ready Readers, a charitable organization that works with low-income preschool children, ages 3 to 5, to inspire them to want to read. Think about that. She is a U.S. magistrate with a full-time job, with a prestigious black robe. With that kind of career, anyone could, frankly, take a deep breath and say: I am here. Instead, she has spent the last 10 years continuing to volunteer with a charitable organization that tries to inspire young children to love to read.

I have to tell the truth—this is the kind of person we need on the Federal bench. Will she be respectful to litigants? Of course. Will she understand the rules of evidence? She teaches them at one of the best law schools in the country. Does she understand the pressures of litigation? Yes. She has been one. But most importantly, does she understand there are other needs in the community outside of what goes on in the courtroom, and does that inform her as a judge? She will be fair. She will work extremely hard. She is known as one of the hardest workers in the Federal courthouse in St. Louis.

It was an honor to recommend her to the President. I am so pleased that she reaches this moment in her career where she can become a U.S. Federal district judge and provide the kind of atmosphere for justice that we hold so dear in this Nation. I know she will be impartial. I know she will never let politics dictate a decision. I know the law will be her master and that she will listen carefully to the evidence and never think she knows best—let the litigants try their cases and let the law reign supreme.

I am proud of her accomplishments. I am proud to support her. I have a feeling she will be confirmed by a very wide margin. Don't ask me why she

had to sit around on the calendar for 60 days. I won't go into one of my rants about secret holds. I will save that for another day. Today, I will say it is time that we take this vote, and I make a prediction it won't even be close because there is absolutely no reason this woman should not have been on the bench months ago. I look forward to her confirmation today.

I yield the floor, suggest the absence of a quorum, and ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask unanimous consent that I may speak for 5 minutes at this time.

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

Mrs. BOXER. Mr. President, thank you very much.

Mr. President, there are so many issues on our plate this week: do everything in our power to work with our President to stop the oilspill in Louisiana, to rescue the fish and wildlife, to try to help the fishermen and the people who are so economically hurt by this, in my view, unnecessary tragedy. We are also working on jobs and the tax extenders bill which is so important so businesses can create jobs. So we know we have a lot on our plate.

I take a couple of minutes to rise in support of a wonderful judicial nominee we will be voting on, Judge Lucy Koh. She has been nominated by the President to the Northern District Court of California.

I thank Chairman LEAHY and his committee for their work in approving this highly qualified nominee, who will be an outstanding addition to the Federal bench. I also thank my dear friend, Senator FEINSTEIN, for her support of Judge Koh.

I was so proud to have recommended this nominee to President Obama. This nominee was interviewed by my Northern District Judicial Advisory Committee, and you can see, after you hear about her, why they were so clear she would make a great Federal judge.

Judge Koh is the daughter of two proud parents who risked much to come to this country and provide for their children. Her mother escaped from North Korea at the age of 10 by walking for 2 weeks into South Korea—a dangerous trek that required her to hide from North Korean soldiers along the way. Her father fought against the Communists in the Korean war and later immigrated to the U.S. of A. Her dad worked as a busboy and a waiter in Maryland while attending Johns Hopkins University, later bringing the rest of the family here.

Judge Koh is the first member of her family to be born in the United States of America. It is a fantastic example of the great American dream that we try to protect here, hopefully, every day. Her family moved to Mississippi, where her mother taught at Alcorn State University—the Nation's first historically African-American land-grant college. During this time, Judge Koh was bused to a predominantly African-American public school, where many of her classmates lived in poverty. Her childhood experiences provided inspiration for her to pursue a career in the law and work for the NAACP Legal Defense Fund during law school.

She attended Harvard-Radcliffe Colleges as a Harry S. Truman Scholar, graduating magna cum laude. After college, she attended Harvard Law School, where she was awarded Best Brief in the school's moot court competition.

Judge Koh has had a diverse career in the practice of law that makes her uniquely qualified to serve as a Federal judge. She has worked in policy, serving as a fellow for a subcommittee of the Senate Judiciary Committee, and in policy positions at the Justice Department. She served as a Federal prosecutor in Los Angeles, where she handled financial fraud, narcotics, public corruption, and violent crime cases. She received awards for her work as a prosecutor, including a Sustained Superior Performance Award and an award from then-FBI Director Louis Freeh for her prosecution of a $54 million securities fraud case.

She was a litigator in private practice prior to becoming a State court judge. During her time in private practice, Judge Koh worked on complex litigation matters involving securities and intellectual property, primarily appearing in Federal court. She led the trial and appellate team in the landmark intellectual property case In re Seagate, where a new legal standard was established.

With these credentials, it is easy to see why Governor Schwarzenegger appointed her to the California Superior Court in 2008, where she once again excelled as a judge, handling a docket of both criminal and civil cases.

Today, she is poised to become the first Asian-American judge in the history of the Northern District of California. She will also become the first Korean-American woman in U.S. history to serve as a Federal judge. A family's dream is poised to become a part of American history this very day.

To Judge Koh and to her family, I extend my most heartfelt congratulations on this important and historic day. I know I speak for many Californians, especially those in the Korean and Asian-American communities, in expressing our great pride in her.

Support for Judge Koh is diverse. She has been endorsed by a wide group of supporters, such as our Governor and former Massachusetts Republican Governor William Weld; former Presiding Judge Priscilla Gallagher of the Santa Clara County Court; Santa Clara County District Attorney Delores Carr, Santa Clara County Sheriff Laurie Smith; former Bush Office of Legal Policy Director Viet Dinh; the National Asian Pacific American Bar Association; and the Asian American Justice Center.

I close by congratulating Judge Koh and the other nominees and their families, and I urge my colleagues in the Senate to vote to confirm these nominees to the Federal bench.

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

• Mr. BAYH. Mr. President, I wish to speak in favor of the nomination of Magistrate Judge Jane Magnus-Stinson. I joined together with Senator LUGAR to recommend Judge Magnus-Stinson because I know firsthand that she is a highly capable lawyer who understands the limited role of the Federal judiciary.

Before I speak to Judge Magnus-Stinson's qualifications, I would like to comment briefly on the state of the judicial confirmation process generally. In my view, this process has too often been consumed by ideological conflict and partisan acrimony. This is not, I believe, how the framers intended us to exercise our responsibility to advise and consent.

During the last Congress, I was proud to work with Senator LUGAR to recommend Judge John Tinder as a bipartisan, consensus nominee for the Seventh Circuit Court of Appeals. Judge Tinder was nominated by President Bush and unanimously confirmed by the Senate by a vote of 93 to 0. It was my hope that Judge Tinder's confirmation would serve as an example of the benefits of nominating qualified, nonideological jurists to the Federal bench.

In selecting Jane Magnus-Stinson, President Obama has demonstrated that he also appreciates the benefits of this approach. I was proud to once again join with Senator LUGAR to recommend her to the President, and I hope that going forward other Senators will adopt what I call the ''Hoosier approach'' of working across party lines to select consensus nominees.

I would also like to personally thank Senator LUGAR for his extraordinary leadership and for the consultative and cooperative approach he has taken to judicial nominations. During my time in Congress, it has been my great privilege to forge a close working relationship with Senator LUGAR across many issues. This has been especially true on the issue of nominations—when a judicial nominee from Indiana comes before the Senate, our colleagues can be confident that the name is being put forward with bipartisan support, regardless of which political party is in the White House or controls a majority in the United States Senate.

On the merits, Jane Magnus-Stinson is an accomplished jurist who is well-

qualified for a lifetime appointment to the federal judiciary. She has extensive trial experience, having served as a Judge on the Marion Superior Court from 1995 to 2007. Judge Magnus-Stinson also has valuable experience presiding in federal court, having served as a federal Magistrate Judge in the Southern District of Indiana since 2007.

During this time, she has been recognized as a leader among Indiana jurists, serving on the Board of Directors of the Indiana Judicial Conference and the Board of Managers of the Indiana Judges Association.

Judge Magnus-Stinson's devotion to the fair and efficient administration of justice has been recognized by her fellow Hoosiers. She has been honored as ''Judge of the Year'' by the Indiana Coalition Against Sexual Assault and as an ''Outstanding Judge'' by the Indiana Coalition Against Domestic Violence.

Judge Magnus-Stinson has also shown that she is deserving of the public trust. She has demonstrated the highest ethical standards and a firm commitment to applying our country's laws fairly and faithfully.

In recommending Judge Magnus-Stinson, I have the benefit of being able to speak from personal experience, as she served as my Counsel while I was Governor of Indiana.

If you ask Hoosiers about my eight years as Governor, you will find widespread agreement that we charted a moderate, practical, bipartisan course. As my counsel, Jane Magnus-Stinson helped me craft bipartisan solutions to some of the most pressing problems facing our state.

In addition to her insightful legal analysis, I could always count on Jane for her sound judgment and her common-sense Hoosier values. Like most Hoosiers, she is not an ideologue.

During her service in state government, Judge Magnus-Stinson also developed a deep appreciation for the separation of powers and the appropriate role of the different branches of government. If confirmed, she will also bring to the federal bench a special understanding of the important role of the States in our federal system and will be ever mindful of the proper role of the federal judiciary. She understands that the appropriate role for a judge is to interpret our laws, not to write them.

As someone who personally knows and trusts Judge Magnus-Stinson, I say to my colleagues that she is the embodiment of good judicial temperament, intellect, and even-handedness. If confirmed, she will be a superb addition to the federal bench. I am pleased to give her my highest recommendation.

I urge my colleagues to join me—and Senator LUGAR—in supporting this extremely well-qualified and deserving nominee.●

Mrs. FEINSTEIN. Mr. President, I rise to express my strong support for the nomination of California Superior Court Judge Lucy Koh to be a U.S. district judge for the Northern District of California.

Judge Koh is a well-respected lawyer and judge in California. Over the course of her career, she has been a State trial judge, an intellectual property lawyer, a Federal prosecutor, and a counsel in Congress and the Justice Department.

For the last 2 years, she has been a superior court judge for Santa Clara County and has adjudicated cases ranging from criminal prosecutions to commercial litigation matters to family law disputes.

She spent 8 years representing business clients as an intellectual property litigator at private law firms in Silicon Valley.

She spent 3 years prosecuting bank robberies, securities fraud, and other Federal crimes as an assistant U.S. attorney in southern California.

And she spent 4 years working in Washington as a special assistant to the Deputy Attorney General and a counsel to the Senate Judiciary Committee.

She has received the FBI Director's Award for demonstrated excellence in prosecuting a major criminal case and has been named one of the ''Top 40 lawyers under 40'' by the Silicon Valley/San Jose Business Journal.

As a Judge, the reviews have been equally positive. California Governor Arnold Schwarzenegger, for example, has called her ''an exemplary jurist with an unparalleled track record,'' and described her approach as ''careful and balanced.''

She is a talented woman with a solid background in the law. I commend Senator BOXER for recommending her for the district court and the President for nominating her. I have the utmost confidence that she will serve the Northern District of California with distinction as a U.S. district judge.

Judge Koh's confirmation will also be a historic one for our Federal courts.

If confirmed, Judge Koh will be the first Korean American woman ever to serve the United States as a Federal district judge, and she will be the first Asian-American district judge appointed to the U.S. District Court for the Northern District of California. This is a district that serves one of the Nation's largest populations of Asian Pacific Americans, but for over 150 years there has not been a district judge of Asian Pacific descent on the court. Judge Koh will be the first, and her appointment is one for us all to celebrate. I urge my colleagues to support her.

Before I conclude my remarks, I want to call attention to another nominee for this district court whom we unfortunately are not voting on today.

Magistrate Judge Edward Chen has also been nominated to be district judge for the Northern District of California. Here is the timeline:

The President first nominated Magistrate Judge Chen on August 6, 2009. That was over 300 days ago.

The Judiciary Committee reported his nomination to the floor on October 15, 2009.

Although the nomination was pending for 70 days, it was never acted on and there was not consent to allow the nomination to be carried over into 2010.

On January 20, 2010, the President renominated Chen, and on February 4, his nomination was reported out of the Judiciary Committee once again. That was over 120 days ago. Still, he has not received a vote.

I find this extremely disappointing. In my 17 years on the Senate Judiciary Committee, I have voted against only one district court nominee. That was Leon Holmes. I had serious concerns about his views on the role of women in society, and I explained my concerns in detail in a statement on the floor. I have not voted against any other district court nominee.

Yet in just 17 months of the Obama administration, not one, not two, not three, but four district court nominees have come out of committee on straight party-line votes. And they are all still pending on the floor. I think that is a very unfortunate direction for us to go in.

Look at the merits of the Chen nomination. I understand that some have concerns because he spent time working for the American Civil Liberties Union before he became a magistrate judge. But this is a nominee with a proven track record. There is no need to ask how he will be as a judge—the evidence is in.

Chen has spent 9 years as a magistrate judge and written over 200 published opinions. There has not been a single objection in committee or on the floor to even one of his decisions.

In 2008, an impartial Federal Magistrate Judge Merit Selection Review Panel reviewed his full record. The Panel unanimously recommended him for reappointment.

Federal prosecutors were ''uniformly positive'' about Chen and called his rulings ''balanced'' and ''well reasoned.'' The local civil bar called him ''well prepared,'' ''very intelligent,'' and ''decisive.'' The judgment was made—he is a very good judge.

I asked Republican-appointed U.S. district judges who work with Judge Chen for their opinions. Again the comments were uniformly positive.

District Judge Lowell Jensen served as the No. 2 official in the Reagan Justice Department. He called Chen ''an excellent jurist and a person of high character'' and said Chen's decisions ''reflect not only good judgment, but a complete commitment to the principles of fair trial and the application of the rule of law.''

My own bipartisan selection committee in the Northern District reviewed Chen at length. He was their consensus choice for the district court. A bipartisan selection committee under the Bush administration also recommended him. And the American Bar Association has unanimously rated him ''well qualified.''

So this is a nominee with a solid and publicly available track record. He has

strong bipartisan support in the community he has been nominated to serve. And he has the support of his two home State Senators.

It is long past time for an up-or-down vote on his nomination.

I urge my colleagues to vote yes on the nomination of Judge Lucy Koh, and I also urge consent on a time agreement to let us move forward on the nomination of Magistrate Judge Edward Chen.

Thank you so very much. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. 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. NELSON of Nebraska. 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 question is, Will the Senate advise and consent to the nomination of Audrey Goldstein Fleissig, of Missouri, to be Unites States District Judge for the Eastern District of Missouri?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from South Carolina (Mr. DEMINT), the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 177 Ex.]

YEAS—90

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

NOT VOTING—10

Bayh	Ensign	Lincoln
Byrd	Gregg	Vitter
Crapo	Hutchison	
DeMint	Inouye	

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, if I can get the attention of the Republican leader, I understand on the Republican side there is a wish for a rollcall vote on this nomination but not on the next; is that correct?

Mr. MCCONNELL. I say to the chairman of the Judiciary Committee, yes. The thought was that we would have another rollcall on the second nominee and a voice vote on the third.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, if nobody else seeks recognition, I yield back my time.

The PRESIDING OFFICER. If all time is yielded back, the question is, Will the Senate advise and consent to the nomination of Lucy Haeran Koh, of California, to be United States District Judge for the Northern District of California.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from S. Carolina (Mr. DEMINT), the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 178 Ex.]

YEAS—90

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

NOT VOTING—10

Bayh	Ensign	Lincoln
Byrd	Gregg	Vitter
Crapo	Hutchison	
DeMint	Inouye	

The nomination was confirmed.

The PRESIDING OFFICER. There is now 2 minutes of debate prior to a vote on the nomination of Jane E. Magnus-Stinson, of Indiana.

Who yields time?

Mr. REID. I yield back the remaining time.

The PRESIDING OFFICER. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Jane E. Magnus-Stinson to be United States District Judge for the Southern District of Indiana?

The nomination was confirmed.

LEGISLATIVE SESSION

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. Madam President, I ask unanimous consent to speak as in morning business.

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

UNEMPLOYMENT INSURANCE

Mr. BROWN of Ohio. All of us have just come back to the Senate after a Memorial Day work period, where most of us were traveling our States, meeting with people. I was in Toledo, Youngstown, Cleveland, and around much of my State.

While we have seen signs of recovery in Youngstown, in part because of the Recovery Act, in part because of where those dollars were absolutely well spent on infrastructure, making this expansion possible, in part because of a

trade decision the President of the United States made on the dumping of Chinese steel. In real terms—in real English—the dumping of Chinese steel meant the Chinese were cheating. Now we have restored competitiveness to the market so that American companies, with very productive American workers, can make steel and sell that steel at competitive prices.

We have seen an announced expansion and beginning of hiring in the auto industry, into the whole supply chain that leads into the automotive industry that makes the components—the so-called Tier I and Tier II suppliers. We have seen those signs of recovery. But if you are not working or your cousin is not working or your wife has lost her job or your sister or brother isn't working, you know there are still too many people who are hurting. We have not recovered, and we are not close to it, but we are making progress, while those families continue to struggle.

Too many Americans are waiting for us to act and extend the unemployment insurance they earned and the COBRA insurance they need while they look for work. Let me talk about unemployment insurance for a moment. It is not a vacation. It is not a whole lot of money people get. It is people who have lost their jobs and are looking for work. They have to continue to look for work. They have to show the employment bureau in their States—in new Hampshire, Ohio, wherever—that they are continuing to look for work.

Unemployment insurance is insurance. It is not welfare. You pay in when you are working and you get some help when you are not working. Because of the persistent unemployment caused by several years of bad economic policy, tax cuts for the rich, deregulation of Wall Street, a war that was not paid for—all the things that happened in the last decade which led us to this terrible economy—we have to help those workers who have lost their job through no fault of their own.

We have to help pay for COBRA; that is, helping to keep their health insurance. It is more expensive than a mortgage for most people. How COBRA works is, if you lose your job, you can keep your insurance if you pay for your side of the insurance—the employee's side—and you pay for the employer's contribution to your insurance. You have to pay both. That is clearly expensive. If you lost your job, how would you do that? You are going to be able to do that because of the Recovery Act.

The Congress and the President made a decision—with very few Republicans voting for it, for whatever reason. They do not think these people who are trying to keep their health insurance should be able to get help. But we were able to provide enough subsidy so that in my State tens of thousands of people—and I have met several dozen of them—have been able to keep their health insurance as a result.

A laid-off mechanic, factory worker, electrician, engineer—ask them how it feels to be out of a job. When I see my colleagues voting against unemployment benefits, the question I really want to ask is, Do you know anybody who lost their job? Do you know anybody who really needs this unemployment insurance? Have you really talked to somebody who lost their health insurance and, with a little bit of help, could continue to keep their insurance through COBRA? Ask people in Ohio. Ask somebody in Dayton who has lost a job in the auto industry. Ask somebody in Chillicote who lost their job at a paper company. Ask somebody in Springfield who lost their job at DHL, the cargo company—how they live with the stress of job loss, compounded by the small number of job openings, if they exist at all, in or around their communities.

Unemployment insurance, as I said, is just that—it is insurance. Workers pay into an insurance fund while they are working. They have a safety net if they are unemployed, and there are requirements. Those collecting unemployment checks are required to actively seek work.

I know people in my State. They come up to me when I do a townhall or roundtable meeting. Whether I am in Galion or Lima or St. Clairsville or Zanesville, people come up to me and say they send out 10 or 20 or 30 resumes a week. Most of these resumes are not even answered because the economy is far from fully recovered. We are making progress. We are on track to recovery. We are not there yet. People are still out of work in huge numbers.

I hear lectures from those who believe emergency spending should not be used to help out-of-work Americans who lose their unemployment insurance. Yet many people in this body have no problem giving away—extending tax credits, tax cuts for the wealthiest Americans, subsidizing the insurance companies, the drug companies, in the name of Medicare privatization, voting for a war. None of that was paid for. I didn't hear my Republican colleagues saying: We can't do that; it is going to add to the deficit. We can't go to war. We can't raise taxes to pay for the war; it is going to contribute to the deficit.

They will vote for the Medicare privatization bill President Bush had—a giveaway to the drug insurance companies. They didn't say: How do you pay for it? They didn't say that. They didn't say we couldn't do those things. It is only when it is unemployment insurance and COBRA, things extending health insurance to people—it is only those things, and all of a sudden they are all concerned about the budget deficit.

I am concerned about the budget deficit too. One of the reasons I voted against the Medicare giveaway to the drug insurance companies was because of the deficit. One of the reasons I voted against the Iraq war—the primary reason was it was the wrong thing to do, but I was very concerned about the fact that we were not paying for it.

The tax cuts that went to the richest Americans—I didn't hear any Republicans saying we should not do this, with the exception of GEORGE VOINOVICH from my State, who raised that issue. I didn't hear any of them say we should not give those benefits because they are not paid for. Now that it is unemployed workers, people who have lost their insurance, all of a sudden they have some kind of deficit reduction issue in their minds. Lavishing goodies on the drug and insurance companies I guess does not qualify. That qualifies as emergency spending. That is OK. But helping working families stay afloat in a floundering economy is not OK.

Every day that people do not receive their unemployment insurance is another day more American workers and families will slip into poverty. Do you know what happens if they can't get their unemployment checks, if they are cut, if they no longer get unemployment insurance? We are going to see more home foreclosures. How are you going to have economic recovery when somebody's home is foreclosed on, it is then vandalized, it then plummets in value, then infects houses in the neighborhood, and so they have the same problems and the value of their home gets lower and lower. How is that going to help us with economic recovery? It is a human tragedy, and it is an economic blow our country cannot afford. Poverty reduces consumer spending, and it increases the need for public assistance. That is two steps back.

Not only is unemployment insurance a poverty prevention tool, it is a proven economic stimulus. Senator MCCAIN, who ran, as we know, as Republican nominee for President—his chief economic adviser said unemployment insurance is the single best economic stimulus. Every dollar in jobless benefits, which were earned, as I said—you pay in as insurance, you get out—every dollar in unemployment benefits produces $1.64 in economic growth. Why is that? It is because they don't take their dollar and put it in their pocket; they spend it on their kids or spend it on the necessities of life. It goes right back into the community. That is why it supports and produces $1.64 in economic growth.

In the first 6 months following passage of the Recovery Act—and we know that almost every economist, except for those who have their own ideological game going, will say that without the Recovery Act we would be in a much higher unemployment situation today. Frankly, we would have a higher budget deficit as a result because so many more people would be out of work. Unemployment insurance pumped $19 billion into the economy.

Let me close with a couple of letters from Ohioans. Richard from Cuyahoga County—the northern part of the State

on Lake Erie, just east of where I live—writes:

People like me are trying hard to find a job but this economy is presenting challenges for unemployed workers. To those who object to the cost of unemployment insurance—what about the cost of not helping the folks looking for a job and trying to get by? Not helping us means the loss of a strong multiplier effect—

This guy obviously gets it—

spending on necessities like mortgage and rent and food and car payments, which stays in the community where we live.

That is exactly right. It is another one of the things government does sometimes. When you help one person, you are helping society. Look back at what happened in the 1940s when Franklin Roosevelt signed the GI bill. About 7 million, I believe, veterans used GI benefits. So those 7 million people were helped personally, one at a time. They got health care benefits, they got education benefits, they bought homes—whatever. But the GI bill didn't just help those millions of veterans. It created a prosperity like none the world has ever seen, postwar America, where everyone was lifted up. All of society was more prosperous because of this government program that helped one person at a time.

So is unemployment insurance. When you do unemployment insurance, you send a life preserver, if you will, to those individuals, tens of thousands in my State. But you also create prosperity so your next-door neighbor does better because the guy down the street is getting unemployment insurance because he might work at the hardware store or might work in the grocery store where the laid-off worker goes to shop for her food. He is able to keep a job because there is some prosperity created.

The last letter I would like to share for a moment is from David from Franklin county.

Many people like me who are looking for a job are well educated, white collar workers with long work histories. As we continue to look for jobs, we hope businesses will hire again. Unemployment insurance benefits have been a lifeline. I have been able to pay my mortgage, feed my family, and clothe my children. Without these benefits—

This is really key—

I will lose my home, be forced to go on welfare, and see my children go hungry and my family possibly destroyed. Please urge your colleagues to support an unemployment insurance extension. In the richest, most productive country in the world, please do the right thing and stand up for us during our time of need.

Forget about the statistics, forget about the economics of it. Think about somebody like David who knows that without these unemployment benefits—and he is not getting rich; he is barely getting along with a few hundred dollars. What it means is he can pay his mortgage. What it means is he can feed his family. What it means is he will go back, as he keeps looking for work, to being a productive member of society.

We need to act now—not tomorrow, not next week, not next month—now. We must act now.

I yield the floor.

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. BROWN of Ohio. 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. BROWN of Ohio. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

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

KAGAN NOMINATION

Mr. LEAHY. Madam President, 3 weeks from now the Senate Judiciary Committee will hold the confirmation hearing for President Obama's nomination of Elena Kagan to succeed Justice John Paul Stevens as an Associate Justice of the Supreme Court of the United States.

Last year, after reviewing her record, a bipartisan majority of the Senate voted to confirm Elena Kagan to be the Solicitor General of the United States, actually the first woman in America's history to serve as Solicitor General. As the distinguished Presiding Officer knows, oftentimes the Solicitor General is referred to as the ''Tenth Justice''. Not only are we familiar with Elena Kagan from our review of her nomination last year, but we have already received an extraordinary amount of information about her in connection with this nomination.

Last week we received nearly 50,000 pages of documents from the Clinton Library related to Elena Kagan's service and her significant role in the Clinton White House. My initial review of these documents shows her to have been a pragmatic and thoughtful adviser to President Clinton as she helped him to advance the goals of his administration.

As a law clerk to Justice Thurgood Marshall, as a professor, as a policy adviser to the President, and dean of Harvard Law School, and as Solicitor General of the United States, she appeared to have a clear grasp of how to apply her abilities to meet the challenges of each of these varied positions. I point out in that regard not only is she the first woman to become Solicitor General, she was the first woman to become dean of the Harvard Law School.

I went back and I doublechecked with my staff, Bruce Cohen, Jeremy Paris, and others on my staff, and I said: How does the information we have received on this nomination compare with the Roberts or Alito nominations when there was a Republican President? I am told the committee has received more information from the administration than was made available at this point in the confirmation process for either the Roberts or Alito nominations.

Last year we considered President Obama's nomination of Justice Sonia Sotomayor. Although she was confirmed with 68 votes, I was disappointed that so many chose to oppose her historic nomination, the first Hispanic to the Supreme Court, only the third woman.

I suspected and do suspect that many of those who voted against her confirmation will come to regret their action, if they do not already. Regrettably, many of the Senate Republicans, now that President Obama is in the White House, seem to want to apply a different standard from when they were considering President Bush's nominees to the Supreme Court.

As we begin the process of considering a new nominee to the Supreme Court, I candidly admit that after watching the unfounded opposition to the Sotomayor nomination last year, I would not be surprised if a majority of Republican Senators were to vote against Solicitor General Elena Kagan, despite her qualifications and no matter how she answers questions during the course of the hearing. I have joked that if President Obama nominated Moses, the lawgiver, or Mother Theresa, Senate Republicans would vote against the nomination. Such a willingness of many Republican Senators to heed the extreme ideological test imposed by the far right.

Indeed, were Justice Sandra Day O'Connor the nominee pending today, or Justice David Souter, or Justice John Paul Stevens, or, for that matter, Justice Anthony Kennedy, it is a sad reality that a majority of current Republican Senators would likely vote against their confirmations, as well, for failing the extreme ideological litmus test. Each of these Justices was nominated by a Republican President. I voted in favor of each of them.

Each of these Justices served or are serving now with distinction, and all still contribute to the Nation and its courts. The American people are fortunate to have had all of them serve on the Supreme Court.

Regrettably, most Senate Republicans, now that President Obama is in the White House, seem to want to apply a different standard from when they were considering President Bush's nominees to the Supreme Court. I welcome questions to Solicitor General Kagan about judicial independence. But let's be fair. Let us listen to her answers. No one should presume that this intelligent woman who has excelled during every part of her varied and distinguished career lacks the independence to serve on the U.S. Supreme Court. Indeed, many of the justices who are most revered in this country for their independence came to the Court with a background not unlike that of the nominee.

Not so long ago, Republicans Senators contended that a nominee's judicial philosophy was irrelevant. All that should matter, they claimed, was that the nominee was qualified, had gone to elite schools, and had good character. Well, Solicitor General Kagan excelled at Princeton, Oxford, and Harvard Law School. As I have mentioned, she was the first woman to serve as Dean of Harvard Law School in its 193-year history, and was respected and admired for her inclusiveness. She is the first woman to serve as Solicitor General of the United States in that office's 140-year history. Throughout her career, no one has questioned her character or her integrity. She obviously meets and exceeds the qualifications standard previously espoused by the Senate Republicans.

Now they apparently want to examine something else, which they will call her ''judicial philosophy'' or ''independence''. But it is not her philosophy, judgment, or her independence that matters to them. What they really want is assurance that she will rule the way they want so that they will get the end results they want in cases before the Supreme Court. Lack of such assurances was why they and the conservative right wing vetoed President Bush's nomination of Harriet Miers, the third woman to be nominated to the Supreme Court in our history and the only one not to be confirmed. They forced Ms. Miers to withdraw even while Democrats were preparing to proceed with her hearing. They do not want an independent judiciary. They demand Justices who guarantee the results they want, and that is their ideological litmus test.

I reject the ideological litmus test that Senate Republicans would apply to Supreme Court nominees. Unlike those on the right who drove President Bush to withdraw the nomination of Harriet Miers, and those who opposed Justice Sotomayor, I do not require a Supreme Court nominee to swear fealty to the judicial approach and outcomes ordained by adhering to the narrow views of Justice Scalia and Justice Thomas. I expect judges and Justices to faithfully interpret the Constitution and apply the law, and also to look to the legislative intent of our laws and to consider the consequences of their decisions. Based on the review I have made of Solicitor General Kagan's career, I say frankly that I expect she and I will not always agree. I do not agree with every decision Justice Stevens has written, but I have such enormous respect for his judgment, this giant in the law.

I do not always agree with Justice O'Connor, nor with Justice Souter. I have my disagreements with some of Justice Kennedy's decisions. But I have never regretted my vote in favor of their confirmation, because I respect their independence.

I said only half facetiously when President Obama asked me: Why did some come out against Elena Kagan within minutes of her nomination, before they knew anything about her? I said: You have to understand, if you would have nominated Moses, the lawgiver, some of those same people would oppose.

The former First Lady Laura Bush was asked recently about President Obama's nomination of Elena Kagan and she said: I think it's great. I'm really glad that there will be three [women serving on the Supreme Court] if she is confirmed.

When Justice O'Connor was asked about the nomination she said that she was ''pleased'' that Solicitor General Kagan seemed ''very well qualified academically'' and should be confirmed and that ''it's fine, just fine'' that she is without prior judicial experience. Over the weekend Justice O'Connor elaborated saying: ''There is no reason you should have served on the Federal court bench'' before becoming a Justice. She had not. Justice Scalia went even farther on that score, saying recently that he was ''happy to see that this latest nominee is not a Federal judge—and not a judge at all''.

The American people elected the first African-American President, and he is a leader who is committed to the Constitution and rule of law. With his initial selection to the Supreme Court, he named Justice Sonia Sotomayor, the first Hispanic to serve on the High Court. She was confirmed last year and has been a welcome addition to the Supreme Court. Now he has nominated only the fifth woman in the Nation's history to the Court, a nominee who can bring the number of women serving on the Court to an historic high-water mark of three from the time just a little over a year ago when it was just down to one.

This month Justice Stevens will be leaving the Court after nearly 35 years of dedicated public service. The Nation owes him a great debt. When I visited with him earlier this year, Justice Stevens shared with me the note from President Ford in which he recounted that he was prepared to allow history's judgment of his presidency to rest on his nomination of John Paul Stevens to the Supreme Court. I hope that President Obama can look at his Supreme Court appointments, long after his presidency has ended, and feel the same way about his nominees that President Ford felt about Justice Stevens.

RECOGNIZING NORTHEASTERN NEVADA HISTORICAL SOCIETY MUSEUM

Mr. REID. Madam President, I rise today to congratulate the Northeastern Nevada Historical Society Museum on their acceptance to the American Association of Museums' Museum Assessment Program. The Northeastern Nevada Historical Society has been serving Nevada for 54 years, preserving its history and educating communities. Through participation in the Museum Assessment Program, MAP, the museum will undertake extensive improvement projects for the benefit of the entire community.

The Northeastern Nevada Historical Society Museum, located in Elko, is the only museum in Elko County and the largest museum in northeastern Nevada. The museum houses two history galleries, three art galleries, archives, a theatre, a gift shop, and an extensive library collection. The exhibits range from ''Murray'' the mastodon, a set of 2-million-year-old mastodon bones discovered in northern Nevada, to modern abstract paintings. Every year 18,000 people from all parts of the country visit the museum. Children from five counties make field trips here to learn about Nevada, wildlife, and history. The museum also runs educational programming and hosts community events, making it one of northern Nevada's most treasured establishments.

Last year, the Northeastern Nevada Historical Society was accepted into the prestigious Museum Assessment Program, which is an intense yearlong improvement process with three phases. In the first phase museums receive guidance from the American Association of Museums, AAM, in the form of written documents to help them asses their own effectiveness and areas for improvement. In the second phase, the museum is peer-reviewed through a visit by a surveyor. Together, the museum staff and surveyor design an improvement plan for the museum, which is implemented in the third phase of the program.

The dedicated staff at the historical society worked tirelessly throughout the first few months of this year to complete the self-assessment portion of the MAP program. Recently, they received a visit from a surveyor, with whom they developed a thorough museum improvement plan. Throughout this process, the historical society has shown the utmost dedication to meeting the highest standards in museum excellence.

I am very thankful to the Northeastern Nevada Historical Society Museum for its work preserving Nevada's history. I have lived in Nevada all of my life and have been deeply influenced by our unique culture and history. The historical society aims to capture this culture and history and share them in a way that is engaging and educational. I am pleased to see that the American Association of Museums has recognized this goal and will be supporting the Northeastern Nevada Historical Society Museum in furthering it. The museum's commitment to the communities it serves is evidenced by its choice to participate in such a rigorous improvement program. I commend the Northeastern Nevada Historical Society for its dedication and look forward to its contribution to Nevada's communities for many years to come.

Mr. COBURN. Mr. President, I ask unanimous consent to have my letter

to the Senate minority leader regarding the Global Food Security Act, S. 384, printed in the CONGRESSIONAL RECORD.

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

U.S. SENATE,
May 27, 2010.

Hon. MITCH MCCONNELL,
Senate Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I recently objected to a unanimous consent request to pass S. 384, the Global Food Security Act.

As you will recall, I sent a letter to the entire Senate at the beginning of this Congress in which I outlined four basic principles that would give me cause to object to any legislation that violated them. Among them are the principles that any new spending commitment authorized must be paid for by reducing spending in other areas of the federal budget and that any new programs or initiatives should not duplicate existing ones.

Along these lines I have two primary concerns with S. 384. First, according to the Congressional Budget Office, this bill will cost taxpayers $6.5 billion; yet, the legislation provides no offset to avoid increasing our national debt, which recently reached $13 trillion.

Second, it appears several components of S. 384 may overlap with existing federal programs and authority relating to agricultural assistance and research. For example, S. 384 creates the Higher Education Collaboration for Technology, Agriculture, Research and Extension program (HECTARE), which authorizes research and teaching activities for academic exchanges for students, faculty, extension educators, and school administrators. However, according to the Congressional Research Service, this section overlaps with several programs at the Department of Agriculture (USDA). Specifically, USDA already has research, extension and teaching activities authorized in Section 1458 of the 2008 farm bill. Other farm bill programs, such as the Competitive Grants for International Science and Education Programs (Sec. 1459A), the Borlaug International Agricultural Science and Technology Fellowship Program (Sec. 1473G), and the Cochran Agricultural Fellowship Program for Middle Income Countries, Emerging Democracies and Emerging Markets (Sec. 1543) also authorize USDA to carry out the kinds of activities that would be funded by the HECTARE program.

Additionally, this bill adds new provisions and authority for conservation farming and other sustainable agriculture techniques. At the same time, USAID already operates the Sustainable Agriculture and Natural Resource Management Collaborative Research Support Program, which American universities carry out to support sustainable agriculture research and natural resource management internationally. USAID also operates the Consultative Group on Program, which American universities carry out to support sustainable agriculture research and natural resource management internationally. USAID also operates the Consultative Group on International Agricultural Research (CGIAR), which is an alliance of international agricultural centers that mobilizes science to benefit the poor by promoting conservation and sustainability of natural resources and biodiversity. Further, the USDA's Natural Resources Conservation Service conducts an International Technical Assistance program. Through this program, the U.S. provides technical assistance internationally to enhance conservation and management of natural resources. Finally, one component of USDA's Foreign Agricultural Service's mission is to provide food aid and technical assistance in foreign countries.

The statutory authorities to implement these initiatives already exist. Congress should conduct better management of programs already authorized rather than create new ones as outlined in S. 384. The past failures of Congress to streamline federal programs where appropriate have resulted in a vast expansion of our government, often to the detriment of taxpayers and in violation of the principles set forth in the U.S. Constitution.

During this time of national economic unrest, Congress must do the hard work of paying for its commitments rather than passing along debt to future generations and risking financial collapse. Additionally, Congress must first evaluate existing programs to eliminate or consolidate overlapping functions before it creates new programs or embarks on new initiatives.

Please do not hesitate to contact me with any questions you may have. Thank you for your service to our country.

Sincerely,

TOM A. COBURN,
U.S. Senator.

RECOGNIZING AMBASSADOR JEAN KENNEDY SMITH AND VSA

Mr. DODD. Madam President, I wish to recognize VSA, the International Organization on Arts and Disability. VSA is an affiliate of the John F. Kennedy Center for the Performing Arts, and was founded in 1974 by Ambassador Jean Kennedy Smith—a pioneering leader in the area of access and inclusion in the arts for children with disabilities. For over three decades, she has blazed the trail for VSA to become the preeminent international organization on arts and disability. As a result of Ambassador Smith's tireless efforts and sustained vision, VSA is changing perceptions all over the world about people with disabilities. Each year, 7 million people of all ages and abilities participate in VSA programs in dance, music, drama and the visual arts.

Ambassador Smith and VSA have created an extraordinary network of educational resources, programs, festivals, and services that bring the arts into the lives of individuals of all ages—with and without disabilities. VSA programs occur in schools, community centers, hospitals, performing arts centers, art galleries, and college and university campuses. They involve teacher and artist training programs, the development and distribution of educational resources, and performance and exhibition opportunities for individuals of all ages. Through the development, implementation, and dissemination of model programs and initiatives, VSA helps acknowledge the importance of the arts in academic and vocational achievement for individuals of all abilities. These programs operate in all 50 states and in 51 countries around the world.

From June 6 to 12, more than 2,000 people will convene in Washington, DC, to celebrate Ambassador Smith's vision and to share their talents and accomplishments with all of us. From the Kennedy Center, to the Smithsonian Institution, the Shakespeare Theatre Company, Union Station, AFI Silver Theatre and Cultural Center, and many venues in between, performances and exhibitions will showcase the work of these outstanding artists and provide first-rate entertainment to residents of the Washington metropolitan area as well as visitors from around the world.

Among the professional artists who will lend their talents to this extraordinary gathering are world-renowned artists Dale Chihuly, Dame Evelyn Glennie, Patti LaBelle, Salif Keita, Marlee Maitlin and architect Michael Graves.

As part of the festival, hundreds of educators, policymakers, parents, and disability advocates will convene for the International VSA Education Conference, which will feature sessions that provide participants with tools and resources to advance inclusive education in their own communities.

Countless individuals have worked tirelessly for many years to create and expand the diverse programming and rich history of VSA. The leadership that Ambassador Jean Kennedy Smith has provided for more than 35 years has inspired those efforts and made these many accomplishments possible. The 2010 International VSA Festival is a tribute to her and to those individuals who embraced her vision and shared her passionate belief that all people should have the opportunity to participate in the arts. In honoring VSA and the work done by Ambassador Smith, we recognize the magnitude of her mission, and the importance of the arts not only for individuals with disabilities, but in all of our lives.

HONORING OUR ARMED FORCES

STAFF SERGEANT EDWIN RIVERA

Mr. DODD. Madam President, today I have a heavy heart to mark the passing and commemorate the life of SSgt Edwin Rivera, a native of Waterford, CT, who lost his life in Afghanistan last week at the age of 28.

Staff Sergeant Rivera, the only son of middle-class Puerto Rican parents who came to Connecticut in the 1970s, graduated from Waterford High School in 2000. And they were proud of young Edwin, who served his first deployment in 2006, even as they missed his presence.

''The center of the family shifts back to my house when Edwin is gone,'' his mother said.

He was gone for 15 months, not the promised 12. And when he came home, he was changed by what he had seen. But he soon became the lively, committed family man, seeing his two sons, Rolando and Lorenzo, off to school, working at the Millstone nuclear powerplant, starting a new life with his wife Yesenia.

Last summer, however, he told his mother that he still thought about the sad faces of the children he had seen in Afghanistan, the children who couldn't

enjoy the stable, safe life he was providing for his own family.

''When the U.S. soldiers drive by,'' he told her, ''the children will scramble like mad in the dust just to get thrown a simple pencil from us. They don't even have pencils. I was born for this, it's my duty, to protect those families over there.''

So Edwin went back, leaving for Afghanistan again in early January with the 1st Battalion of the 102nd Infantry Regiment, a Connecticut National Guard unit based in New Haven. Like Edwin, many of those who went with him were not on their first deployment. But they fought with courage and commitment. And when Staff Sergeant Rivera made the ultimate sacrifice for his country, he did so in defense of his mates.

Staff Sergeant Rivera will be missed. But his selflessness, his commitment to his family, and his love of country will not be forgotten; rather, they will remain as an inspiration to his two young sons and to all of us who honor his service.

SOMALIA

Mr. FEINGOLD. Madam President, once again, I wish to express my concern about the situation in Somalia. To put it frankly, the situation is appalling. Since the start of fighting in 2007, at least 21,000 people have been killed and more than 1.5 million have been displaced. Thousands of refugees continue to pour into overcrowded camps in Kenya, Ethiopia, Yemen, and elsewhere. For those who remain in Somalia, the United Nations refugee and food agencies are unable to reach many of them because of the insecurity and threats to humanitarian staff. The terrorist group al Shebaab and other armed groups continue to wage war against the Transitional Federal Government, the TFG, in Mogadishu as well as against one another in an effort to expand their territorial control. Al Shebaab has resorted to using suicide bombings, most recently in an attack inside a mosque in Mogadishu, which killed dozens of civilians. Meanwhile, al Shebaab is employing increasingly brutal tactics to maintain its control over certain areas—carrying out executions, chopping off hands and legs, and forcibly conscripting youth.

Mr. President, we should be appalled at this situation, but we should also be concerned because of the direct ramifications for our national security. Al Shebaab's leadership has links to al-Qaida, and it has indicated, through public statements, that it intends to provide support to al-Qaida affiliates in Yemen. Even more disconcerting, it has recruited a number of Americans to travel to the region and fight with it. In October 2008, a Somali-American blew himself up in Somalia as part of a coordinated attack by al Shebaab, reportedly becoming the first known suicide bomber with U.S. citizenship. The Justice Department has since brought terrorist charges against over a dozen people for recruiting and raising funds for Americans to fight with al Shebaab. Last September, the Director of the National Counterterrorism Center, Michael Leiter, testified that ''the potential for al-Qaida operatives in Somalia to commission Americans to return to the United States and launch attacks against the Homeland remains of significant concern.'' Earlier this year, the New York Times reported that an American from Alabama, Omar Hammami, has become a key figure in al Shebaab. Just this past weekend, two other Americans, neither with family ties in Somalia, were arrested in New Jersey for allegedly planning to fight in Somalia with al Shebaab. This is very troublesome news and brings home the implications of Somalia's ongoing crisis.

The Obama administration has been right to refocus attention on Somalia—and to consider regional dynamics at the same time. I am also pleased that the administration has been clear in its support for the Djibouti peace process. I am, however, concerned that this process—as currently constituted—is not sufficient to unite Somalis and mitigate the ongoing crisis. As the situation there turns more dreadful, I worry that the process is becoming increasingly detached from events on the ground. Furthermore, we must acknowledge that while the administration continues to provide assistance—both materiel and diplomatic—to the TFG, we still do not have an overarching strategy for Somalia that ties our programs and policies together. As a result, we appear to be grasping at straws to ''do something'' while our national security increasingly hangs in the balance.

Under the previous administration, our approach toward Somalia lacked coherence and was shortsighted. This discord gave rise to conflicting agendas that undermined each other and our credibility. Without clear policy guidance, the current administration's efforts—however well intentioned—may fall into the same trap. There is great risk that by focusing too narrowly on tactical decisions we will continue to operate without a larger strategy.

Now, I understand in the early months of the administration there was an interagency effort to review our policy toward Somalia and the Horn of Africa. However, it is also my understanding that no overarching policy was established. Now is the time to renew such an effort, and as part of this initiative, we need some way to measure whether we are making progress. The administration has rightly pressed the TFG to broaden its appeal and strength, but we have seen no major improvement on that front. With the exception of its agreement with Ahlu Sunna wal Jama, the TFG has done little to expand its reach and undercut its opposition. The TFG has not become more inclusive, and it has not projected an attractive political vision to counter that of armed opposition groups. As a result, it is not becoming more legitimate in the eyes of Somalis.

Going forward, we need clear guidance on what we expect to achieve with our support for the TFG, the Djibouti Process, and our efforts to weaken al Shebaab and provide humanitarian assistance. Without such a coordinated and measurable approach, we run the risk of continuing to fund the same initiatives with little progress made. Such an assessment is important not only so that American taxpayers know their money is being well spent, but also so we know our safety and security are being enhanced.

There are some thoughtful observers who believe that the best option for the United States might be to just disengage altogether and let this crisis play out. The stakes are too high to do that. However, these observers are right that a continuation of the status quo will only further entrench the crisis. The current efforts by the United States and the international community are insufficient to change the fundamental dynamics of the situation. We need to go back to the drawing board and develop a strategy with measurable goals and a clear plan of how we will reach them.

We also need to consider whether appointing a Special Envoy for the Horn of Africa, to help create and drive policy, is once again appropriate. For years I have called for the creation of such a position—at a very senior level—but to no avail. I do believe that now is the time for this position to be considered particularly because of the direct national security implications, but also because the crisis in Somalia requires a regional approach. We need a senior official to regularly connect the dots between a number of countries in the region including Ethiopia, Eritrea, Kenya, and Yemen in order to develop an effective strategy. In addition, having a senior envoy focused on addressing this crisis can help show the people of Somalia that we are finally serious about helping their efforts to achieve a future free of terror and conflict.

In thinking about how we fit counterterrorism concerns into a broader strategy, we must be practical. Mr. President, tactical operations against individuals and networks may be justified in some cases, especially if the targets have clear ties to al-Qaida and pose a direct threat to the United States. But we need to think hard about the strategic implications and potential risks of these operations because at the same time we need to reach out to, work with, and support all Somalis who seek a more stable and secure country. The perception that the United States is only interested in tactical counterterrorism operations in Somalia has generated suspicion among Somalis and fueled anti-Americanism. Not taking that into account when planning or authorizing any tactical operations is counter-productive.

Equally as important to our counterterrorism goals is the need to continue

pressing for an inclusive and functional system of governance that can enforce the rule of law and provide security. In addition to supporting the TFG, we should look for creative ways to work with other governments and nongovernmental actors to encourage political consensus and reconciliation among different groups in Somalia. We need to look at the grassroots and local level and see how they can be bolstered and expanded. Helping Somalis to come together around a shared political vision and to translate that vision into a political system that makes a tangible difference in people's lives is the surest way to address our national security concerns over the long term.

Achieving stability and restoring the rule of law in Somalia will not be easy or quick—nearly two decades of dysfunction have made sure of that—but we must have a strategy in place if we are to proceed. We cannot respond in an uncoordinated and ad hoc manner to the conditions that breed and empower terrorist organizations and we cannot address them on the cheap. Our national security, the fate of Somalia's people, and the region's stability demand nothing less.

PRESIDENTIAL RECORDS ACT

Mr. LIEBERMAN. Madam President, recently the Obama administration asked the National Archives to speed up its already planned release of Supreme Court nominee Elena Kagan's records from her time in the Clinton administration.

I applaud the administration's openness. But this speedy release of documents is not required by the current Presidential Records Act and might have been impossible under an Executive order issued by former President George W. Bush. That order allowed former Presidents, Vice Presidents, and their heirs to withhold the release of documents indefinitely by claiming Executive privilege.

On his first day in office, President Obama repealed the Bush Executive order, but a future President could just as easily change it back or add new impediments to the timely release of an administration's records.

I have long championed legislation to make it clear that these documents are the property of the American people and therefore should be subject to timely release.

But we cannot move forward with this legislation because my friend, colleague, and ranking member on the Judiciary Committee, Senator JEFF SESSIONS, has placed a hold on it.

Regarding the release of the Kagan documents, Senator SESSIONS recently told the Washington Post:

> I think all the documents that are producible should be produced. The American people are entitled to know what kind of positions she took, and what kind of issues she was involved with during her past public service.

I agree with Senator SESSIONS and hope he will now release his hold on my legislation so this kind of speedy release of documents and the right of the American people to view them will be the legal standard for all future Presidents.

A little history will help explain how we got to where we are today.

Securing Presidential documents is a problem as old as the Republic. George Washington had planned to build a library on his estate at Mount Vernon to house his Presidential papers. But Washington died before he could get his plan underway and his heirs were not always careful stewards of our Founding President's legacy.

Some of the documents were so badly stored they were eaten by mice. Others were sold off or given away haphazardly. One of Washington's heirs even took to cutting the signature from Washington's correspondence and sending it to collectors.

In a letter, this heir wrote:

> I am now cutting up fragments from old letters and accounts, some of 1760 . . . to supply the call for anything that bears the impress of his venerated hand. One of my correspondents says, ''Send me only the dot of an i or the cross of a t, made by his hand, and I will be content.''

Despite this inauspicious beginning in preserving our Nation's history, for nearly two centuries it was presumed that the papers of former Presidents were their personal property to be disposed of however they or their heirs saw fit.

Think of all our national history that has been lost, destroyed or kept locked away far too long.

The bulk of Andrew Jackson's papers were scattered among at least 100 collections. Jackson's successor, Martin Van Buren, destroyed correspondence he decided was—I quote—''of little value.''

The papers of Presidents Harrison, Tyler, Taylor, Arthur, and Harding were destroyed in fires—sometimes by accident, sometimes intentional.

President Lincoln's son Todd burned his father's Civil War correspondence and threatened to burn all of his father's Presidential papers until a compromise was reached with the Library of Congress that kept most of the papers sealed until 1947. This delay helped fuel conspiracy theories that the papers were kept hidden because they would show that members of Lincoln's Cabinet were part of the assassination plot—in effect, that Lincoln died in a coup.

Of course, when the papers were finally released, they showed that wasn't true, but it took 82 unnecessary years to put the rumor to rest.

These historical records are too valuable to be left to the judgment of former Presidents, the whims of their heirs, the caprice of nature or—as in George Washington's case—the appetite of rodents.

This situation finally began to change under President Franklin Roosevelt who, on December 10, 1938, announced he would build a library on his estate in Hyde Park, NY, to house the papers and collections of his public life that stretched back to 1910, when he was elected to the State Senate of New York.

Roosevelt set a standard for openness, asking his aides and Cabinet Secretaries to contribute to the collection, and almost every President who followed carried on in the spirit of Roosevelt—also building libraries to house their papers.

But this system was voluntary and began to crumble with the resignation of our 37th President, Richard Nixon.

Nixon had an agreement with the General Services Administration, GSA, which would have allowed him to keep all his records locked away, including the infamous Watergate tapes, and mandated many of them be destroyed.

This put us right back where we started, with a former President choosing what historical records the public was entitled to. Congress passed legislation in 1974 specifically ordering that the Federal Government take control of Nixon's records and then in 1978 passed legislation declaring that Presidential papers were public property that must be turned over to the National Archives at the end of an administration and be open to the public after 5 years.

Systems, however, were put in place to allow a former President to review documents—and challenge their release on the grounds of Executive privilege. But the presumption was in favor of openness unless the former President could show the court a compelling reason to withhold the documents.

But then, as mentioned, President Bush weakened the law with Executive Order No. 13233, issued on November 1, 2001. Just to repeat, under this order, not only former Presidents and their heirs, but Vice Presidents and their heirs as well, could withhold the release of documents by claiming Executive privilege.

The order also required those challenging claims of Executive privilege to prove in court that they have a ''demonstrated, specific need'' for the documents—an impossibly high standard since only the document's author can know precisely what a document contains.

And since the Executive order also allowed for an indefinite review period, these records—housed in Presidential libraries maintained by the taxpayers—could be locked away for indefinite periods of time, making them about as useful as the ashes of Lincoln's letters.

In reversing Bush's Executive order, President Obama made clear that only the sitting President can claim Executive privilege—not their heirs, and not their Vice Presidents or the Vice Presidents' heirs.

In signing the new Executive order, President Obama said:

> Going forward, anytime the American people want to know something that I or a former President wants to withhold, we will have to consult with the Attorney General and the White House Counsel, whose business

it is to ensure compliance with the rule of law. Information will not be withheld just because I say so. It will be withheld because a separate authority believes my request is well grounded in the Constitution.

This is wise public policy and should be the law of the land—subject to repeal only by Congress, not by Executive order.

When President Roosevelt dedicated his library and began opening up his records and other artifacts to public view, he made it clear that this kind of openness is good for a democracy. ''The dedication of a library,'' Roosevelt said, ''is in itself an act of faith. To bring together the records of the past and to house them in buildings where they will be preserved for the use of men and women in the future, a Nation must believe in three things. It must believe in the past. It must believe in the future. It must, above all, believe in the capacity of its own people so to learn from the past that they can gain in judgment in creating their own future.''

This Congress can now reassert Roosevelt's faith in our democracy. That is why I urge my colleague, Senator SESSIONS, to release his hold on H.R. 35 so we can pass it, get it to the President, and make history now by preserving Presidential history as an open resource for Americans to learn from in the future.

NATIONAL CANCER SURVIVOR'S DAY

Mr. JOHNSON. Madam President, I rise today in recognition of the 23rd annual National Cancer Survivor's Day and to celebrate those who have won the battle against this devastating disease.

My wife Barbara is a breast cancer survivor, and I am a prostate cancer survivor. My family and I are well aware of the difficulties that come with seeing a loved one diagnosed with a serious illness such as cancer and are equally aware of the life-affirming joys that accompany survival.

Cancer affects millions of individuals and families worldwide. Fortunately, more people are expected to survive cancer today than in the past, thanks to advancements in screening, diagnosing, and treating various forms of the disease. The National Cancer Institute estimates that approximately 11.4 million Americans with a history of cancer were alive in 2006.

Saving lives means preventing cancer, finding it early, and continuing the search for a cure. Throughout my career in the U.S. House and Senate, I have strongly supported proposals that would advance research, funding, and education about all forms of cancer, such as those conducted at the National Institutes of Health, the Cancer Research Institute, as well as the Centers for Disease Control and Prevention. Improved understanding of the biological and environmental causes of cancer will bring us ever closer to more effective treatments and eventually a cure.

Today, however, cancer remains the second leading cause of death in the United States. The disease is expected to claim more than half a million lives in 2010, and the American Cancer Society estimates an additional 1.5 million new cases will be diagnosed this year.

While increasing public awareness of cancer risk factors and the importance of early screening helps save lives, winning the war on cancer depends on access to affordable health care. Many cancers can be prevented or treated if caught at an early stage, but lifesaving screenings and treatments remain out of reach for millions of Americans with inadequate insurance or no coverage at all.

This year Congress passed an extensive reform of our Nation's health care system that will benefit all families affected by cancer. This historic legislation emphasizes prevention, expands access to meaningful coverage, ends unfair practices by health insurance companies, and improves quality of life for cancer survivors through better management of chronic diseases.

It is important to note that a survivor's battle does not end with successful treatment. Cancer patients face many side effects to treatment, as well as a continued risk of reoccurrence. Some treatments can permanently alter a patient's well-being and cause other health problems in the short and long terms. The security of meaningful and affordable health coverage is vital for cancer survivors to closely monitor their health for the rest of their lives.

The millions of Americans with a history of cancer who are alive today demonstrate that the battle against this disease can be fought and won. National Cancer Survivor's Day provides an occasion to recognize cancer survivors, as well as learn more about this illness and its impact on our Nation and our families. Not only does cancer affect the patient but their spouses, children, and other family members as well. National Cancer Survivor's Day distinguishes all those who have experienced cancer in any form.

Ms. LANDRIEU. Madam President, as we near the close of the 2010 National Small Business Week, I am pleased to join Senator OLYMPIA SNOWE in introducing the Small Business Tax Equalization and Compliance Act of 2010, which extends a tax credit to salon owners for FICA taxes paid on employees' tipped income.

Currently, salon owners are required to pay the employer's share of the FICA taxes on tips paid to employees even though owners do not control the amount of tips paid and do not get a share of the tips received. The Small Business Tax Equalization and Compliance Act of 2010 would create a tax credit for employers to offset the matching FICA paid on employees' tips just like restaurants received. In addition, it includes education and reporting requirements which may reveal a valuable new source of tax revenues for the Federal Government.

The salon industry is a vital and growing sector of America's economy. Not only will extending the tip tax credit to salon owners allow them to reinvest in their businesses and employees, but it will also grant new economic and employment opportunities in local communities. I urge my colleagues to support this bill which puts the professional beauty industry back on equal footing with the restaurant industry.

ADDITIONAL STATEMENTS

RECOGNIZING FRENCHTOWN HIGH SCHOOL ACADEMIC TEAM

• Mr. BAUCUS. Madam President, I wish today to recognize the achievements of five very bright students from the Frenchtown High School Academic Team. While academic extracurricular activities may not receive recognition as often as they should, these young individuals have put their brains over brawn to steal the spotlight by qualifying for the Partnership for Academic Competition Excellence Championship, taking them over 2000 miles away from their hometown of Frenchtown, Montana to our Nation's Capital.

The Frenchtown High School Academic Team is here today because of hard work. Taylor Amundsen, Joseph Taylor, Eamon Thomasson, Mary Brooks and Michael Rebarchik have gathered in their advisor's, Merle Johnston, class room during their lunchtime and afterschool for practice. They competed against bigger schools and won. This season at the Brainfreeze competition, held on their home turf, the Frenchtown team went ten rounds undefeated and went on to edge out their rivals, Billings Skyview for the championship trophy.

This weekend at the national tournament they proudly represented Montana. I congratulate the academic team and their advisor Merle Johnston. These outstanding young people are the future of our Nation, and I know they will continue to make Montana proud.•

REMEMBERING CHARLIE MEYERS

• Mr. BENNET. Madam President, today I wish to honor the memory of Charlie Meyers.

For decades, Charlie Meyers spoke up for Colorado's rivers and wildlife on the pages of the Denver Post. An award-winning outdoors writer and dedicated conservationist, Meyers shined a light on the threats to our State's treasured mountains and fishing holes as only a true outdoorsman could.

In his final column, Meyers told his readers about ''Fairplay Beach'' in Park County, a ''minor marvel,'' as he called it, ''filled with angling delights . . . threatened by a variety of perils that demand attention, and soon.''

Meyers was a native of Sicily Island, LA, and a graduate of Louisiana State University. He first joined the Post

staff in 1966, and after a brief departure, he returned to stay in 1971. Meyers was inducted into the Colorado Ski Hall of Fame in 1993 and won the International Ski Federation's FIS Journalist Award in 1999. He was the fourth American to win it.

A gifted wordsmith, Meyers was able to illustrate the beauty of Colorado and express just how much that beauty meant to him and to all who cherish the outdoors. And yet it would be difficult to put in words just how much he meant to Colorado's outside spaces and to their protection. Few of us will be able to match his energy and passion, but in his honor, all of us should try.●

TRIBUTE TO HOOSIER ESSAY CONTEST WINNERS

● Mr. LUGAR. Madam President, I wish today to take the opportunity to express my congratulations to the winners of the 2009–2010 Dick Lugar/Indiana Farm Bureau/Indiana Farm Bureau Insurance Companies Youth Essay Contest.

In 1985, I joined with the Indiana Farm Bureau to sponsor an essay contest for eighth grade students in my home State. The purpose of this contest is to encourage young Hoosiers to recognize and appreciate the importance of Indiana agriculture in their lives and subsequently craft an essay responding to the assigned theme. The theme chosen for this year was ''Farmers Looking at a Bright Future.''

Along with my friends at the Indiana Farm Bureau and Indiana Farm Bureau Insurance Companies, I am pleased with the annual response to this contest and the quality of the essays received over the years. I applaud each of this year's participants on their thoughtful work and wish, especially, to highlight the submissions of the 2009–2010 contest winners—Jordan Cadle of Orleans, Indiana, and Layne Sanders of Greensburg, Indiana. I submit for the RECORD the complete text of Jordan's and Layne's respective essays. I am pleased, also, to include the names of the many district and county winners of the contest.

The winning essays follow:

UNTITLED

(By Jordan Cadle)

With world population skyrocketing, farmers need to step off the treadmill of slow incremental growth and jump into using new revolutionary thoughts. The three main ideas for future generations of farmers meeting this challenge are: perennial crops, multistoried planting beds, and hover robotic machinery.

Putting the knowledge of the crop geneticist to use, I believe the world can create new perennial crops to plant in more evenly balanced climates year around and in greenhouses. If we had corn and soybeans that could survive the winter and keep producing like a tomato plant (in proper growing conditions) this would allow farmers to rarely buy seeds. Also, this would maintain yield throughout the year for consumption. These plants would be bred to have multiple ears, pods, or heads in order to sustain a sufficient yield at all times.

Helping to produce more of these perennial crops, they could be raised on multistoried planting beds. Imagine these being like large parking garages where each layer is a field. Artificial lighting would be used for stories that are not exposed to sunlight. Going upward with fields leaves more room for people to live and natural trees to grow since we will be exhausting our supply of cultivatable land on earth.

Tending to these crops, hover robotic machinery will be used. Utilizing this machinery will allow farmers to plant and tend to crops, while the ground may still be too wet for standard machinery. Also, the line of machinery will be equipped with laser sensors to care for each plants' individual needs. This will minimize input costs. Just like robots in general, one farmer will be able to control several at a time.

I believe hover robotic machinery, multistoried planting beds, and perennial crops will guide farmers running to a brighter future.

FARMERS LOOKING AT A BRIGHT FUTURE

(By Layne Sanders)

Farming has been and will continue to be a major part of Indiana's future. Change is inevitable, and Indiana's farmers will need to learn to change also. A continuing global demand for high quality and economic food puts Indiana in an enviable position. I think the number of farms will decline, and the average size will continue to increase. Large farms will take advantage of continued advancements in technology to increase productivity and decrease labor. GPS systems will allow tractors to drive themselves and apply fertilizers in fields as needed. No-till farming will play an important role in Indiana's farming future also, no-tilling requires less equipment, less fuel, and is better for the soil. No-till farming reduces soil erosion and saves tons of our precious top soil.

Smaller farmers may need to be more innovative to survive the changing times ahead. I feel there are real opportunities for small farms in specialty markets. Organic farming holds some intriguing possibilities, as Americans and the world are more and more concerned about the quality of their food. Certified organic meats and vegetables marketed thru a farm name brand, using sources like the Internet, traditional grocery stores, and farmers markets, could provide the niche a smaller farm may need to survive.

Livestock farms will have the technology to collect waste from many locations and pump the waste to a centralized location. This animal waste can then be converted into biogas, and used to provide energy for our farms, cities, and industries. Carbon credits could be earned by the farms that contribute to biomass facility, these credits could then be exchanged for energy, fertilizer, or other byproducts from the digester. This is a relatively new technology and the future is really wide open with possibilities. Indeed the future is bright.

2009–2010 DISTRICT ESSAY WINNERS

DISTRICT 1

Luke Kepler and Alexandra Magallon.

DISTRICT 2

Ashley Kain and Curtis Mourey.

DISTRICT 3

Pamela Kuechenmeister and Colton Underwood.

DISTRICT 4

Collin Saxman and Kathleen Jacobs.

DISTRICT 5

Deena Hesselgrave and Joe Littiken.

DISTRICT 6

Carson Bailey and Annie Chalfant.

DISTRICT 7

Hannah Kocher and Seth Black.

DISTRICT 8

Tyler Combs and Layne Sanders.

DISTRICT 9

Jordan Cadle and Jennifer Riedford.

DISTRICT 10

Tess Stoops and Trey Embrey.

2009–2010 COUNTY ESSAY WINNERS

ADAMS

Christian Inniger and Danielle Parr, South Adams Middle School.

ALLEN

Curtis Mourey and Cara Schaadt, Saint Joseph Hessen Cassel School.

BARTHOLOMEW

Tyler Combs, Central Middle School.

BENTON

Josh Budreau and Carlene Widmer, Benton Central Junior/Senior High School.

BROWN

Elizabeth Collier, Brown County Junior High School.

CARROLL

Austin Meyers, Rossville Middle School.

CLARK

Evan Cunliffe and Ashleigh Smith, Silver Creek Middle School.

CLAY

Kade Chastain and Paige Stevenson, North Clay Middle School.

DEARBORN

Allison Hilton, South Dearborn Middle School.

DECATUR

Layne Sanders, Greensburg Junior/Senior High School.

FLOYD

Trey Embrey and Morgan Daniel, Our Lady of Perpetual Help School.

FRANKLIN

Alec Stalford and Morgan Blades, Mount Carmel School.

GIBSON

Jennifer Riedford, Fort Branch Community School.

GREENE

Ryan Woodward and Hannah Kocher, Linton Stockton Junior High School.

HAMILTON

Kyle Weaver, Carmel Middle School; and Julie Sinatra, Saint Maria Goretti School.

HENRY

Benjamin Rea and Cora Herbkersman, Tri Junior/Senior High School.

HOWARD

David Schaaf and Erica Plutat, Northwestern Middle School.

HUNTINGTON

Kathleen Jacobs, Riverview Middle School.

JACKSON

Matthew Zarick and Olivia Isaacs, Immanuel Lutheran School.

JASPER

Jordan Phillips and Claire Parmele, Rensselaer Middle School.

JAY

Collin Saxman and Patricia Hein, East Jay Middle School.

JENNINGS

Eric Gasper and Danielle Kirchner, Saint Mary's School.

LAKE

Hunter Ernst and Alexandra Magallon, Our Lady of Grace School.

MARSHALL

Luke Kepler and Libby Moyer, Argos Junior High School.

MIAMI

Zachary Vermillion, Maconaquah Middle School.

MONROE

Camden Sego, Batchelor Middle School.

NEWTON

Christopher McKeown and Pamela Kuechenmeister, North Newton Junior/Senior High School.

ORANGE

Jordan Cadle, Paoli Junior/Senior High School.

POSEY

William Powell and Nora Beuligmann, North Posey Junior High School.

PUTNAM

Joe Littiken and Deena Hesselgrave, Cloverdale Middle School.

RANDOLPH

Annie Chalfant, Twelve-Seven Learning Center.

RUSH

Noah Dawson, Benjamin Rush Middle School.

STARKE

William Sishman and Alivia Jensen, Oregon-Davis Junior/Senior High School.

STEUBEN

Ryder Moore and Ashley Kain, Prairie Heights Middle School.

SULLIVAN

Alek Copeland and Samantha Young, North Central Junior/Senior High School.

SWITZERLAND

Shawn Randolph and Tess Stoops, Switzerland County Middle School.

TIPPECANOE

Colton Underwood, Battle Ground Middle School; and Sarah Campbell, Saint James Lutheran School.

VANDERBURGH

Adam Kissel, Holy Redeemer School.

VIGO

Seth Black, Honey Creek Middle School.

WABASH

Blake Peterson and Erin Dawes, North Field Junior/Senior High School.

WAYNE

Carson Bailey and Nitika Agrawal, Seton Catholic School.

WELLS

Brittany Barger, Norwell Middle School.●

HONORING ARKANSAS'S OUTSTANDING MATH AND SCIENCE TEACHERS

● Mrs. LINCOLN. Madam President, today I salute two Arkansas teachers who have been named as recipients of the prestigious Presidential Award for Excellence in Mathematics and Science Teaching: Lorraine Darwin from Cabot, Math, and Karen Ladd of Jonesboro, Science. This award is given annually to the best pre-college-level science and mathematics teachers from across the country. The winners are selected by a panel of distinguished scientists, mathematicians, and educators.

Lorraine and Karen represent the best of Arkansas. Students and parents in Cabot and Jonesboro are fortunate to have them as educators and as leaders for the community. I commend their hard work and dedication to helping students learn and grow.

There is no issue more intricately connected to the future prosperity of our Nation than the quality of our educational system. A skilled and educated population is critical if we are to create new jobs in Arkansas and sustain economic growth over the long term.

Every student, regardless of background, deserves the chance to achieve his or her full potential, which can only happen with a quality education. That is why I will continue doing all I can to make high-quality education more accessible for Arkansas students and their families.

Again, congratulations to Lorraine and Karen for their dedication to education and for giving our youngest Arkansas citizens a solid foundation for future success.●

TRIBUTE TO MARK HAMILTON

● Ms. MURKOWSKI. Madam President, I wish to honor University of Alaska President Mark Hamilton on the occasion of his retirement.

A graduate of the U.S. Military Academy at West Point, Mark Hamilton served our Nation for 31 years of Active Duty as a member of the U.S. Army, retiring as major general. During his service, Hamilton helped to negotiate an end to the war in El Salvador, negotiated a period of calm with Somali warlords that allowed for the removal of the U.S. 10th Mountain Division, and advised on NATO planning related to the former Republic of Yugoslavia. In recognition of his distinguished service, Hamilton is the recipient of the Distinguished Service Medal and the Joint Distinguished Service Medal.

In 1998, shortly after retiring from the military, Mark Hamilton chose to return to his adopted State to serve as the 12th president of the University of Alaska. From the beginning, President Hamilton articulated a new vision for the university system a ''can-do, grow your own'' philosophy based on strict accountability for results. Understanding that effective leadership needs support from all stakeholders, Mark traveled the State to learn more about what Alaskans wanted from their university system and how the university could better meet the State's need for qualified graduates.

Turning vision into action, Mark led the University of Alaska to focus on being more responsive and relevant to Alaskans' needs. Throughout his tenure, President Hamilton has been guided by the following questions when making decisions for the University: Is it good for the students? Is it good for the University? Is it good for the State? Is it working? This brand of leadership has led to significantly increased support from donors, the business community, the legislature, and the public. As a result, the University of Alaska system has been able to expand degree options for students, make long-needed improvements to its facilities, increase enrollment and student retention, and increase the number of degree-seeking students who graduate.

Realizing that the success of University of Alaska graduates, and hence the future of our State, is inextricably linked to the preparation students receive in our K–12 schools, Mark next turned his attention to entering into collaborative partnerships for teacher recruitment, preparation, and mentoring programs to ''grow our own'' teachers. He initiated the UA Scholars Program—a full ride scholarship for the top graduates from every high school in the State. Mark also made it a priority to enthusiastically participate in statewide and legislative discussions concerning improving Alaska's K–12 schools and increasing our high school graduation rate.

I could go on and on describing the positive changes Mark Hamilton has spearheaded and supported during his 12 years as president of the University of Alaska. It is sufficient, I think, to say Mark Hamilton has been the crucial force needed to bring the University of Alaska into the 21st century and to set our public university system on a path to make a positive difference in the lives of individuals and the future of our State.

On behalf of the entire Senate, I thank University of Alaska President Mark Hamilton for his many years of service to our Nation and to my State of Alaska, and I wish him well as he is finally able to spend more time with his wife Patty, his four children—Daniel, Kathy, Clay and Doug—and his 10 grandchildren: Renee, Avery, Paige, Max, Archie, Henry, Aubrey, Luke, Lauryn, and Mark.●

TRIBUTE TO CHESTER CHARLES MOELLER, II

● Mr. SESSIONS. Madam President, I wish to tell you about a true leader in Alabama sports, Chet Moeller of Montgomery, AL, who was inducted into the College Football Hall of Fame on May 27, 2010.

Mr. Moeller first gained national recognition for his gridiron accomplishments at the Naval Academy in 1975, where he was elected unanimously as the First Team All-America Eastern College Athletic Conference All-Conference Player of the Year. He continued on to become a two-time ECAC selection and a Naval Academy Athletic Association Sword recipient. In 3 seasons with the Midshipmen, Mr. Moeller averaged 92 tackles per season. He also served as cocaptain of the 1975 team, which won more games than any Midshipmen squad since the 1963 team that played for the national championship. He proved to be a leader in the classroom as well as he was a Second Team Academic All-American.

Mr. Moeller's induction is no small feat. He was selected by more than

12,000 National Football Foundation members and current members of the College Football Hall of Fame. The votes were submitted to the National Football Federation's Honors Court, which deliberated and selected a class from among the 4.72 million Americans who have played college football. To date, only 866 players have earned this prestigious honor.

The discipline and dedication Mr. Moeller developed on the field were applied as he faithfully served his country as a first lieutenant in the U.S. Marine Corps. He has also served his community as a board member for the Fellowship of Christian Athletes and as a deacon in his church. He is currently serving as a church elder. He and his wife Jenny have resided in Montgomery, AL, for over 30 years. They have two children: Trey, who played football for the University of Virginia, and Rachael, who attended Auburn University.

I commend Mr. Moeller for all of his accomplishments and successes. I share with this body today my pleasure in congratulating Mr. Moeller for this prestigious honor, as he is certainly a worthy recipient.●

REMEMBERING WORLD WAR II HEROES

● Mr. INHOFE. Madam President, I wish today to honor and remember all of those magnificent heroes, and their families, who fought and died on D-day during World War II. I ask that this poem penned by Albert Caswell, of the guide service, be printed in the RECORD in remembrance of their selfless sacrifice and service to our Nation, on the upcoming 66th anniversary of D-day on June 6, 1944.

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

ON THESE BEACHES

On These Beaches. . . .
Goodness! Evil! Darkness! Light!
Those Brave Hearts . . .
Who, evil must fight!
Who, bring the light!
On These Beaches!
Which, now so beseech us. . . .
All at the very height . . .
Of what a heart can reach this!
''D'' Day!
As a time as when, all those hearts so prayed . . .
Heading, into those shores . . .
As sure death, so lie before. . . .
All On Those Beaches!
While, against all odds . . .
All in their fine cause. . . .
All in their most selfless sacrifice, these most brilliant of all lights!
That which now, so teach us!
Of what happened, All On These Beaches. . . .
''D'' Day, as a time as when . . .
Mere men, became like Gods. . . . so then!
All in their actions!
Dropping from the air, heroes everywhere. . . .
All in their deeds, all for freedom's seeds. . . .
As into, those bloody shores they waded. . . .
As but, all of their fine lives., they so gave it!
As the ocean turned red. . . .
As they so died, and bled. . . .
All in what . . .
Their most magnificent of all hearts, so said!
Chapter and verse. . . .
So many acts of valor and courage, against the worst. . . .
All about a human being's, True Worth!
Of what, out to all of our souls so teaches!
''D'' Day. . . .
All On These Beaches . . .
Their Most Heroic Bodies, strewn into pieces . . .
As everywhere the dark stench of death beseeches!
So greets us!
As lies beneath us, Upon These Beaches. . . .
War is Hell, and Hell is War. . . .
Is that not what Heaven is for?
On These Beaches. . . .
Sights and sounds, men dare not repeat! This!
So, buried now . . . all in their hearts and souls of honor, so carried deep! This!
As awaken in cold sweats, from their most restless sleeps! This!
As for them, we now so weep! This!
As forever, in your hearts . . . we pray you keep . . . This!
Of what, all of these magnificent men so did for us. . . .
To Save The World!
All On These Beaches!
As on this day. . . .
I bid you, I but ask you to kneel and pray . . .
And never forget, what happened on that day!
On These Beaches!●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Select Committee on Intelligence.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on June 1, 2010, during the adjournment of the Senate, received a message from the House announcing that the Speaker has signed the following enrolled bill:

H.R. 5330. An act to amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 6, 2009, the following enrolled bills, previously signed by the Speaker of the House, were signed on June 1, 2010, during the adjournment of the Senate, by the President pro tempore (Mr. BYRD):

H.R. 2711. An act to amend title 5, United States Code, to provide for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties.

H.R. 3250. An act to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the ''Private First Class Garfield M. Langhorn Post Office Building''.

H.R. 3634. An act to designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the ''George Kell Post Office''.

H.R. 3892. An act to designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the ''E.V. Wilkins Post Office''.

H.R. 4017. An act to designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the ''Ann Marie Blute Post Office''.

H.R. 4095. An act to designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the ''Congresswoman Jan Meyers Post Office Building''.

H.R. 4139. An act to designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the ''Sergeant Matthew L. Ingram Post Office''.

H.R. 4214. An act to designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the ''Roy Wilson Post Office''.

H.R. 4238. An act to designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the ''W.D. Farr Post Office Building''.

H.R. 4425. An act to designate the facility of the United States Postal Service located at 2–116th Street in North Troy, New York, as the ''Martin G. 'Marty' Mahar Post Office''.

H.R. 4547. An act to designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the ''Captain Luther H. Smith, U.S. Army Air Forces Post Office''.

H.R. 4628. An act to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the ''Sergeant Christopher R. Hrbek Post Office Building''.

MEASURES DISCHARGED

The following bill was discharged from the Committee on Environment and Public Works, and placed on the calendar:

S.J. Res. 26. A joint resolution disapproving a rule submitted by the Environmental Protection Agency relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act.

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–5989. A communication from the Director of the Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Conservation Reserve Program; Transition Incentives Program'' (RIN0560–AH80) received in the Office of the President of the Senate on May 26,

2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5990. A communication from the First Vice President, Controller and Chief Accounting Officer, Federal Home Loan Bank of Boston, transmitting, pursuant to law, the Bank's 2009 Management Report and statement on the system of internal control; to the Committee on Banking, Housing, and Urban Affairs.

EC–5991. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a six–month periodic report on the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–5992. A communication from the Senior Vice President and Chief Financial Officer, Federal Home Loan Bank of San Francisco, transmitting, pursuant to law, the Bank's 2009 Management Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–5993. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (FEMA–B–1118)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5994. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5995. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility (FEMA–8131)'' ((44 CFR Part 64)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5996. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5997. A communication from the General Counsel, Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Affordable Housing Program Amendments: Federal Home Loan Bank Mortgage Refinancing Authority'' (RIN2590–AA04) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5998. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD'' ((RIN1625–AA00)(Docket No. USG–2010–0133)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5999. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Extended Debris Removal in the Lake Champlain Bridge Construction Zone (between Vermont and New York), Crown Point, NY'' ((RIN1625–AA00)(Docket No. USG–2010–0271)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6000. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Lake Havasu Grand Prix, Lake Havasu, AZ'' ((RIN1625–AA00)(Docket No. USG–2010–0116)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6001. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; FRONTIER DISCOVERER, Outer Continental Shelf Drillship, Chukchi and Beaufort Sea, Alaska'' ((RIN1625–AA00)(Docket No. USG–2009–0955)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6002. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; BWRC Spring Classic, Parker, AZ'' ((RIN1625–AA00)(Docket No. USG–2009–1111)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6003. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Neuse River, New Bern, NC'' ((RIN1625–AA00)(Docket No. USG–2010–0256)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6004. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; 2010 Veterans Tribute Fireworks, Lake Charlevoix, Boyne City, MI'' ((RIN1625–AA00)(Docket No. USG–2010–0177)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6005. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Fireworks Display, Patuxent River, Solomons Island Harbor, MD'' ((RIN1625–AA00)(Docket No. USG–2010–0179)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6006. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Potomac River, Washington Channel, Washington, DC'' ((RIN1625–AA87)(Docket No. USG–2010–0050)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6007. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Calcasieu River and Ship Channel, LA'' ((RIN1625–AA87)(Docket No. USG–2009–0317)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6008. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events; Chester River, Chestertown, MD'' ((RIN1625–AA08)(Docket No. USG–2010–0081)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6009. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Port of Portland Terminal 4, Willamette River, Portland, OR'' ((RIN1625–AA11)(Docket No. USG–2009–0370)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6010. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Inland Navigation Rules'' ((RIN1625–AB43)(Docket No. USG–2009–0948)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6011. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures'' (RIN0648–AY78; RIN0648–AY59) received in the Office of the President of the Senate on May 20, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6012. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fisheries; 2010 Atlantic Deep-Sea Red Crab Specifications'' (RIN0648–AY51) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6013. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' (RIN0648–XW20) received in the Office of the President of the Senate on May 20, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6014. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closures in the Southeast Region Due to the Deepwater Horizon Oil Spill; Amendment 2'' (RIN0648–AY90) received in the Office of the President of the Senate on May 25, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6015. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (204); Amdt. No. 3372'' (RIN2120–AA65) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6016. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (13); Amdt. No. 3373'' (RIN2120–AA65) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6017. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CFM International, S.A. CFM56–5B1/P, –5B2/P, –5B3/P, –5B3/P1, –5B4/P, –5B5/P, –5B6/P, –5B7/P, –5B8/P, –5B9/P, –5B1/2P, –5B2/2P, –5B3/2P, –5B3/2P1, –5B4/2P, –5B4/P1, –5B6/2P, –5B4/2P1, and –5B9/2P Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2008–1353)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6018. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE SYSTEMS (Operations) Limited Model BAe 146–100A, –200A, and –300A Series Airplanes, and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–1250)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6019. 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, B2–203, B2K–3C, B4–103, B4–203, B4–2C, Airplanes; Model A310 Series Airplanes; and Model A300 B4–601, B4–603, B4–605R, B4–620, B4–622, and B4–622R Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0789)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6020. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; DASSAULT AVIATION Model FALCON 900EX and MYSTERE–FALCON 900 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2000–NM–418)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6021. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; GA 8 Airvan (Pty) Ltd Models GA8 and GA8–TC320 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0463)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6022. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Corporation Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0032)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6023. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model DHC–8–400 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0435)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6024. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Jet Route J–3; Spokane, WA'' ((RIN2120–AA66)(Docket No. FAA–2010–0008)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6025. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Part 95 Instrument Flight Rules (61); Amdt. No. 487'' (RIN2120–AA63) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6026. 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; Emmetsburg, IA'' ((RIN2120–AA66)(Docket No. FAA–2009–1153)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6027. 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; Mapleton, IA'' ((RIN2120–AA66)(Docket No. FAA–2009–1155)) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6028. A communication from the Assistant Chief Counsel for General Law, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Incorporation of Special Permits into Regulations'' (RIN2137–AE39) received in the Office of the President of the Senate on May 24, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6029. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to funding made available under the American Recovery and Reinvestment Act of 2009; to the Committee on Commerce, Science, and Transportation.

EC–6030. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulation: Subchapter E—General Contracting Requirements, Subchapter F—Special Categories of Contracting, and Subchapter G—Contract Management'' (RIN1991–AB88) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Energy and Natural Resources.

EC–6031. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife; Sea Turtle Conservation; 2010 Annual Determination for Sea Turtle Observer Requirement'' (RIN0648–XP96) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Environment and Public Works.

EC–6032. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Volkswagen Hybrid Vehicle Credit Phase Out'' (Notice No. 2010–42) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Finance.

EC–6033. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualifying Therapeutic Discovery Project Credit'' (Notice No. 2010–45) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Finance.

EC–6034. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Diversification Requirements for Certain Defined Contribution Plans'' ((RIN1545–BH04)(TD9484)) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Finance.

EC–6035. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Examination of Dividends Received Deduction on Separate Accounts of Life Insurance Companies—Industry Director Directive'' (LMSB–4–0510–015) received in the Office of the President of the Senate on May 27, 2010; to the Committee on Finance.

EC–6036. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including, technical data, and defense services to Algeria to support the avionics modernization of seventeen C–130H simulators in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–121. A concurrent resolution adopted by the Legislature of the State of Louisiana urging Congress to work with the leadership of the United States dairy industry to identify measures, including change to federal policies and programs, to minimize price volatility risks now being experienced by dairy farmers across the United States; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE CONCURRENT RESOLUTION NO. 25

Whereas, the current absence of profitable prices in the dairy industry for farmers, coupled with an outdated regulatory apparatus, is causing an economic crisis in the dairy industry; and

Whereas, dairy farm prices are at their lowest level in more than thirty years, while producers' operating costs have steadily risen, exacerbated by the rise in energy prices and feed costs; and

Whereas, milk and dairy products are considered to be essential food and beverage items and basic nutritional building blocks; and

Whereas, there is a need for an immediate examination of existing federal programs and policies impacting the dairy industry in order to develop approaches that better help to stabilize farm incomes, and hence benefit farmers as well as local communities and local infrastructure; and

Whereas, there is a renewed recognition by dairy farm and dairy industry leaders from all sections of the United States that the current pricing crisis is not of benefit to farmers or their customers, including cooperatives, processors, retailers, and consumers; and

Whereas, the Louisiana Legislature recognizes the importance of an economically viable dairy industry, and its benefit to local economies as well as the national economy: Therefore, be it

Resolved, That the Legislature of Louisiana Memorializes the Congress of the United States to work with the leadership of the United States dairy industry, including the leadership of its two major trade organizations, the National Milk Producers Federation and the International Dairy Foods Association, to take steps to bring all industry leaders together immediately to identify measures, including change to federal polices and programs, to minimize price volatility risks now being experienced by dairy farmers across the United States; be it further

Resolved, That Congressional leadership be urged to work cooperatively with the United States Secretary of Agriculture and his staff on these issues insomuch as federal policies and procedures have an impact on domestic and international dairy prices; be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–122. A concurrent resolution adopted by the Legislature of the State of Louisiana urging Congress to support continued investment and progress in implementing the ''Action Plan for Reducing Hypoxia in the North Gulf of Mexico'' by expanding cooperative activities throughout the Mississippi River Basin; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 40

Whereas, the spread of a large annual hypoxia zone in the Gulf of Mexico poses a significant threat to the health of Louisiana's productive coastal fishery and the communities and parishes who depend on it; and

Whereas, the state of Louisiana has participated in the national effort to reduce the spread of Gulf hypoxia since the formation of the federal-state Mississippi River/Gulf of Mexico Watershed Nutrient Task Force in 1998; and

Whereas, the Louisiana Legislature has memorialized the Congress and the President of the United States to fulfill their commitment to address this problem through the cooperative framework of the Action Plan for Reducing Hypoxia in the Northern Gulf of Mexico, in House Concurrent Resolution 80 of the 2007 Regular Session of the Legislature of Louisiana and House Concurrent Resolution 148 of the 2009 Regular Session of the Legislature of Louisiana; and

Whereas, the launching of the Mississippi River Basin Healthy Watersheds Initiative by the United States Department of Agriculture in 2009, marks the first targeted federal funding for implementation activities of the Action Plan since it was signed in 2001; and

Whereas, Louisiana has joined the other states in the Mississippi River Basin who are participating in this initiative to engage partners and stakeholders in nominating watersheds to receive federal funding under this program; and

Whereas, the President's Budget for Fiscal Year 2011, also contains funding dedicated to Action Plan implementation activities under the budget of the United States Environmental Protection Agency; and

Whereas, our neighboring state of Mississippi has accepted the role of co-chair of the Mississippi River/Watershed Nutrient Task Force, continuing their active collaboration with Louisiana and federal and basin partners to address problems affecting each state's coast and the Gulf of Mexico; and

Whereas, these steps represent a significant acceleration of progress, while all parties involved recognize that much more remains to be done to reverse the spread of Gulf hypoxia, which requires Congressional participation and support: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to support continued investment and progress in implementing the Action Plan for Reducing Hypoxia in the North Gulf of Mexico by expanding cooperative activities throughout the Mississippi River Basin; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives, each member of the Louisiana delegation to the Congress of the United States, and the presiding officers of the Senate and the House of Representatives of the Congress of the United States.

REPORTS OF COMMITTEES DURING ADJOURNMENT

Under the authority of the order of the Senate of May 28, 2010, the following reports of committees were submitted on June 4, 2010:

By Mr. LEVIN, from the Committee on Armed Services, without amendment:

S. 3454. An original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes (Rept. No. 111–201).

S. 3455. An original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, to prescribe military personnel strengths for such fiscal year, and for other purposes.

S. 3456. An original bill to authorize appropriations for fiscal year 2011 for military construction, and for other purposes.

S. 3457. An original bill to authorize appropriations for fiscal year 2011 for defense activities of the Department of Energy, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS DURING ADJOURNMENT

On June 4, 2010, under the authority of the order of the Senate of May 28, 2010, the following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 3454. An original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. LEVIN:

S. 3455. An original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, to prescribe military personnel strengths for such fiscal year, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. LEVIN:

S. 3456. An original bill to authorize appropriations for fiscal year 2011 for military construction, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. LEVIN:

S. 3457. An original bill to authorize appropriations for fiscal year 2011 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

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 Ms. LANDRIEU (for herself and Mr. CARDIN):

S. 3458. A bill to improve the program under section 8(a) of the Small Business Act and to establish a surety bond pilot program; to the Committee on Small Business and Entrepreneurship.

By Mrs. SHAHEEN (for herself and Mr. COCHRAN):

S. 3459. A bill to amend the Workforce Investment Act of 1998 to authorize additional funding for on-the-job training; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANDERS (for himself, Mr. SPECTER, Mr. CARDIN, Mr. WHITEHOUSE, Mr. KAUFMAN, Mrs. GILLIBRAND, Ms. STABENOW, Mr. LEAHY, Mrs. BOXER, Mr. CASEY, Mr. HARKIN, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. MERKLEY, and Mr. KERRY):

S. 3460. A bill to require the Secretary of Energy to provide funds to States for rebates, loans, and other incentives to eligible individuals or entities for the purchase and installation of solar energy systems for properties located in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 3461. A bill to create a fair and efficient system to resolve claims of victims for economic injury caused by the Deepwater Horizon incident, and to direct the Secretary of the Interior to renegotiate the terms of the lease known as ''Mississippi Canyon 252'' with respect to claims relating to the Deepwater Horizon explosion and oil spill that exceed existing applicable economic liability limitations; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 46

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 987

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1353

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1353, a bill to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1986 to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits.

S. 1743

At the request of Mr. SANDERS, his name was added as a cosponsor of S. 1743, a bill to amend the Internal Revenue Code of 1986 to expand the rehabilitation credit, and for other purposes.

S. 1788

At the request of Mr. FRANKEN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1788, a bill to direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, direct-care registered nurses, and all other health care workers by establishing a safe patient handling and injury prevention standard, and for other purposes.

S. 2778

At the request of Mrs. BOXER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 2778, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes.

S. 2920

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2920, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 2947

At the request of Mr. CARPER, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2947, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from California (Mrs. BOXER) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3087

At the request of Mr. LUGAR, his name was added as a cosponsor of S. 3087, a bill to support revitalization and reform of the Organization of American States, and for other purposes.

S. 3102

At the request of Mr. MERKLEY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3102, a bill to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

S. 3175

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3175, a bill to amend the Omnibus Budget Reconciliation Act of 1993 to require the Bureau of Land Management to provide a claimant of a small miner waiver from claim maintenance fees with a period of 60 days after written receipt of 1 or more defects is provided to the claimant by registered mail to cure the 1 or more defects or pay the claim maintenance fee, and for other purposes.

S. 3197

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3197, a bill to require a plan for the safe, orderly, and expeditious redeployment of United States Armed Forces from Afghanistan.

S. 3201

At the request of Mr. UDALL of Colorado, the name of the Senator from Iowa (Mr. HARKIN) 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. 3235

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 3235, a bill to amend the Act titled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior.

S. 3295

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3295, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

S. 3305

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

S. 3324

At the request of Mr. BROWN of Ohio, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3324, a bill to amend the Internal Revenue Code of 1986 to extend the qualifying advanced energy project credit.

S. 3334

At the request of Mr. BURR, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3334, a bill to amend the Internal Revenue Code of 1986 to exempt survivor benefit annuity plan payments from the individual alternative minimum tax.

S. 3339

At the request of Mr. KERRY, the names of the Senator from Colorado (Mr. UDALL) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 3339, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 3341

At the request of Mr. CARDIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3341, a bill to amend title 5, United States Code, to extend eligibility for coverage under the Federal Employees Health Benefits Program with respect to certain adult dependents of Federal employees and annuitants, in conformance with amendments made by the Patient Protection and Affordable Care Act.

S. 3371

At the request of Mrs. MCCASKILL, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 3371, a bill to amend title 10, United States Code, to improve access to mental health care counselors under the TRICARE program, and for other purposes.

S. 3393

At the request of Mr. BROWN of Ohio, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3393, a bill to provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act.

S. 3401

At the request of Mr. BURR, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 3401, a bill to provide for the use of unobligated discretionary stimulus dollars to address AIDS Drug Assistance Program waiting lists and other cost containment measures impacting State ADAP programs.

S. 3434

At the request of Mr. BINGAMAN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 3434, a bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 63

At the request of Mr. JOHNSON, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. CARDIN):

S. 3458. A bill to improve the program under section 8(a) of the Small Business Act and to establish a surety bond pilot program; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, along with my distinguished colleague Senator Benjamin Cardin of Maryland, I rise today to introduce the Section 8(a) Improvements Act of 2010. As the Chair of the Committee on Small Business and Entrepreneurship, I have held a number of hearings and roundtables on the issues affecting small businesses that contract with the Federal Government. The Committee has repeatedly heard from small businesses throughout the country that more needs to be done to level the playing field and help our small businesses win Federal contracts. The legislation that I am introducing today seeks to improve access to Federal contracts for small businesses, particularly for socially and economically disadvantaged small businesses. It also represents the third in a series of steps that the Committee is taking to address the disparities and inequalities that currently exist in the Federal procurement process.

As I have explained in previous statements before this chamber, as the largest purchaser in the world, the Federal Government is uniquely positioned to offer new and reliable business opportunities for our small firms. Government contracts are one of the easiest and most inexpensive ways the government can help to immediately increase sales for America's entrepreneurs, leading to the creation of new jobs and helping to move our economy forward. When large businesses get government contracts, they are able to absorb that new work into their existing workforce. When small businesses get government work they must ''staff up'' to meet the increased demand. By increasing contracts to small businesses by just 1 percent, we can create more than 100,000 new jobs. Today, we need those jobs more than ever.

But the reality is that small businesses need all the help they can get when it comes to accessing Federal contracts. Small businesses face significant challenges in competing for these opportunities, including a maze of complicated regulations, contract bundling issues, size standards with loopholes for big businesses, and a lack of protections for sub-contractors. Despite the fact that Federal agencies have a statutory goal to spend 23 percent of their contract dollars on contracts to small firms, in recent years the government has often fallen short.

For example, according to the Federal Procurement Data System, in fiscal year 2007 the Federal Government missed its 23 percent contracting goal by .992 percent. That .992 percent doesn't sound like much, but in reality it represents more than $3.74 billion and 93,500 jobs lost for small businesses. In fiscal year 2008, the Federal Procurement Data System reported that the government missed its goal by 1.51 percent, meaning more than $6.51 billion and 162,700 jobs lost for our small businesses. At a time when more than 15 million Americans are still out of work, merely meeting that 23 percent goal could mean food on the table for a family struggling to make ends meet.

Clearly we need to do better when it comes to helping our small businesses access Federal contracting opportunities. Even under the best of circumstances our small businesses face significant challenges when seeking Federal contracting opportunities. But these challenges are further compounded for small businesses that face additional obstacles, particularly those that are socially and economically disadvantaged.

The Section 8(a) Improvements Act of 2010 attempts to help socially and economically disadvantaged firms in three ways. First, it makes long overdue and much needed adjustments to the average annual income and net worth thresholds currently in place. Since the establishment of the 8(a) program over 30 years ago, these thresholds have not been significantly updated to account for inflation, placing unrealistic limits on the number of small businesses that are eligible to participate in the program.

Additionally, this legislation requires the SBA to establish maximum net worth thresholds for socially and economically disadvantaged small businesses working in the manufacturing, construction, professional services, and general services industries. Small businesses working in these industries simply face different business conditions as well as higher business costs, which prevent them from participating in the 8(a) program. Making this simple fix will open the program up to a wide array of qualified small businesses.

Secondly, this legislation builds upon the previously mentioned adjustments to the net worth and income thresholds, by extending the amount of time under which a business can participate in the program. For all of the success that many small businesses experience while participating in the program, upon graduation as many as 70 percent see their businesses fail within several years. By establishing a transition period, businesses that have graduated from the program can continue receiving developmental assistance for up to 3 years after graduation, providing them with much needed stability as they seek to transition their business operations.

The third way this legislation attempts to improve contracting opportunities for small businesses is through the creation of a Surety Bond Pilot Program. Under the program, the SBA can guarantee 90 percent of surety bonds, protecting small businesses against any loss resulting from a breach of the terms on a bond. To supplement the guarantee and help put these small businesses in a stronger position to succeed upon graduation from the 8(a) program, the legislation also requires the SBA to provide educational training and technical assistance on a wide range of topics. Finally, the legislation establishes a revolving fund to support the program, and also creates an advisory board to oversee and evaluate the effectiveness and performance of the program.

It is well past time to provide greater opportunities for the thousands of

small business owners who wish to do business with the Federal Government. The Section 8(a) Improvements Act of 2010 represents another significant step towards opening those doors of opportunity, especially for those small businesses that need a little more help. I thank Senator CARDIN for his leadership on this issue, and I hope that all of my colleagues will join us in supporting this important legislation as we work to bring it to the President's desk in the coming months.

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. 3458

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 ''Section 8(a) Improvements Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Despite the significant progress businesses owned by socially and economically disadvantaged individuals have made as a result of the business development program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), such businesses remain subject to discrimination that creates substantial barriers to success in the marketplace. The business development program under section 8(a) of the Small Business Act reflects the commitment of the Nation to eradicating discriminatory barriers to the formation and development of viable businesses by socially and economically disadvantaged individuals.

(2) Recent evidence presented in Congressional hearings, roundtables, and academic studies demonstrates, among other things, the following:

(A) Significant disparities still exist between the number, size, and income of businesses owned by socially and economically disadvantaged individuals and other businesses. These disparities remain even after controlling for factors such as industry, geography, education, age, and labor market status.

(B) Discrimination still limits the ability of socially and economically disadvantaged individuals to access capital. Socially and economically disadvantaged individuals are more often denied loans than individuals who are not minorities, and often pay higher rates of interest on small business loans.

(C) Socially and economically disadvantaged individuals who own businesses often experience—

(i) discrimination from prime contractors and exclusion from critical business networks; and

(ii) discrimination by bonding companies and suppliers that impedes the ability of the businesses to compete equally for Government contracts.

SEC. 3. DEFINITIONS.

In this Act, the terms ''Administration'' and ''Administrator'' means the Small Business Administration and the Administrator thereof, respectively.

SEC. 4. PROGRAMS FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS.

(a) NET WORTH THRESHOLD.—

(1) IN GENERAL.—Section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)) is amended—

(A) by inserting ''(i)'' after ''(6)(A)'';

(B) by striking ''In determining the degree of diminished credit'' and inserting the following:

''(ii)(I) In determining the degree of diminished credit'';

(C) by striking ''In determining the economic disadvantage'' and inserting the following:

''(iii) In determining the economic disadvantage''; and

(D) by inserting after clause (ii)(I), as so designated by this section, the following:

''(II)(aa) Not later than 1 year after the date of enactment of the Section 8(a) Improvements Act of 2010, the Administrator shall—

''(AA) assign each North American Industry Classification System industry code to a category described in item (cc); and

''(BB) for each category described in item (cc), establish a maximum net worth for the socially disadvantaged individuals who own or control small business concerns in the category that participate in the program under this subsection.

''(bb) The maximum net worth for a category described in item (cc) shall be not less than the modified net worth limitations established by the Administrator under section 4(a)(2) of the Section 8(a) Improvements Act of 2010.

''(cc) The categories described in this item are—

''(AA) manufacturing;

''(BB) construction;

''(CC) professional services; and

''(DD) general services.

''(III) The Administrator shall establish procedures that—

''(aa) account for inflationary adjustments to, and include a reasonable assumption of, the average income and net worth of the owners of business concerns that are dominant in the field of operation of the business concern; and

''(bb) require an annual inflationary adjustment to the average income and maximum net worth requirements under this clause.

''(IV) In determining the assets and net worth of a socially disadvantaged individual under this subparagraph, the Administrator shall not consider any assets of the individual that are held in a qualified retirement plan, as that term is defined in section 4974(c) of the Internal Revenue Code of 1986.''.

(2) TEMPORARY INFLATIONARY ADJUSTMENT.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator shall modify the net worth limitations established by the Administrator for purposes of the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) by adjusting the amount of the net worth limitations for inflation during the period beginning on the date on which the Administrator established the net worth limitations and the date of enactment of this Act.

(B) TERMINATION.—The Administrator shall apply the net worth limitations established under subparagraph (A) until the effective date of the net worth limitations established by the Administrator under clause (ii)(II) of section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)), as added by this subsection.

(b) TRANSITION PERIOD.—Section 7(j)(15) of the Small Business Act (15 U.S.C. 636(j)(15)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking ''Subject to'' and inserting ''(A) Except as provided in subparagraph (B), and subject to''; and

(3) by adding at the end the following:

''(B)(i) A small business concern may receive developmental assistance under the Program and contracts under section 8(a) during the 3-year period beginning on the date on which the small business concern graduates—

''(I) because the small business concern has participated in the Program for the total period authorized under subparagraph (A); or

''(II) under section 8(a)(6)(C)(ii), because the socially disadvantaged individuals who own or control the small business concern have a net worth that is more than the maximum net worth established by the Administrator.

''(ii) After the end of the 3-year period described in clause (i), a small business concern described in clause (i)—

''(I) may not receive developmental assistance under the Program or contracts under section 8(a); and

''(II) may continue to perform and receive payment under a contract received by the small business concern under section 8(a) before the end of the period, under the terms of the contract.''.

(c) GAO STUDY.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end the following:

''(22) REVIEW OF EFFECTIVENESS.—

''(A) GAO STUDY.—Not later than 5 years after the date of enactment of this paragraph, and every 5 years thereafter, the Comptroller General of the United States shall—

''(i) conduct an evaluation of the effectiveness of the program under this subsection, including an examination of—

''(I) the number and size of contracts applied for, as compared to the number received by, small business concerns after successfully completing the program;

''(II) the percentage of small business concerns that continue to operate during the 3-year period beginning on the date on which the small business concerns successfully complete the program;

''(III) whether the business of small business concerns increases during the 3-year period beginning on the date on which the small business concerns successfully complete the program; and

''(IV) the number of training sessions offered under the program; and

''(ii) submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding each evaluation under clause (i).

''(B) SBA REPORT.—Not later than 1 year after the date of enactment of this paragraph, and every year thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report evaluating the program under this section, including an assessment of—

''(i) the regulations promulgated to carry out the program;

''(ii) online training under the program; and

''(iii) whether the structure of the program is conducive to business development.''.

SEC. 5. SURETY BOND PILOT PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the terms ''bid bond'', ''payment bond'', ''performance bond'', and ''surety'' have the meanings given those terms in section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a);

(2) the term ''Board'' means the pilot program advisory board established under subsection (d)(1);

(3) the term ''eligible small business concern'' means a socially and economically disadvantaged small business concern that is

participating in the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(4) the term ''Fund'' means the Small Business Surety Bond Pilot Program Fund established under subsection (e)(1);

(5) the term ''graduated'' has the meaning given that term in section 7(j)(10)(H) of the Small Business Act (15 U.S.C. 636(j)(10)(H));

(6) the term ''pilot program'' means the surety bond pilot program established under subsection (b)(1); and

(7) the term ''socially and economically disadvantaged small business concern'' has the meaning given that term in section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(b) PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a surety bond pilot program under which the Administrator may guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by an eligible small business concern.

(2) GUARANTEE PERCENTAGE.—A guarantee under the pilot program shall obligate the Administration to pay to a surety 90 percent of the loss incurred and paid by the surety.

(3) APPLICATION.—An eligible small business concern desiring a guarantee under the pilot program shall submit an application at such time, in such manner, and accompanied by such information as the Administrator may require.

(4) REVIEW.—A surety desiring a guarantee under the pilot program against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto by an eligible small business concern shall—

(A) submit to the Administrator a report evaluating whether the eligible small business concern meets such criteria as the Administrator may establish relating to whether a bond should be issued to the eligible small business concern; and

(B) if the Administrator does not guarantee the surety against loss, submit an update of the report described in subparagraph (A) every 6 months.

(c) TECHNICAL ASSISTANCE AND EDUCATIONAL TRAINING.—

(1) IN GENERAL.—The Administrator shall provide technical assistance and educational training to an eligible small business concern participating in the pilot program or desiring to participate in the pilot program for a period of not less than 3 years, to promote the growth of the eligible small business concern and assist the eligible small business concern in promoting job development.

(2) TOPICS.—

(A) TECHNICAL ASSISTANCE.—The technical assistance under paragraph (1) shall include assistance relating to—

(i) scheduling of employees;

(ii) cash flow analysis;

(iii) change orders;

(iv) requisition preparation;

(v) submitting proposals;

(vi) dispute resolution; and

(vii) contract management.

(B) EDUCATIONAL TRAINING.—The educational training under paragraph (1) shall include training regarding—

(i) accounting;

(ii) legal issues;

(iii) infrastructure;

(iv) human resources;

(v) estimating costs;

(vi) scheduling; and

(vii) any other area the Administrator determines is a key area for which training is needed for eligible small business concerns.

(d) PANEL.—

(1) ESTABLISHMENT.—The Administrator shall establish a pilot program advisory board to evaluate and make recommendations regarding the pilot program.

(2) MEMBERSHIP.—The Board shall be composed of 5 members—

(A) who shall be appointed by the Administrator;

(B) not less than 2 of whom shall have graduated from the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)); and

(C) not more than 1 of whom may be an officer or employee of the Administration.

(3) DUTIES.—The Board shall—

(A) evaluate and make recommendations to the Administrator regarding the effectiveness of the pilot program;

(B) make recommendations to the Administrator regarding performance measures to evaluate eligible small business concerns applying for a guarantee under the pilot program; and

(C) not later than 90 days after the date on which all members of the Board are appointed, and every year thereafter until the authority to carry out the pilot program terminates under subsection (f), submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the activities of the Board.

(e) FUND.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a revolving fund to be known as the ''Small Business Surety Bond Pilot Program Fund'', to be administered by the Administrator.

(2) AVAILABILITY.—Amounts in the Fund shall be available without fiscal year limitation or further appropriation by Congress.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $20,000,000.

(4) RESCISSION.—Effective on the day after the date on which the term of all guarantees made under the pilot program have ended, all amounts in the Fund are rescinded.

(f) TERMINATION.—The Administrator may not guarantee a surety against loss under the pilot program on or after the date that is 7 years after the date the date on which the Administrator makes the first guarantee under the pilot program.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4300. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4300. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie ont he table; as follows:

At the end of the bill, add the following:

TITLE ____—RETURNING SPENDING LEVELS TO 2007 LEVELS

SEC. ___01. EXPEDITED CONSIDERATION.

(a) 2007 SPENDING BILL.—For purposes of this title, the term ''2007 spending bill'' means a bill that reduces outlays for the fiscal year beginning in the year in which the bill is considered to levels not exceeding the levels for fiscal year 2007. The bill may not increase revenues.

(b) EXPEDITED CONSIDERATION OF 2007 SPENDING BILL.—

(1) INTRODUCTION OF 2007 SPENDING BILL.—A 2007 spending bill may be introduced in the House of Representatives and in the Senate not later than July 12, 2010, or any time after the first day of a session for any year thereafter by the majority leader of each House of Congress. If 5 session days after July 12 in 2010 or after the first day of session any year thereafter the majority leader has not introduced a bill, the minority leader of each House of Congress may introduce a 2007 spending bill (during this time the majority leader may not introduce a 2007 spending bill). If a 2007 spending bill is not introduced in accordance with the preceding sentence in either House of Congress within 5 session days, then any Member of that House may introduce a 2007 spending bill on any day thereafter. Upon introduction, the 2007 spending bill shall be referred to the relevant committees of jurisdiction.

(2) COMMITTEE CONSIDERATION.—The committees to which the 2007 spending bill is referred shall report the 2007 spending bill without any revision and with a favorable recommendation, an unfavorable recommendation, or without recommendation, not later than 30 calendar days after the date of introduction of the bill in that House, or the first day thereafter on which that House is in session. If any committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

(3) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(A) PROCEEDING TO CONSIDERATION.—It shall be in order, not later than 7 days of session after the date on which an 2007 spending bill is reported or discharged from all committees to which it was referred, for the majority leader of the House of Representatives or the majority leader's designee, to move to proceed to the consideration of the 2007 spending bill. It shall also be in order for any Member of the House of Representatives to move to proceed to the consideration of the 2007 spending bill at any time after the conclusion of such 7-day period. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the 2007 spending bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(B) CONSIDERATION.—The 2007 spending bill shall be considered as read. The previous question shall be considered as ordered on the 2007 spending bill to its passage without intervening motion except 50 hours of debate, equally divided and controlled by the proponent and an opponent. A motion to limit debate shall be in order during such debate. A motion to reconsider the vote on passage of the 2007 spending bill shall not be in order.

(C) APPEALS.—Appeals from decisions of the chair relating to the application of the Rules of the House of Representatives to the procedure relating to the 2007 spending bill shall be decided without debate.

(D) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this paragraph, consideration of an 2007 spending bill shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any 2007 spending bill introduced pursuant to the provisions of this subsection under a suspension of the rules pursuant to clause 1 of House Rule XV, or under a special

rule reported by the House Committee on Rules.

(E) AMENDMENTS.—It shall be in order to offer amendments to the 2007 spending bill, provided that any such amendment is relevant and would not result in an overall outlay level exceeding the level included in the 2007 spending bill.

(F) VOTE ON PASSAGE.—Immediately following the conclusion of consideration of the 2007 spending bill, the vote on passage of the 2007 spending bill shall occur without any intervening action or motion and shall require an affirmative vote of three-fifths of the Members, duly chosen and sworn. If the 2007 spending bill is passed, the Clerk of the House of Representatives shall cause the bill to be transmitted to the Senate before the close of the next day of session of the House.

(4) FAST TRACK CONSIDERATION IN SENATE.—

(A) IN GENERAL.—Notwithstanding rule XXII of the Standing Rules of the Senate, it is in order, not later than 7 days of session after the date on which an 2007 spending bill is reported or discharged from all committees to which it was referred, for the majority leader of the Senate or the majority leader's designee to move to proceed to the consideration of the 2007 spending bill. It shall also be in order for any Member of the Senate to move to proceed to the consideration of the 2007 spending bill at any time after the conclusion of such 7-day period. A motion to proceed is in order even though a previous motion to the same effect has been disagreed to. All points of order against the motion to proceed to the 2007 spending bill are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the 2007 spending bill is agreed to, the 2007 spending bill shall remain the unfinished business until disposed of.

(B) DEBATE.—Consideration of an 2007 spending bill and of all debatable motions and appeals in connection therewith shall not exceed a total of 50 hours. Debate shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate on the 2007 spending bill is in order. Any debatable motion or appeal is debatable for not to exceed 1 hour, to be divided equally between those favoring and those opposing the motion or appeal. All time used for consideration of the 2007 spending bill, including time used for quorum calls and voting, shall be counted against the total 50 hours of consideration.

(C) AMENDMENTS.—It shall be in order to offer amendments to the 2007 spending bill, provided that any such amendment is relevant and would not result in an overall outlay level exceeding the level included in the 2007 spending bill.

(D) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on the 2007 spending bill and a single quorum call at the conclusion of the debate if requested. Passage shall require an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(E) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a 2007 spending bill shall be decided without debate.

(5) RULES TO COORDINATE ACTION WITH OTHER HOUSE.—

(A) REFERRAL.—If, before the passage by 1 House of an 2007 spending bill of that House, that House receives from the other House an 2007 spending bill, then such proposal from the other House shall not be referred to a committee and shall immediately be placed on the calendar.

(B) TREATMENT OF 2007 SPENDING BILL OF OTHER HOUSE.—If 1 House fails to introduce or consider a 2007 spending bill under this section, the 2007 spending bill of the other House shall be entitled to expedited floor procedures under this section.

(C) PROCEDURE.—

(i) 2007 SPENDING BILL IN THE SENATE.—If prior to passage of the 2007 spending bill in the Senate, the Senate receives an 2007 spending bill from the House, the procedure in the Senate shall be the same as if no 2007 spending bill had been received from the House except that—

(I) the vote on final passage shall be on the 2007 spending bill of the House if it is identical to the 2007 spending bill then pending for passage in the Senate; or

(II) if the 2007 spending bill from the House is not identical to the 2007 spending bill then pending for passage in the Senate and the Senate then passes the Senate 2007 spending bill, the Senate shall be considered to have passed the House 2007 spending bill as amended by the text of the Senate 2007 spending bill.

(ii) DISPOSITION OF THE 2007 SPENDING BILL.—Upon disposition of the 2007 spending bill received from the House, it shall no longer be in order to consider the 2007 spending bill originated in the Senate.

(D) TREATMENT OF COMPANION MEASURES IN THE SENATE.—If following passage of the 2007 spending bill in the Senate, the Senate then receives an 2007 spending bill from the House of Representatives that is the same as the 2007 spending bill passed by the House, the House-passed 2007 spending bill shall not be debatable. If the House-passed 2007 spending bill is identical to the Senate-passed 2007 spending bill, the vote on passage of the 2007 spending bill in the Senate shall be considered to be the vote on passage of the 2007 spending bill received from the House of Representatives. If it is not identical to the House-passed 2007 spending bill, then the Senate shall be considered to have passed the 2007 spending bill of the House as amended by the text of the Senate 2007 spending bill.

(E) CONSIDERATION IN CONFERENCE.—Upon passage of the 2007 spending bill, the Senate shall be deemed to have insisted on its amendment and requested a conference with the House of Representatives on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, without any intervening action.

(F) ACTION ON CONFERENCE REPORTS IN SENATE.—

(i) MOTION TO PROCEED.—A motion to proceed to the consideration of the conference report on the 2007 spending bill may be made even though a previous motion to the same effect has been disagreed to.

(ii) CONSIDERATION.—During the consideration in the Senate of the conference report (or a message between Houses) on the 2007 spending bill, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate (or consideration) shall be limited to 30 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(iii) DEBATE IF DEFEATED.—If the conference report is defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(iv) AMENDMENTS IN DISAGREEMENT.—If there are amendments in disagreement to a conference report on the 2007 spending bill, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(G) VOTE ON CONFERENCE REPORT IN EACH HOUSE.—Passage of the conference in each House shall be by an affirmative vote of three-fifths of the Members of that House, duly chosen and sworn.

(H) VETO.—If the President vetoes the bill debate on a veto message in the Senate under this subsection shall be 1 hour equally divided between the majority and minority leaders or their designees.

(6) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively but applicable only with respect to the procedure to be followed in that House in the case of bill under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 2. EFFECTIVE PERIOD.

This title shall be effective until fiscal year 2020 or the fiscal year spending levels are returned to fiscal year 2007 levels whichever date first occurs.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Wednesday, June 9, 2010, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on issues related to the Department of the Interior's May 27th report: Increased Safety Measures for Energy Development on the Outer Continental Shelf, including oversight of recent actions recommended by the Department to address the safety of offshore oil development.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to Abigail_Campbell@energy.senate.gov.

For further information, please contact Linda Lance or Abigail Campbell.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests. The hearing will be held on Wednesday, June 16, 2010, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is receive testimony on the following bills:

S. 3294, to establish certain wilderness areas in central Idaho and to authorize various land conveyances involving National Forest System land and Bureau of Land Management land in central Idaho;

S. 3310, to designate certain wilderness areas in the National Forest System in the State of South Dakota; and

S. 3313, to withdraw certain land located in Clark County, Nevada from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to testimony@energy.senate.gov.

For further information, please contact David Brooks or Allison Seyferth.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, June 24, 2010, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 3452, a bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to testimony@energy.senate.gov.

For further information, please contact David Brooks or Allison Seyferth.

NATIONAL APHASIA AWARENESS MONTH

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 512 and the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 512) designating June 2010 as ''National Aphasia Awareness Month'' and supporting efforts to increase awareness of aphasia.

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

Mr. BROWN of Ohio. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD.

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

The resolution (S. Res. 512) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 512

Whereas aphasia is a communication impairment caused by brain damage that typically results from a stroke;

Whereas aphasia can also occur with other neurological disorders, such as a brain tumor;

Whereas many people with aphasia also have weakness or paralysis in the right leg and right arm, usually due to damage to the left hemisphere of the brain, which controls language and movement on the right side of the body;

Whereas the effects of aphasia may include a loss of or reduction in the ability to speak, comprehend, read, and write, but the intelligence of a person with aphasia remains intact;

Whereas according to the National Institute of Neurological Disorders and Stroke (referred to in this preamble as the ''NINDS''), stroke is the third-leading cause of death in the United States, ranking behind heart disease and cancer;

Whereas stroke is a leading cause of serious, long-term disability in the United States;

Whereas the NINDS estimates that there are about 5,000,000 stroke survivors in the United States;

Whereas the NINDS estimates that people in the United States suffer about 750,000 strokes per year, with approximately ⅓ of the strokes resulting in aphasia;

Whereas according to the NINDS, aphasia affects at least 1,000,000 people in the United States;

Whereas the NINDS estimates that more than 200,000 people in the United States acquire the disorder each year;

Whereas the National Aphasia Association is a unique organization that provides communication strategies, support, and education for people with aphasia and their caregivers throughout the United States; and

Whereas as an advocacy organization for people with aphasia and their caregivers, the National Aphasia Association envisions a world that recognizes the ''silent'' disability of aphasia and provides opportunity and fulfillment for people affected by aphasia: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2010 as ''National Aphasia Awareness Month'';

(2) supports efforts to increase awareness of aphasia;

(3) recognizes that strokes, a primary cause of aphasia, are the third-largest cause of death and disability in the United States;

(4) acknowledges that aphasia deserves more attention and study in order to find new solutions for individuals experiencing aphasia and their caregivers;

(5) supports efforts to make the voices of people with aphasia heard, because people with aphasia are often unable to communicate with others; and

(6) encourages all people in the United States to observe National Aphasia Awareness Month with appropriate events and activities.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 111–148, appoints the following individuals to serve as members of the Commission on Key National Indicators: Dr. Wade F. Horn of Maryland (for a term of 3 years) and Dr. Nicholas N. Eberstadt of the District of Columbia (for a term of 2 years).

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

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

ORDERS FOR TUESDAY, JUNE 8, 2010

Mr. BROWN of Ohio. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, June 8; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate recess from 12:30 to 2:15 to allow for the weekly caucus luncheons.

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

PROGRAM

Mr. BROWN of Ohio. When it is available tomorrow, it is the majority leader's intention to ask the Chair to lay down the House message with respect to H.R. 4213, the tax extenders legislation. Rollcall votes are expected to occur throughout the day in relation to the tax extenders legislation.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BROWN of Ohio. 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 6:44 p.m., adjourned until Tuesday, June 8, 2010, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate:

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

JAMES R. CLAPPER, OF VIRGINIA, TO BE DIRECTOR OF NATIONAL INTELLIGENCE, VICE DENNIS CUTLER BLAIR, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Monday, June 7, 2010:

THE JUDICIARY

AUDREY GOLDSTEIN FLEISSIG, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

LUCY HAERAN KOH, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

JANE E. MAGNUS-STINSON, OF INDIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 8, 2010 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 9

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine issues related to the Department of the Interior's May 27th report entitled, Increased Safety Measures for Energy Development on the Outer Continental Shelf, including oversight of recent actions recommended by the Department to address the safety of offshore oil development.
SD–366

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine local perspectives on the Livable Communities Act.
SD–538

10:30 a.m.
Environment and Public Works
To hold hearings to examine S. 3305, to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills.
SD–406

11 a.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine the significant challenges faced by journalists and independent media throughout the Organization for Security and Co-operation in Europe (OCSE) region, focusing on physical threats and violence targeting journalists, including the murder of scores of investigative reporters.
SVC–210/212

2 p.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold an oversight hearing to examine the enforcement of the antitrust laws.
SD–226

2:30 p.m.
Commerce, Science, and Transportation
Business meeting to consider S. 3386, to protect consumers from certain aggressive sales tactics on the Internet, S. 1938, to establish a program to reduce injuries and deaths caused by cellphone use and texting while driving, S. 3302, to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, S. 3084, to increase the competitiveness of United States businesses, particularly small and medium-sized manufacturing firms, in interstate and global commerce, foster job creation in the United States, and assist United States businesses in developing or expanding commercial activities in interstate and global commerce by expanding the ambit of the Hollings Manufacturing Extension Partnership program and the Technology Innovation Program to include projects that have potential for commercial exploitation in non-domestic markets, providing for an increase in related resources of the Department of Commerce, S. 2847, to regulate the volume of audio on commercials, S. 817, to establish a Salmon Stronghold Partnership program to conserve wild Pacific salmon and for other purposes, S. 1748, to establish a program of research, recovery, and other activities to provide for the recovery of the southern sea otter, the nomination of Carl Wieman, of Colorado, to be an Associate Director of the Office of Science and Technology Policy, and a promotion list in the National Oceanic and Atmospheric Administration Commissioned Corps and the Coast Guard.
SR–253

Homeland Security and Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold hearings to examine the National Security Personnel System and performance management in the Federal government.
SD–342

3 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 2891, to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, S. 2779 and H.R. 3671, bills to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, S. 3387, to provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purpose, S. 3404, to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, and H.R. 4252, to direct the Secretary of the Interior to conduct a study of water resources in the Rialto-Colton Basin in the State of California.
SD–366

JUNE 10

Time to be announced
Indian Affairs
Business meeting to consider pending calendar business.
SD–628

10 a.m.
Homeland Security and Governmental Affairs
State, Local, and Private Sector Preparedness and Integration Subcommittee
To hold hearings to examine assessing the effects of the Deepwater Horizon oil spill on states, localities and the private sector.
SD–342

Commerce, Science, and Transportation
To hold hearings to examine the nomination of John S. Pistole, of Virginia, to be Assistant Secretary of Homeland Security.
SR–253

Health, Education, Labor, and Pensions
Employment and Workplace Safety Subcommittee
To hold hearings to examine production over protections, focusing on a review of process safety management in the oil and gas industry.
SD–430

Finance
To hold hearings to examine the United States-China economic relationship, focusing on a new approach for a new China.
SD–215

Judiciary
Business meeting to consider S. 193, to create and extend certain temporary district court judgeships, H.R. 1933, to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, H.R. 908, to amend the Violent Crime Control and Law Enforcement Act of 1994 to reauthorize the Missing Alzheimer's Disease Patient Alert Program, S. 258, to amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors, and the nominations of Robert Neil Chatigny, of Connecticut, to be United States Circuit Judge for the Second Circuit, Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit, John J. McConnell, Jr., to be United States District Judge for the District of Rhode Island, James Kelleher Bredar, and Ellen Lipton Hollander, both to be a United States District Judge for the District of Maryland, Susan Richard Nelson, to be United States District Judge for the District of Minnesota, and Thomas Edward Delahanty II, to be United States Attorney for the District of Maine, Wendy J. Olson, to be United States Attorney for the District

of Idaho, Kevin Charles Harrison, and Donald J. Cazayoux, Jr., both to be United States Marshal for the Middle District of Louisiana, Henry Lee Whitehorn, Sr., to be United States Marshal for the Western District of Louisiana, James A. Lewis, to be United States Attorney for the Central District of Illinois, and Charles Gillen Dunne, to be United States Marshal for the Eastern District of New York, all of the Department of Justice.

SD–226

2:30 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Dennis J. Toner, of Delaware, to be a Governor of the United States Postal Service.

SD–342

Intelligence

To hold closed hearings to consider certain intelligence matters.

SH–219

JUNE 15

10 a.m.

Homeland Security and Governmental Affairs

To hold hearings to examine protecting cyberspace as a national asset, focusing on comprehensive legislation for the 21st century.

SD–342

JUNE 16

9:30 a.m.

Veterans' Affairs

To hold hearings to examine Veterans' Affairs health care in rural areas.

SR–418

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 3294, to establish certain wilderness areas in central Idaho and to authorize various land conveyances involving National Forest System land and Bureau of Land Management land in central Idaho, S. 3310, to designate certain wilderness areas in the National Forest System in the State of South Dakota, and S. 3313, to withdraw certain land located in Clark County, Nevada from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

SD–366

JUNE 17

9:30 a.m.

Armed Services

To hold hearings to examine the New Strategic Arms Reduction Treaty (START) and the implications for national security programs.

SD–106

10 a.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine the future of the National Park System and to consider the recommendations of the National Parks Second Century Commission in its report ''Advancing the National Park Idea''.

SD–366

JUNE 24

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine S. 3452, to designate the Valles Caldera National Preserve as a unit of the National Park System.

SD–366

JUNE 30

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine farm bill reauthorization, focusing on maintaining our domestic food supply through a strong United States farm policy.

SR–328A

JULY 1

9:30 a.m.

Veterans' Affairs

To hold hearings to examine veterans' claims processing, focusing on if current efforts are working.

SR–418

JULY 21

9:30 a.m.

Veterans' Affairs

To hold hearings to examine improvements to the post-9/11 Government Issue (GI) Bill.

SR–418

Daily Digest

HIGHLIGHTS

See Résumé of Congressional Activity.

Senate

Chamber Action

Routine Proceedings, pages S4587–S4628

Measures Introduced: Four bills were introduced, as follows: S. 3458–3461. **Page S4621**

Measures Reported:

Reported on Friday, June 4, during the adjournment:

S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year. (S. Rept. No. 111–201)

S. 3455, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, to prescribe military personnel strengths for such fiscal year.

S. 3456, to authorize appropriations for fiscal year 2011 for military construction.

S. 3457, to authorize appropriations for fiscal year 2011 for defense activities of the Department of Energy. **Page S4621**

Measures Passed:

National Aphasia Awareness Month: Committee on the Judiciary was discharged from further consideration of S. Res. 512, designating June 2010 as ''National Aphasia Awareness Month'' and supporting efforts to increase awareness of aphasia, and the resolution was then agreed to. **Page S4627**

Appointments:

Commission on Key National Indicators: The Chair, on behalf of the Republican Leader, pursuant to Public Law 111–148, appointed the following individuals to serve as members of the Commission on Key National Indicators:

Dr. Wade F. Horn of Maryland (for a term of 3 years) and Dr. Nicholas N. Eberstadt of the District of Columbia (for a term of 2 years). **Page S4627**

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 90 yeas (Vote No. EX. 177), Audrey Goldstein Fleissig, of Missouri, to be United States District Judge for the Eastern District of Missouri. **Pages S4603–08, S4628**

By unanimous vote of 90 yeas (Vote No. EX. 178), Lucy Haeran Koh, of California, to be United States District Judge for the Northern District of California. **Pages S4603–08, S4628**

Tanya Walton Pratt, of Indiana, to be United States District Judge for the Southern District of Indiana. **Page S4628**

Nomination Received: Senate received the following nomination:

James R. Clapper, of Virginia, to be Director of National Intelligence. **Page S4628**

Nomination Discharged: The following nomination were discharged from further committee consideration and placed on the Executive Calendar:

Joshua Gotbaum, of the District of Columbia, to be Director of the Pension Benefit Guaranty Corporation, which was sent to the Senate on November 9, 2009, from the Senate Committee on Finance.

Messages from the House: **Page S4618**

Executive Communications: **Pages S4618–20**

Petitions and Memorials: **Pages S4620–21**

Additional Cosponsors: **Pages S4621–23**

Statements on Introduced Bills/Resolutions: **Pages S4623–25**

Additional Statements: **Pages S4615–18**

Amendments Submitted: **Pages S4625–26**

Notices of Hearings/Meetings: **Pages S4626–27**

Record Votes: Two record votes were taken today. (Total—178) **Page S4608**

Adjournment: Senate convened at 2 p.m. and adjourned at 6:44 p.m., until 10 a.m. on Tuesday,

June 8, 2010. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S4627.)

Committee Meetings

(Committees not listed did not meet)

No committee meetings were held.

House of Representatives

Chamber Action

The House was not in session today. The House is scheduled to meet at 2 p.m. on Tuesday, June 8, 2010, pursuant to the provisions of H. Con. Res. 282.

Committee Meetings

No committee meetings were held.

Joint Meetings

No joint committee meetings were held.

COMMITTEE MEETINGS FOR TUESDAY, JUNE 8, 2010

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families, to hold hearings to examine the state of American children, 10 a.m., SD–430.

Committee on the Judiciary: to hold hearings to examine big oil business, focusing on if recent court decisions and liability caps encouraged irresponsible corporate behavior, 10 a.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to consider certain intelligence matters, 2:30 p.m., SH–219.

House Committees

Committee on Agriculture, June 9, Subcommittee on Conservation, Credit, Energy, and Research, hearing to review the implementation of the 2008 Farm bill energy title, 10 a.m., 1300 Longworth.

Committee on Appropriations, June 9, Subcommittee on Financial Services and General Government, hearing on FY 2011 Budget Request for the FCC, 10 a.m., 2359 Rayburn.

Committee on Armed Services, June 9, Subcommittee on Oversight and Investigations, hearing on Interagency National Security Reform: Pragmatic Steps Towards a More Integrated Future, 1 p.m., 2212 Rayburn.

Committee on the Budget, June 9, hearing on the State of the Economy: View from the Federal Reserve, 10 a.m., 210 Cannon.

Committee on Energy and Commerce, June 9, Subcommittee on Health, hearing entitled "Promoting the Development of Antibiotics and Ensuring Judicious Use in Humans," 10 a.m., 2123 Rayburn.

June 10, Subcommittee on Communications, Technology, and the Internet, hearing on H.R. 3101, Twenty-First Century Communications and Video Accessibility Act of 2009, 10 a.m., 2123 Rayburn.

Committee on Foreign Affairs, June 9, Subcommittee on International Organizations, Human Rights and Oversight, hearing on Women as Agents of Change: Advancing the Role of Women in Politics and Civil Society, 1 p.m., 2172 Rayburn.

June 10, full Committee, hearing on Human Rights and Democracy Assistance: Increasing the Effectiveness of U.S. Foreign Aid, 9:30 a.m., 2172 Rayburn.

June 10, Subcommittee on Asia, the Pacific, and the Global Environment, hearing on Thailand: The Path Toward Reconciliation, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, June 9, Subcommittee on Crime, Terrorism, and Homeland Security, hearing on Collateral Consequences of Criminal Convictions: Barriers to Reentry for the Formerly Incarcerated, 10:15 a.m., 2141 Rayburn.

June 10, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, hearing on H.R. 3721, Protecting Older Workers Against Discrimination Act, 10 a.m., 2141 Rayburn.

Committee on Natural Resources, June 9, hearing on H.R. 4347, Department of the Interior Tribal Self-Governance Act of 2009, 10 a.m., 1324 Longworth.

June 10, Subcommittee on Insular Affairs, Oceans and Wildlife, oversight hearing on the Deepwater Horizon oil spill in the Gulf of Mexico, with emphasis on "Our Natural Resources at Risk: The Short and Long Term Impact of the Deepwater Horizon Oil Spill," 10 a.m., 1324 Longworth.

June 10, Subcommittee on National Parks, Forests and Public Lands, hearing on the following bills: H.R. 3785, Chattahoochee River National Recreation Area Boundary Study Act of 2009; H.R. 4823, Sedona-Red Rock National Scenic Area Act of 2010; H.R. 5009, Wasatch Wilderness and Watershed Protection Act of 2010; H.R. 5110, Casa Grande Ruins National Monument Boundary Modification Act of 2010; H.R. 5131, Coltsville National Historical Park Act; H.R. 5152, Kennesaw Mountain National Battlefield Park Boundary Adjustment Act of

2010; and H.R. 5194, Mt. Andrea Lawrence Designation Act of 2010, 10 a.m., 1334 Longworth.

Committee on Oversight and Government Reform, June 9, Subcommittee on Information Policy, Census, and National Archives, hearing entitled "Strengthening the National Historical Publications and Records Commission," 2 p.m., 2154 Rayburn.

Committee on Rules, June 8, to consider H.R. 5072, FHA Reform Act of 2010, 5 p.m., H–313 Capitol.

Committee on Science and Technology, June 9, Subcommittee on Energy and Environment, hearing on Deluge of Oil Highlights Research and Technology Needs for Effective Cleanup of Oil Spills, 10 a.m., 2318 Rayburn.

June 10, Subcommittee on Research and Science Education, hearing on From the Lab Bench to the Marketplace: Improving Technology Transfer, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, June 9, hearing on Liability and Financial Responsibility for Oil Spills under the Oil Pollution Act of 1990 and Related Statutes, 10:30 a.m., 2167 Rayburn.

June 10, Subcommittee on Highways and Transit, hearing on Using Practical Design and Context-Sensitive Solutions in Developing Surface Transportation Projects, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, June 9, hearing on the U.S. Department of Veterans Affairs Office of Inspector General's Open Recommendations: Are We Fixing the Problems? 10 a.m., 334 Cannon.

June 10, Subcommittee on Economic Opportunity, hearing on the following bills: H.R. 114, Veterans Entrepreneurial Transition Business Benefit Act; H.R. 3685, To require the Secretary of Veterans Affairs to include on the main page of the Internet website of the Department of Veterans Affairs a hyperlink to the VetSuccess Internet website and to publicize such Internet website; H.R. 4319, Specially Adapted Housing Assistance Enhancement Act of 2009; H.R. 4635, Foreclosure Mandatory Mediation Act of 2010; H.R. 4664, To amend the Servicemembers Civil Relief Act to provide for a one-year moratorium on the sale or foreclosure of property owned by surviving spouses of servicemembers killed in Operation Iraqi Freedom or Operation Enduring Freedom; H.R. 4765, To amend title 38, United States Code, to authorize individuals who are pursuing programs of rehabilitation, education, or training under laws administered by the Secretary of Veterans Affairs to receive work-study allowances for certain outreach services provided through congressional offices, and for other purposes; H.R. 5360, Blinded Veterans Adaptive Housing Improvement Act of 2010; and draft legislation, 1 p.m., 334 Cannon.

Committee on Ways and Means, June 10, Subcommittee on Income Security and Family Support, hearing on possible policy responses to long-term unemployment, 9:30 a.m., B–318 Rayburn.

Permanent Select Committee on Intelligence, June 9, Subcommittee on Terrorism, Human Intelligence, Analysis, and Counterintelligence, executive, briefing on Hot Spots, 1 p.m., 304–HVC.

June 10, Subcommittee on Terrorism, Human Intelligence, Analysis, and Counterintelligence, executive, briefing on Transportation Security Administration, 10 a.m., 304–HVC.

CONGRESSIONAL PROGRAM AHEAD

Week of June 8 through June 12, 2010

Senate Chamber

On *Tuesday,* Senate expects to begin consideration of the House Message to accompany H.R. 4213, American Jobs and Closing Tax Loopholes Act.

On *Thursday,* Senate will begin consideration of the motion to proceed to consideration of S.J. Res. 26, a joint resolution disapproving a rule submitted by the EPA with respect to greenhouse gases, and after a period of debate, vote on the motion to proceed to consideration thereon, to be followed by a vote on passage of the joint resolution.

During the balance of the week, Senate may consider any cleared legislative and executive business.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Banking, Housing, and Urban Affairs: June 9, to hold hearings to examine local perspectives on the Livable Communities Act, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: June 9, business meeting to consider S. 3386, to protect consumers from certain aggressive sales tactics on the Internet, S. 1938, to establish a program to reduce injuries and deaths caused by cellphone use and texting while driving, S. 3302, to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, S. 3084, to increase the competitiveness of United States businesses, particularly small and medium-sized manufacturing firms, in interstate and global commerce, foster job creation in the United States, and assist United States businesses in developing or expanding commercial activities in interstate and global commerce by expanding the ambit of the Hollings Manufacturing Extension Partnership program and the Technology Innovation Program to include projects that have potential for commercial exploitation in nondomestic markets, providing for an increase in related resources of the Department of Commerce, S. 2847, to regulate the volume of audio on commercials, S. 817, to establish a Salmon Stronghold Partnership program to conserve wild Pacific salmon and for other purposes, S. 1748, to establish a program of research, recovery, and other activities to provide for the recovery of the southern sea otter, the nomination of Carl Wieman, of Colorado, to be an Associate Director of the Office of Science and Technology Policy, and a promotion list in the National Oceanic and Atmospheric Administration Commissioned Corps and the Coast Guard, 2:30 p.m., SR–253.

June 10, Full Committee, to hold hearings to examine the nomination of John S. Pistole, of Virginia, to be Assistant Secretary of Homeland Security, 10 a.m., SR–253.

Committee on Energy and Natural Resources: June 9, to hold hearings to examine issues related to the Department of the Interior's May 27th report entitled, Increased Safety Measures for Energy Development on the Outer Continental Shelf, including oversight of recent actions recommended by the Department to address the safety of offshore oil development, 9:30 a.m., SD–366.

June 9, Subcommittee on Water and Power, to hold hearings to examine S. 2891, to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, S. 2779 and H.R. 3671, bills to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, S. 3387, to provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purpose, S. 3404, to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, and H.R. 4252, to direct the Secretary of the Interior to conduct a study of water resources in the Rialto-Colton Basin in the State of California, 3 p.m., SD–366.

Committee on Environment and Public Works: June 9, to hold hearings to examine S. 3305, to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, 10:30 a.m., SD–406.

Committee on Finance: June 10, to hold hearings to examine the United States-China economic relationship, focusing on a new approach for a new China, 10 a.m., SD–215.

Committee on Health, Education, Labor, and Pensions: June 8, Subcommittee on Children and Families, to hold hearings to examine the state of American children, 10 a.m., SD–430.

June 10, Subcommittee on Employment and Workplace Safety, to hold hearings to examine production over protections, focusing on a review of process safety management in the oil and gas industry, 10 a.m., SD–430.

Committee on Homeland Security and Governmental Affairs: June 9, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold hearings to examine the National Security Personnel System and performance management in the Federal government, 2:30 p.m., SD–342.

June 10, Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration, to hold hearings to examine assessing the effects of the Deepwater Horizon oil spill on states, localities and the private sector, 10 a.m., SD–342.

June 10, Full Committee, to hold hearings to examine the nomination of Dennis J. Toner, of Delaware, to be a Governor of the United States Postal Service, 2:30 p.m., SD–342.

Committee on Indian Affairs: June 10, business meeting to consider pending calendar business, Time to be announced, SD–628.

Committee on the Judiciary: June 8, to hold hearings to examine big oil business, focusing on if recent court decisions and liability caps encouraged irresponsible corporate behavior, 10 a.m., SD–226.

June 9, Subcommittee on Antitrust, Competition Policy and Consumer Rights, to hold an oversight hearing to examine the enforcement of the antitrust laws, 2 p.m., SD–226.

June 10, Full Committee, business meeting to consider S. 193, to create and extend certain temporary district court judgeships, H.R. 1933, to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, H.R. 908, to amend the Violent Crime Control and Law Enforcement Act of 1994 to reauthorize the Missing Alzheimer's Disease Patient Alert Program, S. 258, to amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors, and the nominations of Robert Neil Chatigny, of Connecticut, to be United States Circuit Judge for the Second Circuit, Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit, John J. McConnell, Jr., to be United States District Judge for the District of Rhode Island, James Kelleher Bredar, and Ellen Lipton Hollander, both to be a United States District Judge for the District of Maryland, Susan Richard Nelson, to be United States District Judge for the District of Minnesota, and Thomas Edward Delahanty II, to be United States Attorney for the District of Maine, Wendy J. Olson, to be United States Attorney for the District of Idaho, Kevin Charles Harrison, and Donald J. Cazayoux, Jr., both to be United States Marshal for the Middle District of Louisiana, Henry Lee Whitehorn, Sr., to be United States Marshal for the Western District of Louisiana, James A. Lewis, to be United States Attorney for the Central District of Illinois, and Charles Gillen Dunne, to be United States Marshal for the Eastern District of New York, all of the Department of Justice, 10 a.m., SD–226.

Select Committee on Intelligence: June 8, to hold closed hearings to consider certain intelligence matters, 2:30 p.m., SH–219.

June 10, Full Committee, to hold closed hearings to consider certain intelligence matters, 2:30 p.m., SH–219.

Joint Meetings

Commission on Security and Cooperation in Europe: June 9, to hold hearings to examine the significant challenges faced by journalists and independent media throughout the Organization for Security and Co-operation in Europe (OCSE) region, focusing on physical threats and violence targeting journalists, including the murder of scores of investigative reporters, 11 a.m., SVC–210/212.

Résumé of Congressional Activity

SECOND SESSION OF THE ONE HUNDRED ELEVENTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House. The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

DATA ON LEGISLATIVE ACTIVITY

January 5 through May 31, 2010

	Senate	*House*	*Total*
Days in session	72	69	..
Time in session	514 hrs., 53′	4561 hrs., 8′	..
Congressional Record:			
Pages of proceedings	4,585	4,216	..
Extensions of Remarks	..	1,016	..
Public bills enacted into law	12	38	50
Private bills enacted into law	..	..	..
Bills in conference	4	4	..
Measures passed, total	216	382	598
Senate bills	31	11	..
House bills	47	117	..
Senate joint resolutions	1	1	..
House joint resolutions	2	1	..
Senate concurrent resolutions	4	2	..
House concurrent resolutions	15	21	..
Simple resolutions	116	229	..
Measures reported, total	*133	*109	242
Senate bills	84	..	..
House bills	38	64	..
Senate joint resolutions	..	..	..
House joint resolutions	..	..	..
Senate concurrent resolutions	1	..	..
House concurrent resolutions	..	2	..
Simple resolutions	10	43	..
Special reports	3	5	..
Conference reports	..	..	..
Measures pending on calendar	251	74	..
Measures introduced, total	704	1,571	2,275
Bills	523	1,065	..
Joint resolutions	6	21	..
Concurrent resolutions	16	58	..
Simple resolutions	159	427	..
Quorum calls	3	2	..
Yea-and-nay votes	176	224	..
Recorded votes	..	110	..
Bills vetoed	..	1	..
Vetoes overridden	..	..	..

* These figures include all measures reported, even if there was no accompanying report. A total of 87 written reports have been filed in the Senate, a total of 114 reports have been filed in the House.

DISPOSITION OF EXECUTIVE NOMINATIONS

January 5 through May 31, 2010

Civilian nominations, totaling 426 (including 209 nominations carried over from the First Session), disposed of as follows:	
Confirmed	147
Unconfirmed	269
Withdrawn	10
Other Civilian nominations, totaling 869 (including 112 nominations carried over from the First Session), disposed of as follows:	
Confirmed	472
Unconfirmed	397
Air Force nominations, totaling 5,084 (including 759 nominations carried over from the First Session), disposed of as follows:	
Confirmed	1,326
Unconfirmed	3,758
Army nominations, totaling 2,920 (including 76 nominations carried over from the First Session), disposed of as follows:	
Confirmed	2,909
Unconfirmed	10
Withdrawn	1
Navy nominations, totaling 919 (including 8 nominations carried over from the First Session), disposed of as follows:	
Confirmed	257
Unconfirmed	662
Marine Corps nominations, totaling 1,180 (including 714 nominations carried over from the First Session), disposed of as follows:	
Confirmed	1,173
Unconfirmed	7

Summary

Total nominations carried over from the First Session	1,878
Total nominations received this Session	9,520
Total confirmed	6,284
Total unconfirmed	5,103
Total withdrawn	11
Total returned to the White House	0

Next Meeting of the SENATE

10 a.m., Tuesday, June 8

Senate Chamber

Program for Tuesday: Senate expects to begin consideration of the House Message to accompany H.R. 4213, American Jobs and Closing Tax Loopholes Act.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Tuesday, June 8

House Chamber

Program for Tuesday: To be announced.

Congressional Record

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