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## Senate

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

### PRAYER

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

Let us pray.

Eternal Father, who withholds no good gift from those who walk uprightly, help our Senators this day to do Your will. Give them the grace to speak prudently when they must speak and to learn by listening and study. Inspire them to be unafraid of the difficult decisions, determined to act according to Your will, as they leave the consequences to Your providence.

Lord, awaken them to their accountability to You, for our lives and for the leadership of this Nation. Reward their faithfulness with peace of mind and joyfulness of spirit.

We pray in Your merciful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. 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. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 19, 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 R. WARNER, a

Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following any leader remarks, there will be a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each. Following morning business, the Senate will resume consideration of the small business jobs bill. There will be no rollcall votes during today's session of the Senate.

At 2:30 p.m. tomorrow, there will be a cloture vote with respect to H.R. 4213, which is legislation extending unemployment insurance benefits.

As a reminder, at 2:15 p.m. tomorrow, Carte Goodwin will be sworn in as Senator from West Virginia. I had an opportunity to meet with him an hour ago, and a wonderful young man he is. He has a beautiful wife with the unusual name of Rocky, but she is 8 months pregnant—a beautiful woman. They have a child, and they are looking forward to the new baby coming in the middle of August.

This week I wish to complete action on several legislative items that I have spoken to the Republican leader about, including unemployment insurance extension, small business jobs, and the emergency supplemental appropriations bill.

### MEASURE PLACED ON THE CALENDAR—H.R. 5712

Mr. REID. Mr. President, I am of the belief that H.R. 5712 is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 5712) to provide for certain clarifications and extensions under Medicare, Medicaid, and the Children's Health Insurance Program.

Mr. REID. Mr. President, I object to any further proceedings on this legislation at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

### EMERGENCY UNEMPLOYMENT INSURANCE

Mr. REID. Mr. President, when millions of Americans lost their jobs, they did not just lose a place to go to work in the morning; they lost their incomes, their savings, and their retirement security. They lost their tuition payments. Many lost their homes. They lost their gas money, their grocery money, and many other things—all of this through no fault of their own.

I am not talking about a handful of people in isolated corners of this country. I am talking about millions of Americans from every one of our States. To so many of them, unemployment is not just a temporary inconvenience. For far too many, it is an unending emergency.

As the front page of today's New York Times reports—and it is the same in newspapers all over the nation—40 percent of the unemployed in this country have been out of work for 6 months or longer. They are trying to understand why at this pressing moment—when jobs are harder to come by

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



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than at any other time in recent history—Congress cannot get its act together to extend emergency insurance, as we have always done with bipartisan backing for decades.

Well, part of the reason is that many on the other side do not see this as an emergency. They look at a crisis for families' budgets and see an opportunity for their political fortunes. They think when unemployment goes up, so do their poll numbers.

Some even think that the unemployed enjoy being out of work. That is why one of the top Republicans in the Senate called unemployment assistance a "disincentive for them to seek new work" and voted three times in recent weeks against extending it.

Another senior Republican Senator said these Americans—people who want nothing more than to find a new job—"don't want to go look for work." And then he, too, voted "no" three times.

A third senior Republican Senator, who, like his colleagues, has time and again stood in the way of addressing this emergency, justified it by saying—listen to this quote—"We should not be giving cash to people who basically are just going to blow it on drugs." That is a direct quote.

My constituents take offense at these absurd allegations, and they have let me know about it time and time again. They have written or called, sent me e-mails. They have pulled me aside when I have been home to talk to me about this.

One of these e-mails came to me last week from Las Vegas, where unemployment is now 14.5 percent. Statewide it is 14.2 percent. This man's name is Scott Headrick. He wrote me, and you can hear in the e-mail his anger. It is sad. He is one of 2.5 million Americans who, because of Republicans' objections, is no longer getting the unemployment help he needs. This is what Scott Headrick wrote to me:

I've been unemployed since July 2008 and have not been able to obtain a position at a supermarket packing groceries. I've been religiously seeking, searching and applying for work without any luck. I have since left my family in Las Vegas, a wife and five children, to look for work in other states and again, without any luck.

Scott mentioned the Senators making these outrageous claims and demanded that they, in his words:

apologize to those Americans truthfully looking for work to support their families. . . . I and my family have already lost everything but each other.

Scott is right. The twisted logic we have seen in the unemployment debate is not just appalling or heartless, though it is certainly both of those things. It is also factually wrong.

First, there is only one open job in America for every five Americans desperate to fill it. So no one should be so crass as to accuse anyone of being unemployed by choice—especially not those same lawmakers whose irresponsible policies over the past decade created the very crisis that collapsed the job market in the first place.

Second, unemployment insurance works. It helps our economy recover. Mark Zandi, who was JOHN MCCAIN's economic adviser when he ran for President, calculated that every time \$1 goes out in unemployment benefits, \$1.61 comes back into the economy. The Congressional Budget Office has estimated that number could actually be as high as \$2, meaning we double our investment in helping the unemployed.

If you think about it, it makes sense. Nobody is getting rich off the \$300 unemployment check they get each week. And nobody keeps those checks under his mattress. These Americans turn around and spend the money. They immediately pay their bills, go to the store, keep up with their mortgage payments, which stimulates the economy. They spend it on the basics and bare necessities while they look for work. The money goes right back into the economy, which strengthens it, fuels growth, and ultimately lets businesses create the very jobs the unemployed have been looking for, for so long.

The people we are trying to help want to find work. They are trying to find work, and they would much rather get a paycheck than an unemployment check.

Nevadans such as Scott Headrick, who lost his job 2 years ago this month, and who has tried tirelessly to find a new one, is just one of millions who needs our help. Democrats are not going to turn our backs on him. He sends out resumes and goes to job interviews, but for months and months he has heard nothing but "no." What a shame it is that he is hearing the same from the Republicans in the Senate on this issue.

Mr. President, will the Chair announce the business for the day.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. LEAHY. 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. LEAHY. 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.

#### SECURING THE PROTECTION OF OUR ENDURING AND ESTABLISHED CONSTITUTIONAL HERITAGE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 460, H.R. 2765.

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

The legislative clerk read as follows:

A bill (H.R. 2765) to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive computer services.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

##### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Securing the Protection of our Enduring and Established Constitutional Heritage Act" or the "SPEECH Act".*

##### SEC. 2. FINDINGS.

*Congress finds the following:*

(1) *The freedom of speech and the press is enshrined in the first amendment to the Constitution, and is necessary to promote the vigorous dialogue necessary to shape public policy in a representative democracy.*

(2) *Some persons are obstructing the free expression rights of United States authors and publishers, and in turn chilling the first amendment to the Constitution of the United States interest of the citizenry in receiving information on matters of importance, by seeking out foreign jurisdictions that do not provide the full extent of free-speech protections to authors and publishers that are available in the United States, and suing a United States author or publisher in that foreign jurisdiction.*

(3) *These foreign defamation lawsuits not only suppress the free speech rights of the defendants to the suit, but inhibit other written speech that might otherwise have been written or published but for the fear of a foreign lawsuit.*

(4) *The threat of the libel laws of some foreign countries is so dramatic that the United Nations Human Rights Committee examined the issue and indicated that in some instances the law of libel has served to discourage critical media reporting on matters of serious public interest, adversely affecting the ability of scholars and journalists to publish their work. The advent of the internet and the international distribution of foreign media also create the danger that one country's unduly restrictive libel law will affect freedom of expression worldwide on matters of valid public interest.*

(5) *Governments and courts of foreign countries scattered around the world have failed to curtail this practice of permitting libel lawsuits against United States persons within their courts, and foreign libel judgments inconsistent with United States first amendment protections are increasingly common.*

##### SEC. 3. RECOGNITION OF FOREIGN DEFAMATION JUDGMENTS.

(a) *IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following:*

##### "CHAPTER 181—FOREIGN JUDGMENTS

"Sec.

"4101. Definitions.

"4102. Recognition of foreign defamation judgments.

"4103. Removal.

"4104. Declaratory judgments.

"4105. Attorney's fees.

**§4101. Definitions**

"In this chapter:

"(1) **DEFAMATION.**—The term 'defamation' means any action or other proceeding for defamation, libel, slander, or similar claim alleging that forms of speech are false, have caused damage to reputation or emotional distress, have presented any person in a false light, or have resulted in criticism, dishonor, or condemnation of any person.

"(2) **DOMESTIC COURT.**—The term 'domestic court' means a Federal court or a court of any State.

"(3) **FOREIGN COURT.**—The term 'foreign court' means a court, administrative body, or other tribunal of a foreign country.

"(4) **FOREIGN JUDGMENT.**—The term 'foreign judgment' means a final judgment rendered by a foreign court.

"(5) **STATE.**—The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(6) **UNITED STATES PERSON.**—The term 'United States person' means—

"(A) a United States citizen;

"(B) an alien lawfully admitted for permanent residence to the United States;

"(C) an alien lawfully residing in the United States at the time that the speech that is the subject of the foreign defamation action was researched, prepared, or disseminated; or

"(D) a business entity incorporated in, or with its primary location or place of operation in, the United States.

**§4102. Recognition of foreign defamation judgments**

"(a) **FIRST AMENDMENT CONSIDERATIONS.**—

"(1) **IN GENERAL.**—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation unless the domestic court determines that—

"(A) the defamation law applied in the foreign court's adjudication provided at least as much protection for freedom of speech and press in that case as would be provided by the first amendment to the Constitution of the United States and by the constitution and law of the State in which the domestic court is located; or

"(B) even if the defamation law applied in the foreign court's adjudication did not provide as much protection for freedom of speech and press as the first amendment to the Constitution of the United States and the constitution and law of the State, the party opposing recognition or enforcement of that foreign judgment would have been found liable for defamation by a domestic court applying the first amendment to the Constitution of the United States and the constitution and law of the State in which the domestic court is located.

"(2) **BURDEN OF ESTABLISHING APPLICATION OF DEFAMATION LAWS.**—The party seeking recognition or enforcement of the foreign judgment shall bear the burden of making the showings required under subparagraph (A) or (B).

"(b) **JURISDICTIONAL CONSIDERATIONS.**—

"(1) **IN GENERAL.**—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation unless the domestic court determines that the exercise of personal jurisdiction by the foreign court comported with the due process requirements that are imposed on domestic courts by the Constitution of the United States.

"(2) **BURDEN OF ESTABLISHING EXERCISE OF JURISDICTION.**—The party seeking recognition or enforcement of the foreign judgment shall bear the burden of making the showing that the foreign court's exercise of personal jurisdiction comported with the due process requirements that are imposed on domestic courts by the Constitution of the United States.

"(c) **JUDGMENT AGAINST PROVIDER OF INTERACTIVE COMPUTER SERVICE.**—

"(1) **IN GENERAL.**—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation against the provider of an interactive computer service, as defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230) unless the domestic court determines that the judgment would be consistent with section 230 if the information that is the subject of such judgment had been provided in the United States.

"(2) **BURDEN OF ESTABLISHING CONSISTENCY OF JUDGMENT.**—The party seeking recognition or enforcement of the foreign judgment shall bear the burden of establishing that the judgment is consistent with section 230.

"(d) **APPEARANCES NOT A BAR.**—An appearance by a party in a foreign court rendering a foreign judgment to which this section applies shall not deprive such party of the right to oppose the recognition or enforcement of the judgment under this section, or represent a waiver of any jurisdictional claims.

"(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to—

"(1) affect the enforceability of any foreign judgment other than a foreign judgment for defamation; or

"(2) limit the applicability of section 230 of the Communications Act of 1934 (47 U.S.C. 230) to causes of action for defamation.

**§4103. Removal**

"In addition to removal allowed under section 1441, any action brought in a State domestic court to enforce a foreign judgment for defamation in which—

"(1) any plaintiff is a citizen of a State different from any defendant;

"(2) any plaintiff is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(3) any plaintiff is a citizen of a State and any defendant is a foreign state or citizen or subject of a foreign state, may be removed by any defendant to the district court of the United States for the district and division embracing the place where such action is pending without regard to the amount in controversy between the parties.

**§4104. Declaratory judgments**

"(a) **CAUSE OF ACTION.**—

"(1) **IN GENERAL.**—Any United States person against whom a foreign judgment is entered on the basis of the content of any writing, utterance, or other speech by that person that has been published, may bring an action in district court, under section 2201(a), for a declaration that the foreign judgment is repugnant to the Constitution or laws of the United States. For the purposes of this paragraph, a judgment is repugnant to the Constitution or laws of the United States if it would not be enforceable under section 4102 (a), (b), or (c).

"(2) **BURDEN OF ESTABLISHING UNENFORCEABILITY OF JUDGMENT.**—The party bringing an action under paragraph (1) shall bear the burden of establishing that the foreign judgment would not be enforceable under section 4102 (a), (b), or (c).

"(b) **NATIONWIDE SERVICE OF PROCESS.**—Where an action under this section is brought in a district court of the United States, process may be served in the judicial district where the case is brought or any other judicial district of the United States where the defendant may be found, resides, has an agent, or transacts business.

**§4105. Attorneys' fees**

"In any action brought in a domestic court to enforce a foreign judgment for defamation, including any such action removed from State court to Federal court, the domestic court shall, absent exceptional circumstances, allow the party opposing recognition or enforcement of the judgment a reasonable attorney's fee if such party prevails in the action on a ground specified in section 4102 (a), (b), or (c)."

(b) **SENSE OF CONGRESS.**—It is the Sense of the Congress that for the purpose of pleading a cause of action for a declaratory judgment, a foreign judgment for defamation or any similar offense as described under chapter 181 of title 28, United States Code, (as added by this Act) shall constitute a case of actual controversy under section 2201(a) of title 28, United States Code.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

**"181. Foreign judgments ..... 4101."**

Mr. LEAHY. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 2765), as amended, was passed.

Mr. LEAHY. Mr. President, today the Senate has passed important bipartisan legislation to reduce the chilling effect that foreign libel lawsuits are having on Americans' first amendment rights.

I am the son of printers and I consider this a matter of great importance. My parents told me from the time I was a child: Believe in and uphold the first amendment. It is the basis of our democracy. It guarantees us the right to practice any religion we want or none if we want. And it protects the right of free speech. Those protections guarantee diversity. If you have a constitution that guarantees diversity, you guarantee a democracy.

That is what this does. I wish to thank Senator SESSIONS, the ranking member of the Senate Judiciary Committee, for working with me on this bill.

Let me speak a little bit about what the bill does. The Securing the Protection of our Enduring and Established Constitutional Heritage Act or, as we call it, the SPEECH Act, will ensure that American courts will not enforce foreign libel judgments from countries where free speech protections are lower than what our Constitution affords against American journalists, authors, and publishers.

Too frequently, foreign plaintiffs bring libel suits against American writers and publishers in countries where the plaintiff or the publication lacks any significant connection to the foreign forum. The lawsuit is brought there because of that foreign country's weaker plaintiff-friendly libel laws. This is known colloquially as libel tourism.

In other words, if somebody in the United States writes a book, probably

very accurate, about some despot or some leader of a country who has done criminal acts, has stolen the property of that country or any one of a number of things—it could be very accurate and, in our country, truth is a defense—what they will do is maybe order online a couple copies of the books and deliver them to another country with weak libel laws and then seek judgments against the author, against the publisher, against newspapers that may have published excerpts of it; everything to chill any criticism of those who have either breached human rights or stolen from their own country and on and on.

On a broad scale, libel tourism results in a race to the bottom. It causes America to defer to a country with the most chilling and restrictive free speech standard determining what they can write or publish. This undermines our first amendment. The first amendment, as I said earlier, guarantees the diversity of thought and opinion in this country which actually allows and determines and guarantees that democracy.

The freedoms of speech and the press are cornerstones of our democracy. They enable vigorous debate, and an exchange of ideas that shapes our political process. Reporters, authors and publishers are among the primary sources of these ideas, and their ability to disseminate them through their writings is critical to our democracy. The broad dissemination of materials through the Internet, as well as the increased number of worldwide newspapers and periodicals, has compounded the threat of libel tourism.

This problem is well documented. Two years ago, the United Nations' Human Rights Committee observed that one country's libel laws "discourage[d] critical media reporting on matters of serious public interest, adversely affect[ed] the ability of scholars and journalists to publish their work," and "affect[ed] freedom of expression worldwide on matters of valid public interest."

Several States, to their credit, have enacted legislation to combat this problem, but we need a national response. While we can't legislate changes to foreign laws that are chilling protected speech in our country, what we can do to uphold the right of free speech in our own country is assure that our courts do not become a tool to uphold foreign libel judgments that undermine American first amendment or due process rights. The SPEECH Act is an important step toward reducing this chilling of American free speech.

The SPEECH Act is an important step toward reducing this chilling of American free speech. Americans have a great gift in their right of free speech. Every single Senator, Republican and Democratic, should join, as we have in this case, to protect America's rights.

The SPEECH Act is the product of hard work and extensive negotiations

on both sides of the aisle, and the process is certainly mindful about principles of international comity. Many supporters would not have written this bill in this exact way, but all recognize that a bipartisan compromise is an important step in confronting the libel tourism issue. Without it, we could not pass this bill.

Among the supporters are the Vermont Library Association, former Attorney General Michael Mukasey, the former Director of the Central Intelligence Agency, James Woolsey, the American Library Association, the Association of American Publishers, the Reporters Committee for Freedom of the Press, the American Civil Liberties Union, Net Coalition, and renowned first amendment lawyer, Floyd Abrams.

I would also like to recognize Dr. Rachel Ehrenfeld, Director of the American Center for Democracy, who herself has been the victim of a libel suit in the United Kingdom, and has been a tremendous advocate for Congressional action in this area.

I wish to thank Senators SPECTER, SCHUMER, and LIEBERMAN for their work in raising this important issue in the Senate and Representative COHEN for his hard work on libel tourism legislation in the other body. I am pleased the Senate has adopted this bipartisan legislation. I look forward to its prompt consideration and adoption by the House and to the President signing it into law.

Mr. President, I do not see anybody else seeking recognition, so I will 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. SESSIONS. 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.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### SMALL BUSINESS LENDING FUND ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 5297, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus/Landrieu) amendment No. 4402, in the nature of a substitute.

Reid amendment No. 4403 (to amendment No. 4402), of a perfecting nature.

Reid amendment No. 4404 (to amendment No. 4403), of a perfecting nature.

Reid amendment No. 4405 (to the language proposed to be stricken by amendment No. 4402), to change the enactment date.

Reid amendment No. 4406 (to amendment No. 4405), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 4407 (to the instructions on the motion to commit), in the nature of a substitute.

Reid amendment No. 4408 (to the instructions (amendment No. 4407) of the motion to commit), to change the enactment date.

Reid amendment No. 4409 (to amendment No. 4408), of a perfecting nature.

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

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

#### KAGAN NOMINATION

Mr. SESSIONS. Mr. President, I wish to speak on a very serious issue relating to the confirmation of Solicitor General Elena Kagan for the Supreme Court of the United States. As I was preparing for her hearings, I noted what struck me as a disturbing decision she had made as Solicitor General shortly after taking that position, in a case called *Witt v. Department of the Air Force*. In that case, a former member of an Air Force Reserve unit in Washington State sued the government to challenge the "don't ask, don't tell" law, which essentially says openly homosexual persons may not serve in the U.S. military. The case was dismissed by the district court, and the military was allowed to proceed with its policy. But when it was appealed to the Ninth Circuit, that very liberal court of appeals overturned the district court and said the case should go to trial and announced an unworkable legal test that the lower court must apply and that the government would have to meet for the "don't ask, don't tell" statute to survive constitutional challenge.

After that unprecedented ruling, the Solicitor General's Office, then manned by the Bush administration personnel, immediately authorized an appeal to the full Ninth Circuit, en banc, and the government asked the full court to take a look at it and overturn the three-judge panel. The full court of appeals declined to do so, over strong objections from several judges on the Ninth Circuit who thought their colleagues had clearly gotten the case wrong. In fact, the First Circuit in the Northeast had already reached a different conclusion in a very similar case, and had upheld the statute.

At that point, the government could have appealed the Ninth Circuit decision to the Supreme Court, as I think the Solicitor General's Office clearly was on track to do. First, they sought en banc review, and then they would seek interlocutory appeal to the Supreme Court. But as it happened, by

the time the case was ripe for appeal, the Obama administration had come into office and Ms. Kagan had become Solicitor General. She was now head of the office that makes this decision on whether to take cases to the courts of appeals or, if necessary, to the Supreme Court; the office that is charged with the great responsibility of defending before the Supreme Court the statutes passed by the United States Congress. Of course, don't ask, don't tell is a congressional statute, not a policy of the military. So it fell to her to decide whether to take the case to the Supreme Court. She refused.

I practiced law for 20 years—15 as part of the Department of Justice, as a U.S. attorney for 12 years—and I think I can make some commonsense evaluation of the judgments the lawyers made in this litigation. Ms. Kagan, at the time she made this decision, had only been Solicitor General—had only served in the Department of Justice—for 6 weeks or so.

As I analyzed what I think happened, I asked some serious questions about why this Solicitor General failed to follow through on what appeared to be the direction of her predecessor. And I was struck by the distinct possibility that Ms. Kagan did not fulfill this fundamental responsibility of her office, which is to defend the statutes of the United States regardless of her personal policy views. So at the time of her confirmation hearing, just a couple of weeks ago, I asked her about this case and the facts that led up to it. I asked her to explain the decision, and I deliberately intended to give her time to explain it. Well, she took time, using notes for about the only time I saw in the hearing, and talked uninterrupted for about 10 minutes to explain how it was that she made the decision.

At the end of it, I thanked her for her answer and noted that I was going to have to review this because what she had done did not make good sense to me. I have to make a judgment. I am a Senator. I have to know whether the person who is being considered to sit on the highest Court of the land with a lifetime appointment—could serve 30, maybe 40 years on the Court—whether they understand that officeholders have duties and responsibilities that they cannot just fail to discharge, that they must do?

So I have conducted an examination, and I must say I am very troubled by what I have found about this case. I think the record shows that Ms. Kagan did not, in fact, fulfill her responsibilities in a good way and in a faithful way as Solicitor General and that she, in effect, violated a specific promise she made to the Judiciary Committee when she testified under oath during the hearing on her nomination a year or so ago to be Solicitor General. She had to be confirmed then and came before the committee.

Before I go further, I wish to provide some background. It is widely known by many that Ms. Kagan is personally

opposed to don't ask, don't tell. She has been opposed to it for some time. While she was dean at Harvard, she blocked the military recruiters from the campus career services office because of her opposition to don't ask, don't tell. She called don't ask, don't tell "a moral injustice of the first order." She spoke at a protest of students who protested while a military recruiter was in the next building, and she changed the Harvard policy from admitting recruiters to the career services office to denying them admittance, without legal authority, contrary to the law Congress passed and on which I worked, to force universities to treat our military men and women who come to recruit on their campus with the same dignity and respect as they would treat anyone else from some law firm who makes millions of dollars. At the recent hearing she openly admitted to me that her views remain the same about this statute.

When she came before the committee for the position of Solicitor General, she was specifically asked about this in written questions, in light of her strong opposition to this law. Congress passed three or four versions of the Solomon Amendment to finally require that colleges and universities treat our military on an equal basis, and some were forced to do so or lose Federal funding. She was specifically asked, in light of her strong opposition to this law, whether she would be able to defend it as the job of Solicitor General would require. This was not a mystery. We knew this matter was coming up through the courts of appeals and would be coming before the Solicitor General.

She was flatly asked: If you are going to take this job, as you have been opposed to this statute, will you defend it as you are lawfully required to do? Only the Solicitor General can represent the U.S. in the Supreme Court. If the Solicitor General does not defend an act of Congress, who will? There is no one else. So it was a good question.

She promised the committee under oath that she would, and she said that her "role as Solicitor General would be to advance not my own views but the interests of the United States." Correctly stated.

She went on to say that she was fully convinced that she could "represent all these interests with vigor, even when they conflict with my own opinions." She said her general approach to suits challenging a Federal law would be to make any "reasonable arguments that could be made in its defense," and this would include "challenges to the statute involving the don't ask, don't tell policy."

A pretty specific promise. It was an important promise. I am sure had she not made that promise, even more people would not have voted for her confirmation.

She went on to say that she would "apply the usual strong presumption of

constitutionality to that law as reinforced by the doctrine of judicial deference to legislation involving military matters."

As I mentioned earlier, it just so happened that immediately after she was confirmed it fell her lot to defend this very statute that she personally strongly opposed but that she had promised she would vigorously defend. She was given the opportunity to appeal to the Supreme Court from that terrible decision out of the Ninth Circuit, which refused to uphold don't ask, don't tell, and which ordered the military to go to trial in the middle of a war to justify the law under a newly-invented legal standard.

Faced with that choice, Ms. Kagan refused to appeal, decided to let the Ninth Circuit decision stand, and allowed this case to be sent back down to go through a trial. Clearly, to me, the military's interest was to have the issue decided as a matter of law—that this is a lawful policy and that they were empowered to carry it out in a lawful manner.

When I asked Ms. Kagan at her Supreme Court hearings recently why she blocked the Supreme Court review of the Witt case, she gave three reasons in her long answer. Some may have thought she gave a brilliant dissertation. She had notes, and she went through a long discussion.

First, she said she concluded, after conferring with her colleagues, that it would be better to wait to appeal to the Supreme Court until after the trial, because a trial would build a better factual record of the case. She said once the facts were better developed, the government might be in a better position before the Supreme Court.

Second, she said that allowing the case to go back to the district court would help the government in a future appeal because it would be able to show the Supreme Court just how invasive and "strange" were the demands of the Ninth Circuit that were being placed on the government in defense of the law.

I will say one thing: The Ninth Circuit demands were, indeed, strange and were utterly unworkable, as I will show.

Third, she said an appeal in the Witt case would have been "interlocutory;" that is, an appeal before the case had come to an end and before a final judgment had been rendered in the case. The Supreme Court prefers not to hear these kinds of appeals.

None of these explanations are credible. It is true that appellate courts, including the Supreme Court, prefer to hear appeals at the end of the case rather than in the middle, but that is a decision the Court can make for itself. It is not something the Solicitor General has to decide on the Court's behalf. And that consideration was clearly outweighed in this case.

I will note parenthetically that when the Third Circuit ruled on the Solomon Amendment, which required Harvard

and other law schools to allow the military equal access to recruit on campus, they took that as an interlocutory appeal and reversed the Third Circuit. That is exactly what should have been done here. The government had asked for an interlocutory appeal to the Supreme Court from the Third Circuit ruling that affected Harvard, and the Supreme Court agreed. It was a legal question, ripe for decision, and they decided the case. That is what should have happened.

Here we already had a split among the courts of appeals on this question. The First Circuit had already ruled as a matter of law for the government. The Ninth Circuit ruling squarely conflicted with the First Circuit, and it was also at odds with decisions from four other circuits on similar principles. Here we also had an opinion from the Ninth Circuit that presented clean questions of law—an opinion that had dramatically altered the legal landscape in 40 percent of the United States, because the Ninth Circuit encompasses 40 percent of the United States, and that was proposing to subject the military to an invasive trial process, while fighting a war, to defend the application of a nationwide military policy to an individual person.

Ms. Kagan's second explanation—that letting the case go to trial would allow the government to show just how painful a trial would be—cannot be given serious consideration. The Ninth Circuit opinion was very clear about what the government would have to show in order for the don't ask, don't tell law to survive this lawsuit. In other words, one didn't have to go through all these steps at the lower court and show how dramatically disruptive it would be. The Court had set forth explicitly what would happen. It is easy to show the Supreme Court why this is not a workable approach.

The Ninth Circuit made it very clear in their opinion that the government was going to have to justify the application of don't ask, don't tell to this specific plaintiff—not justify the law in general but to justify its application to this specific plaintiff—to prove that this specific plaintiff was going to harm the military if she were allowed to remain in the Air Force. It was also clear that such a trial was going to be disruptive to the military and that it would harm the unit cohesion Congress had set out to protect when it passed the don't ask, don't tell law in 1994.

I am not alone in reaching this conclusion. Her predecessors in the Department of Justice and in the Solicitor General's Office, the office she took over, also knew the court orders did not make sense. That is why they immediately asked the full Ninth Circuit to reconsider en banc the three-judge panel's ruling when it first came down in 2008.

They said in their brief that the Ninth Circuit decision “creates an inter-circuit split.” That means the First Circuit had held differently. The

Ninth Circuit held a different way. We had a split of circuits which is something the Supreme Court considers when they decide to take a case.

They went on to say it created “a conflict with Supreme Court precedent, and an unworkable rule that cannot be implemented without disrupting the military.”

The Ninth Circuit's decision, they went on to say, made the constitutionality of a Federal law setting military policy for the entire Nation “depend on case-by-case surveys, taken by lawyers, of the troops in a particular plaintiff's unit.” They went on to say that immediate review was “needed now to prevent this unprecedented and disruptive process.” That is exactly correct. The lawyers who made that argument were clearly correct.

Most importantly, Ms. Kagan's decision to send this case back for trial and not appeal doesn't make any sense because she knew a trial was going to be massively disruptive to the military. I have studied the record of the case on remand to the district court, and I have seen what has been going on since it was sent back to be tried on an individual plaintiff basis. The lawyers for the government are struggling to defend the law under these difficult circumstances. From the very first hearing before the district court, these lawyers, career lawyers, professionals in the Department of Justice, are asking the court not to allow discovery, not to allow the plaintiff to depose the soldiers and plow through all these issues in the military unit.

Here is what the career attorney for the Department of Justice said at the first hearing before the district judge after the case went back down for this trial:

If we commence with discovery into the specific facts of this case by looking at what unit members think, we are threatening—we are jeopardizing the unit morale and cohesion . . . that the Ninth Circuit said the government—the military—has an important government interest in.

So the military is in a bit of a catch-22. By proceeding to discovery, we may well have to sacrifice our important government interest.

Remember, Ms. Kagan told the Judiciary Committee—she told us just a few weeks ago—that “building a factual record” would be good for the government's case. Remember? I just went through that. That is what she said—it would be good. We would have a better prospect on appeal somehow. Here, the career lawyers trying to defend the military are saying that building a factual record is bad for the government because the discovery process will threaten the military's interest in unit cohesion.

As a matter of fact, I will say as an aside that I think it is quite clear that if the Ninth Circuit theory of law were to be upheld, the “don't ask, don't tell” policy would be put in the situation where it would be difficult, if not impossible, to enforce because everybody dismissed under that policy would then be able to have a big trial. It

could go on, as this one has, for months, and they would be able to call all the unit members to ask their opinion about what they thought about this, that, and the other, even about their personal sexual activities, perhaps. This is not a practical solution. It is bad for the government. How Ms. Kagan could now say it would be good for the case, I do not know.

So clearly the career lawyer is right. The plaintiff in this case, who is represented by lawyers from the ACLU, has asked for and received access to the personnel records of the plaintiff's military unit. So now the ACLU has the personnel records of the entire unit, it appears. They have demanded depositions with other soldiers who served with the plaintiff before she was separated from the military. They have demanded the right to interview soldiers about their private lives, their personal views of their former colleague, and their private thoughts about sexuality.

The district court has wrongly, I believe—well, I will just say it this way: The district court has allowed it at every turn because the district court says this is the only way to answer the questions the Ninth Circuit ordered them to answer before a person could be dismissed under this provision of law.

But this is not just a case of bad—astonishingly bad—legal judgment. I do not think Ms. Kagan accidentally sent her client, the U.S. Air Force, into a litigator's lion's den. I do not think it was an accident. I believe she understood this was going to happen and, for some reason, she wanted it to happen.

In the very first hearing the district judge held after Ms. Kagan refused to appeal to the Supreme Court and the case was sent back for trial, the plaintiff's lawyers argued they needed to get all this discovery in the case, and they made a very interesting statement to the district judge. They said this:

[T]he government just doesn't want any discovery. I have heard that message from the government clearly—loud and clear. [We] were asked to meet with the Solicitor General of the United States in April, and we heard that message loud and clear that discovery is a big problem; but we never heard any specifics as to why, and it boils down to they don't like the Ninth Circuit's decision.

So apparently back in April 2009, Ms. Kagan acknowledged what I think is indisputable: that discovery of this kind, where soldiers are deposed and asked about their personal views and activities, would be disruptive to the military and bad for her client, the Air Force. That is just undisputable. She was the Solicitor General then and acknowledged that.

Her decision to block an appeal to the Supreme Court was finalized in May of 2009. So before she made that decision, it does appear Ms. Kagan met with the opposing counsel in the case—the ACLU lawyers—and told them that “discovery is a big problem.” In other words, she told these ACLU lawyers for

the other side, who were trying to attack the military policy, that developing a factual record in this case would be bad for the government. But she told us at the committee that she thought it was going to be good for the government.

She knew in April of 2009 that a trial would be harmful to the interests of her client, but she made sure the case went back for a trial anyway. She knew that discovery would be harmful to the government's interests, but she told the Judiciary Committee, just 2 weeks ago, under oath, that she decided not to allow an appeal to the Supreme Court because she thought "it would be better to go to the Supreme Court with a fuller record" that would be developed at trial.

I do not know how to reconcile her testimony with the record in the case. I do not think it can be reconciled.

During this nomination process, I have expressed my concern about Ms. Kagan's record as a political lawyer—someone who has advanced a specific agenda as an adviser in the White House and someone who says she was "channeling" the Justice she clerked for on the Supreme Court when she encouraged him not to hear certain cases because she did not think a majority of the Court would rule the way she and her boss would like. But I do think this big decision she made as Solicitor General is, in many ways, more concrete proof—and from just a few months ago—of the reason for our concerns that this nominee will have difficulties, and maybe find it impossible, to set aside her political views and decide cases objectively and fairly.

Faced with the hard task and the solemn responsibility of defending the laws of the United States—after having promised the Judiciary Committee under oath that she would be able to uphold that responsibility, even as to this specific law she personally opposes—I am forced to conclude that Ms. Kagan did not live up to that promise and did not fulfill a solemn duty of the Solicitor General of the United States.

This is not a statute, in my view, that is likely to be overturned by the Supreme Court. In fact, we know the law's opponents, in another case, did not want to see their case be appealed to the Supreme Court. Why? They felt they would lose, in my opinion.

Let me talk about duty. Maybe that is a bit old-fashioned today. But Ms. Kagan should not have had to make a promise before the committee that she would defend this law. It is a duty of every Solicitor General to defend the laws of the United States, whether they like them or not, whether they think it is a good idea or not. Who cares what they think? They have a responsibility. They are confirmed to a position high in the Department of Justice—the position that empowers her to appear before the Supreme Court and state the position of the United States. Indeed, the Solicitor General's job has often been called the greatest

lawyer job in the world. Why? Because the Solicitor General has the honor to stand before those Justices and say: I represent the United States of America. What greater honor can someone have than that, to represent this great Nation before the Nation's highest Court? Much is expected of them.

So I say she did not have to make a promise to defend this statute. It was her duty, whether she liked it or not. And it does appear—I do not see how we can draw any other conclusion—that she did not like this law and that her strategy in the case was to not get a definitive Supreme Court ruling on the constitutionality of the statute and to allow these proceedings to be dragged out in lower court and to maybe influence Congress as to whether it repeals this act. I do not know. Certainly, she despised this law. She opposed it. She wrote briefs at Harvard attacking the Solomon amendment that said that Harvard Law School had to give the military equal treatment on campus and that access could not be denied simply because she did not agree with don't ask, don't tell, which is what she was doing at Harvard.

The result of her decision showed she was willing to allow the ACLU to prowl through the our airmen and soldiers in units throughout the Ninth Circuit—covering over 40 percent of America—turning those units upside down, harming the discipline and order of those units and damaging to the military. I do not see how it can be considered otherwise.

I think it was an abdication of her duty. We are Senators here. We are elected. We have one vote. And I know our nominee was articulate and had good humor and many thought she did very well with her testimony. I was not so impressed. But I do believe you have to fulfill your duty and your responsibility, particularly after you have explicitly promised to do so with regard to this specific case, and defend the law even when it runs contrary to one's own personal views.

What if the person is now confirmed to the bench for 30, 35 years? If she were to serve as long as the judge she is replacing, I think she would serve 38 years on the Supreme Court. We have to know before they are launched forth on the Court that the nominee has the ability and the character and the integrity to defend the legal system in a proper and effective way.

This nomination is further complicated by the fact that our nominee has no experience in the real practice of law. Our nominee has never tried a case, never stood before a jury, to my knowledge, never cross-examined a witness in a trial. She never had to deal with a judge who is not feeling good, maybe irritable one day, or dealing with lawyers on the other side who are clever and tough. That is something you learn. She has never been a judge. Well, they say, that is not necessary; some great judges haven't been judges. Of course, that is true, but she

has never been a judge or a real lawyer. That bothers me. Then when I see the kinds of things I am seeing here, it makes me pause, frankly. I hope all of my colleagues will look at this and take it seriously.

There are other examples of positions taken by this nominee as Solicitor General and at Harvard that are very troubling. I think the evidence shows a lack of a clear understanding of the importance of the rule of law in our country. President Obama has said he wants judges with empathy. I don't know what he means by empathy. That is not a legal standard. It is something other than law. It is more akin to politics or bias than law. He has said he wants a nominee who will demonstrate that they, in the course of their duties, will have a broader vision for what America should be. Does that mean a judge gets to manipulate the meanings of words in statutes and in our Constitution to promote this vision that they have? Were they elected to promote any vision? I don't think so. I think a judge should be a neutral umpire who puts on that robe to evidence a commitment to impartiality and call the facts of the case as they see them, faithfully following the law and faithfully finding the facts of the case. That is what a judge is all about.

I am very concerned that our nominee, whose background has been more political. Her testimony to me was too much akin to White House spin than to a clear and intellectually honest explanation of what the law and facts are in complicated situations. I didn't feel good about it. Maybe others did, but I did not.

So those are concerns I have. I hope my colleagues will specifically look at the don't ask, don't tell matter. I think it raises questions about whether the nominee should be confirmed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### UNEMPLOYMENT INSURANCE BENEFITS

Mr. REED. Mr. President, we are seeing over the last 12 months a slow recovery in our job market. In the last 6 months, we have seen that accelerate but not sufficiently to reduce unemployment to anything comparable to a full employment economy. This year, so far, however, we have generated 600,000 jobs in the private sector. That is in sharp contrast to January of 2009 when President Obama took office and when we were losing 700,000 jobs a month. But despite this improvement in the job market, we have a long way to go.

It is particularly troubling to be, once again, anticipating the vote tomorrow on the extension of unemployment benefits. These benefits lapsed

weeks ago. Meanwhile, millions of Americans are without access to unemployment funds—the insurance funds they paid each week out of their daily wages for the time they hoped would never come but has come—that they could rely upon for some support as they look for work.

In Rhode Island, the unemployment rate is 12 percent—absolutely horrendous. We are seeing more and more of this unemployment being long term, not a temporary situation. Nearly half—45.5 percent—of those unemployed have been out of work for more than 6 months, and in those 6 months, the excess savings one might have, the ability to cut a few corners to make it week by week, are less and less effective in simply keeping the lights on and keeping the family together. Then when you take away the unemployment compensation, people are, frankly, becoming desperate.

Yet many on the other side are completely indifferent to this. They say it is not their problem. Well, it is their problem. It is our problem. If we cannot do this, then we are failing in a basic function which is to provide support for Americans in crisis, and that is what we must do. People are looking for work. The average individual has been looking for work for 35 weeks. That is almost a year, or a big part of a year. Yet, in the midst of this economic downturn—with 14.6 million unemployed Americans—my colleagues on the other side have forced us to go through procedural hoops to get a vote on an unemployment compensation extension.

The Senate has failed on three occasions to pass this extension. It is not because there is not a majority of Senators who want to, but because procedurally, we need 60 votes to end debate and vote on the measure. We have let this program lapse for short periods and now it has been lapsed since June 2, and that is unacceptable. There is no other word for it other than obstruction—stopping something that has been done routinely on a bipartisan basis in every major job recession in this country in our lifetime. This should be a simple bipartisan endeavor.

George W. Bush had a period of time where we had a recession in the job market and we, on a bipartisan basis, extended unemployment insurance. There were no repeated delays, stretching it out, only 2-month extensions or 3-month extensions to be considered. It was done because we had to help Americans who needed the help and who had contributed to the fund through their unemployment compensation insurance. We have never failed to extend unemployment compensation while the unemployment rate was at least 7.4 percent. Today, if your State has 7.4 percent, you are in recovery. You are in great shape. We have 12 percent in Rhode Island. If I go around the country, there are too many States such as Rhode Island, with 10, 11, 12 percent unemployment. The national unemploy-

ment rate is 9.5 percent. So this is an historical anomaly. We have routinely, on a bipartisan basis, extended unemployment compensation as long as the unemployment rate has been at least 7.4 percent. But now, in the midst of a much worse national economic crisis, most of my colleagues are simply indifferent to it. I am hopeful tomorrow we will rally at least two who recognize the need to respond to the needs of their constituents.

We have extended it for much longer periods of time than the current period. In the 1970s, under Presidents Ford and Carter—again, through two Presidents, one Republican, one Democrat—3 years and 1 month of extended unemployment benefits. In the 1980s under President Reagan, yes, we extended unemployment compensation benefits without paying for it under Ronald Reagan on a bipartisan basis to help Americans for 2 years and 10 months. In the 1990s, under President Bush, George Herbert Walker Bush and President Clinton, 2 years and 6 months. So we are hardly at the point where these benefits have gone on so long that they are intolerable.

Again, routinely we have done this on a bipartisan basis, Republican Presidents, Democratic Presidents, Republican Congresses, Democratic Congresses. What I would argue has changed is our colleagues on the other side. Now we are going through another procedural vote and at the end of the day, on the final merits, this could pass by 75, 80, 90 votes, because no one wants to be accused of not extending unemployment benefits. But this whole procedural strategy of delay after delay after delay effectively has denied millions of people not just the dollars, which are important, but the small sense of security that they can rely on these funds, that there is someplace they can get help. In Rhode Island, the average weekly benefit is \$360. They can get roughly \$360 a week to feed their family, to provide for the essentials in life. When that is stripped away, they lose more than just \$360; they lose the sense that there is anything out there that is going to help.

Beyond this procedural delay, some of my colleagues are arguing: Well, the reason we don't want to give unemployment compensation is it is a disincentive to work. I say \$360 a week is not a disincentive for people to work who have worked all of their lives, making much more than that, who are desperate to work. The reality is that for every worker unemployed today who is out there looking around, there are not the jobs. In fact, there are five unemployed workers for every available job. This is not a situation where they are sort of sifting through and saying, Well, I don't like that work; that is too far for me to go. Talk to your neighbors, as we all do. They will take almost anything to get back in the workforce, and just to make more than, in Rhode Island, \$360 a week. So that argument is disingenuous, but it

has been raised here as if it is the gospel. It is not.

We are in a deep economic crisis. Most of it is the result of policies that my colleagues enthusiastically supported: deep tax cuts to benefit, because of the nature of the income tax, the wealthiest Americans; more than low-income Americans. Two wars unfunded. In fact, I think this is probably the first time in the history of this country where we cut taxes in a time of war rather than trying to pay for these wars. The largest expansion of an entitlement program—Medicare Part D—in the history of the country since the 1960s, unpaid for. I could go on and on and on. That has led to a myriad of other policies—lax regulation; inattention to the lack of innovation in our country; the looking on as other countries such as China and others have taken bold steps in terms of infrastructure construction; the development of new technologies, including alternate energy and high-speed electric rail transportation—the Bush administration sort of casually tended to ignore it.

I don't think anything indicates clearly the priorities of that side and this side. We have been struggling for months to try to pass an extension of unemployment compensation, but being told we have to pay for it. In the same breath, our colleagues say, But we have to extend the Bush tax cuts, including the estate tax cuts, without paying for them. We can't help people struggling to find work with \$360 a week, but we can help multibillionaires with their estate taxes. I would argue that if you want to invest in productivity in America, help working people get jobs and work, and they will pay their taxes, they will work hard, they will contribute to the community.

Now we have to deal with the deficit, but the notion that the \$34 billion we are talking about today in unemployment compensation is going to rank with the \$3.28 trillion that these Bush tax extensions will cost the country it is not even apples and oranges. Literally and ideologically we can't pay for tax cuts, yet the deficit is the most important problem we face. It doesn't make sense, and it particularly doesn't make sense to Americans who are out there desperately looking for work.

Again, when you look at where this deficit came from, I remember in the 1990s when we stood up as Democrats without any Republican help and passed an economic program that resulted in not only deficit reduction but a \$236 billion surplus. It resulted in not only economic growth but strong employment growth through the nineties.

When President George W. Bush took office, he was looking at a significant projected surplus. He was looking at solid employment numbers and a growing, expanding economy. In the 8 years he was in office, he took that surplus and not only turned it into a deficit, but he increased the national debt more in 8 years than had been done in

the previous history of the country. Then, again, to have my colleagues on the other side suddenly discover that deficits are important—it wasn't important enough for them in the nineties to stand with us and vote to reduce the deficit, balance the budget, and raise the surplus. It wasn't important enough for them in the Bush administration, which adopted programs and policies to undercut that fiscal stability and put us into a precipitous economic collapse—and now it is important.

It is important, but when we talk about this issue of unemployment compensation, it is central to this debate. Robert Bixby, president of the Concord Coalition, which has been, throughout the years, one of the most consistent in terms of fiscal responsibility, put it well when he said:

As a deficit hawk, I wouldn't worry about extending unemployment benefits. It is not going to add to the long-term structural deficit, and it does address a serious need. I just feel like unemployment benefits wandered onto the wrong street corner at the wrong time, and now they are getting mugged.

That is what is going on. They are mugging a program the American people need. It is close at hand. It can invoke this notion of responsible deficit reduction. Where was all this responsible deficit reduction talk when they were proposing Medicare Part D, which is a huge benefit to the pharmaceutical industry—without any payments, a lot of expensive entitlement, which adds to the structural deficit, because year in and year out, when you get to be 65 years old, you qualify for Part D.

Unemployment benefits are counter-cyclical—people pay into it, it builds up the trust funds in the States, and then when you meet a point at which you need it, it should be there. It should be there now.

The other point that is important to make is, for every dollar of unemployment benefits there is \$1.90 of economic activity. This is a stimulus measure too. At a time when we are seeing a fragile recovery, we need to put more muscle behind the recovery. Not only are we giving people a chance to make ends meet, when they take their unemployment compensation and other resources and go into the marketplace, it provides an increase in economic activity.

In fact, if we don't have increased economic activity, there is a danger this recovery will be very slow—painfully slow—and that would be unfortunate, because what we measure in terms of economic recovery is measured in American families by the opportunities to send their children to school, the opportunities to provide more for their families. If that is inhibited over months and months, then those who suffer are the American families.

There are other aspects of this. For example, the Joint Economic Committee estimated that by the end of 2010—this year—290,000 unemployed

disabled workers—these are people who work but have a disability—will exhaust their benefits. If these individuals choose to drop out of the labor market and go onto the Social Security disability rolls, go through the process of being qualified and approved for disability, over the lifetime, this could result in \$24.2 billion in costs, contrasted to the \$721 million this year that this group would receive in extended benefits.

It is a simple sort of issue. Do we want to keep people in the workforce—at least keep them looking for work with unemployment benefits—or do we want them to say: I will give up and declare that I can't work again, and I will go see if my disability can be covered by Social Security disability insurance and, for the rest of my life, I will collect my Social Security disability, even though I would really like to work. That is another aspect of this problem.

We have a challenge tomorrow, when we greet our new colleague from West Virginia, to stand and extend unemployment benefits. Once again, if we look at history, this should have been done weeks ago on a strong, bipartisan basis, putting aside the relative politics of the moment and concentrating on what we should do for the American people. Tomorrow we will have a chance to do that, and I hope we do.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I wish to speak for about 5 or 10 minutes—not very long—about an important matter before the Senate.

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

Ms. LANDRIEU. Mr. President, I am joined by my colleague from Oregon, Mr. MERKLEY, who has been a wonderful supporter of the small business package and as a member of the Banking Committee has been very instrumental in the shaping of the jobs bill 3, the small business package, that we will be debating and hopefully voting on this week.

I wish to say first that I appreciate all the work the members of the Small Business Committee have done, both Ranking Member SNOWE and all the members of the committee, as well as the members of the Finance Committee who worked very hard to put a package together and the work that has come from the White House and Treasury to build a package that is paid for, fiscally responsible, and meaningful for small business in America.

There are many important pieces of the package, but one of the most sig-

nificant in this very tough time for small businesses, Mr. President, which you know because I am sure you hear from your small businesses in Delaware, is that they would like some tax relief, if possible. They understand we are in a deficit. They understand it is difficult to provide tax relief, it is also difficult to cut spending, but they would like to see us respond with some targeted tax cuts to small business.

This package, I am happy to say, that Leader REID will be presenting in the next 24 to 48 hours has \$12 billion in targeted, specific tax cuts for small businesses in America, from accelerated depreciation to zero capital gains for investments made in small businesses in the next year, incentives to invest, not in the big businesses, not in the businesses on Wall Street but in the businesses that are on Main Street in all our States and all our towns, whether they be large cities or smaller cities or tiny villages throughout, whether it is Delaware or Louisiana, Texas or New York I am pleased a centerpiece of this legislation is targeted, substantial tax cuts for business.

The other very interesting piece of this bill is a whole series of things on which the small business community has worked together in a very bipartisan fashion for strengthening programs within the SBA, the Small Business Administration; it is not a very big agency, it is a small agency, but it can be muscular. If it is provided the right tools and with the right shaping of those muscles, it can be actually very effective in lifting small businesses to a better place.

With Senator SNOWE's help and support, we have managed to come out with several provisions, one of which is the doubling of the loan limits for the 504 and 7(a) programs, which together have the potential to leverage about \$30 billion in lending. We have reduced the fees—eliminated the fees, actually, for banks. We have increased the guarantee from 75 percent to 90 percent. We have expanded the amount of loans, the limit, people can ask for to provide greater access to capital. It is widely popular with the small business associations, and we have their broad support.

Again, small businesses in America have seen their credit lines shrinking or evaporated. They have seen their credit card companies charging higher interest rates and demanding full payment on outstanding balances.

It is important for us to recognize that this recession is not going to end without some businesses hiring again. They do not hire on wishes and prayers. They hire on bottom-line finances and the hope that things will get better. Both are important—bottom line finances, access to capital, and the hope that things will be better. That is what this bill brings—bottom line support and hope that things can be better.

That is a big portion of our bill. Included in that is a very important component of increasing exports. When

people say in the surveys: We need to increase demand, I agree. One way we can increase demand is to open exporting opportunities for our small businesses.

I do not have it with me, but I have used it many times, a chart that shows only a small sliver that represents small businesses that export. Most of our products are exported and services sold by big companies. When people say to me: Senator, what can the Federal Government do to help open markets or to give us more customers, one thing we can do is to strengthen programs at the Federal level and the State level that give technical assistance and support for our small businesses to export. It is very important to Senator SNOWE. It is very important to Senator LEMIEUX from Florida. It is very important to Senator KLOBUCHAR from Minnesota, who has been a great advocate for this provision for exports, and others as well. That is in the bill.

The final piece I am going to speak about—and then I will turn it over to the Senator from Oregon, who has worked so hard on this particular proposal—is, in addition to the \$12 billion in tax cuts targeted for small businesses in America, in addition to the strengthening of the SBA direct lending programs that are so important to so many colleagues on both sides of the aisle, there is a \$30 billion lending program to small businesses. It is not a government program but a private sector-based lending program, using the great and powerful network of our community bankers. Not our big banks, not the Wall Street banks, not the hedge fund managers about whom we have heard so much—usually bad—but our own very familiar partners at the local level, our community banks.

This program would take \$30 billion and basically pass it through to small businesses that are looking for capital. I have people come into my office, representing hundreds of small businesses, saying: Senator, we don't have the capital we need to expand, and we have been in business X number of years. If I could just get a loan for \$5 million or \$10 million or get a capital line for \$20 million, I could expand my business.

If we do not find a way to get more money into the hands of small businesses—this is not a banking program. It is not like the old bailout program we did for banks. This is about a liftoff, a helping hand to small businesses in America.

With that program, amazingly, it encourages more lending to small businesses, it is voluntary, and it actually makes money for the Federal Treasury. Again, it is voluntary. It is available to all small banks in good standing to encourage them to use this capital to lend to small businesses.

I am going to turn it over to the Senator from Oregon. Before I do, I would like to call attention to the many strong endorsements we have gotten, starting with the Conference of State Bank Supervisors:

The proposals—the Small Business Lending Fund and the State Small Business Credit Initiative—will provide much-needed access to capital support small business lending, the lifeblood of our national economy.

That is Neil Milner, president and CEO of that organization.

I will read another one from John Arensmeyer, founder and CEO of Small Business Majority:

The Small Business Lending Fund will create a program that will provide up to \$30 billion in capital to smaller banks to spur lending to small businesses and help create new jobs. There's no "silver bullet" that will put small business owners out of the financial hole . . . but these initiatives are an important piece of the overall plan to help revive our struggling economy. . . .

Finally, from Michael Grant, president of the National Bankers Association:

The Obama Administration—continuing its efforts to lift the country out of a two-year recession—has hit a home run with its proposed \$30 billion Small Business Lending Fund. This is not a bailout to small business and medium-sized banks; it is, instead, a true investment in a brighter future for America's working class.

Again, I turn it over to the Senator from Oregon. I thank him very much for his help in shaping this proposal, expanding it, and promoting it. It promotes itself based on its merits. We are always happy to have his voice enter this debate.

I yield the floor for my colleague.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I am delighted to partner with my colleague from Louisiana. Senator LANDRIEU has been a passionate and effective advocate for small business across this country. She has worked incredibly hard to drive through this small business jobs legislation, recognizing that the success of our economy is going to rise or fall on the success of our small businesses.

That is what brings us together tonight. We have come to talk about the small business lending fund, which is an essential component of assisting our small businesses.

Small businesses employ one-half of our Nation's workforce. However, less than one-third of small businesses today are reporting their credit needs are being met. Indeed, 59 percent now rely on credit cards to finance their daily operations. That is an increase of about 15 percent from where we were at the end of 2009.

I can tell my colleagues that at every townhall meeting I hold, folks stand to talk about how their credit lines have been cut or they have a business opportunity for which they normally could easily get a loan from a longstanding banking partner, but they are not able to get that loan. Often, the reason the banks cannot make the loan is because they are at their leverage limit. There are legal limits for every dollar they hold, how many can they lend out. If they are at that limit, they cannot make a new loan no matter how good the opportunity.

This is a losing situation because our community banks are right on Main Street. They see and know the opportunities. They understand the capabilities of individual entrepreneurs and managers, so putting that expertise to work is going to fuel job growth in this Nation. But we can't put it to work if the banks are unable to lend or are at their leverage limit.

The Small Business Lending Fund will proceed to inject liquidity into our economy, and that is like oil into an engine—a job-creating engine—to the tune of as much as \$300 billion in additional lending to small businesses on Main Street, and this will occur under the Small Business Lending Fund without any dollar of subsidy from the U.S. taxpayer.

Indeed, the Congressional Budget Office has studied this proposal and has recognized and reported that it will save \$1 billion to taxpayers over the next 10 years, and that is just from the earnings of the payments that the banks will make back to the funds that are injected as additional capital into our community banks.

But think about this: Every small business that is able to see an opportunity because it can gain access to credit is also going to make money on that proposition. When they make money, they pay additional taxes. CBO doesn't score the additional taxes, but recognize that in addition to the \$1 billion of savings on interest payments, there will be all the benefits that will flow from additional jobs—additional taxes paid on the income from those jobs, additional profits to small business, additional revenue from those profits. So the real return is even greater to the taxpayer.

But most importantly we are creating jobs, and that is a return that is hard to measure. When a family has a job, they can diminish their reliance on every other program. The most important foundation of a family is a good job, and that is what the Small Business Lending Fund is all about. It does indeed have prominent endorsements, as my colleague mentioned: the Independent Community Bankers of America, representing 5,000 community banks on Main Street which are having to bypass the opportunities they are seeing because they are at their leverage limit. Recognize that they can make loans, which is good for them, good for small businesses, good for their communities and certainly great for the families who get the additional jobs. Also, the National Bankers Association, the National Small Business Association, the National Association for the Self-Employed, the Small Business Majority, and so on and so forth.

Let me give one example from Oregon. John and his business partner have owned a small retail store in Portland, OR, for over 25 years. It is a store I have visited often. Because of lackluster consumer spending, John has made a lot of sacrifices to keep that business afloat during this recession. He has had to reduce his staff, cut

the hours the shop is open, and he and others have had to take pay cuts. But to add insult to injury, his bank threatened to drop his line of credit.

John has never missed a payment, never had a late payment, but in this process of reducing exposure or reducing the required leverage limits, banks are cutting lines of credit, and John's line was being cut. Finally, after negotiation, they agreed to renew his line of credit every 90 days but every 90 days charge a fee, and on many occasions to raise the interest rate.

He has been looking for a new lender who will work with him and not against him, but that is hard to find in this economy, where lender after lender is affected by the same constraints. This story is repeated, different versions, hundreds of times throughout Oregon, and thousands of times throughout this Nation.

How would a Small Business Lending Fund work? Essentially, it capitalizes the community banks, so with that additional capital they can make more loans. If they get more loans out the door, then the repayment rate—the dividends they would pay back to the taxpayers—is reduced to as low as 1 percent. If they do not get loans out the door, the payments go up to as high as 7 percent. So there is a significant incentive to take these funds, after a bank is recapitalized, and get them out the door.

That addresses several of the challenges folks have raised. There has been concern about banks that might hoard cash and say: Well, we will prepare in case some assets are devalued in the future or that banks might say: We will wait until a better time, when everything is surging forward. Well, things won't surge forward unless we get lending out to small businesses. That is why this structure of incentives is critical.

The banks that will qualify are banks that have CAMELS ratings, which means capital adequacy, asset quality, management, earnings, liquidity, and sensitivity—or exposure to market risk. So a bank that is in deep trouble isn't going to be in a position to take advantage of this. But banks that are sound and healthy will, and therefore this makes it a good investment, an investment that has significant return to the taxpayer but, more importantly, a big return to our communities.

I would also note that this will go hand in hand with the program to make additional grants to State-based small business programs. My colleagues, Senators LEVIN and WARNER, have been very involved in helping to forge that program. These things go together. Community banks on Main Street will see opportunities and State-based small business programs will see opportunities. They probably will see the same opportunities. These will work together to take us out of this recession.

I wish to read a note that I received:

Dear Senator Merkley: Overall, I believe the majority of financial support under

TARP went to the large investment banks, insurers, FNMA, FHLMC and other giant institutions on Wall Street. It is now very important to revive the economy that the government assist Main Street, which includes community banks, if we are to have job creation. Jobs are created by small business that bank at community banks.

And the writer goes on:

As a community banker in Oregon, I urge you to retain the \$30 billion small business lending fund. . . . Community banks are well-positioned to leverage the SBLF and have established relationships with small businesses in their communities to get credit flowing quickly. Leveraging the \$30 billion funds with community banks would potentially support many times that amount in loan volume to small businesses—as much as \$300 billion in additional lending.

The writer concludes:

Banks that increase their small business lending by certain threshold percentages will pay reduced dividend costs, ensuring that their incentive to lend matches their great capacity to do so.

Thank you very much, Sincerely Tom.

That was a letter from Tom of M Street Bank.

I thank the many colleagues who have put themselves behind this idea and supported it. An earlier rendition of this idea was called "Banking on our Communities" and had support from Senators CARPER, HAGAN, KERRY, LEVIN, PRYOR, STABENOW, and MARK UDALL, and I wanted to mention that they have been sponsors of that legislation.

I urge my colleagues to stand for small businesses, stand to provide a solution to the problem of liquidity and access to loans that is plaguing our small businesses, stand to help not just your community banks but your community businesses and your families who will benefit from the jobs that it will create.

I thank my colleague for her passionate and effective leadership on this particular issue and for her leadership on our Small Business Committee.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my colleague, and let me add a few words to that wonderful explanation. Again, what we are on the floor talking about here—the jobs 3 bill, the small business bill—is a lending program for small business. This is not a bank bailout. It is not a big bank bailout. It is not a medium-sized bank bailout. It is not a small-sized bank bailout. It is not for banks. It is for small businesses.

We are using healthy banks, not troubled banks, as a conduit to reach small businesses so they do not have to rely on high rates through a credit card company that is impersonal and not interested in their business but just the bottom line. They do not have the home equity that they used to have, as you know, either in Delaware or Louisiana or Oregon or Texas.

I think in America we want to encourage healthy relationships between our small businesses and our local banks. Only small healthy banks can

participate in this voluntary program on behalf of small businesses in their communities. Ninety percent of community banks are less than \$1 billion, and you can only participate in the Small Business Lending Program if you are below \$10 billion. So none of the big banks can even qualify for this.

As the Senator from Oregon said, there is not going to be an end to this recession any time soon if we don't, in this Chamber, figure out a way to get low-cost capital into the hands of small business. We don't have many choices. We could issue some more credit cards to them and let them pay 15, 16, 17, 24 percent. We can ask them to go back and get equity out of their homes, which has all but dried up, and not through any fault of their own, or we could give direct lending through the Small Business Administration.

Some people have trouble with the Federal Government acting as a direct lender, and I can understand that. It is not what we do. We are not a bank. But there are banks out there—there are 8,000 community banks—many of which are healthy, and with a little bit more capital and a partnership with the Federal Government, they could turn around and lend money to businesses that desperately need it.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of small business organizations I received from the Small Business Access to Credit Coalition.

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

(See exhibit 1.)

Ms. LANDRIEU. Mr. President, I am going to read a few of these organizations into the RECORD at this time. This is a very market-based, private-sector approach to solving this problem, and that is why the American Apparel & Footwear Association, the American Hotel & Lodging Association, the American International Automobile Dealers Association, the Associated Builders & Contractors, Heating, Airconditioning & Refrigeration Distributors International, and we said the Independent Community Banks of America, but how about the Independent Electrical Contractors, the International Council of Shopping Centers, the Main Street Alliance, the National Association of Women Business Owners—Los Angeles, and I could go on and on and on.

There are hundreds of organizations that support this \$300 billion Small Business Lending Fund. Again, it leverages up to \$300 billion of potential loans to small businesses right here in America to create the jobs we need to move us out and past this recession to higher ground and happier times. We can't wait to get there, but we are not going to get there by peddling in place. We have to move forward.

This is a bold proposal, but it is very much based on common sense. It is easy to understand, with clear parameters for understanding it. It is using the great asset of community banks to

get low-cost capital into the hands of small businesses—shoe stores, retailers, cleaners, grocery stores—that can then start the hiring of one or two or three extra people. All of that is going to add up to more consumer demand. As people have paychecks, they can go spend them, increasing demand.

This is economics 101. It is very simple. It is bold, it is simple, and I believe it will work. It is voluntary. It is for healthy banks only—for community banks only. It has nothing to do with Wall Street, hedge funds or bailouts. It has everything to do with job creation on Main Street in America, and more than 100 small business organizations are supporting this initiative.

I thank the Members of the Senate, both Democrats and Republicans, who have been very supportive. We are grateful for the wonderful testimony and endorsements we have received from these very powerful organizations and we look forward, after we have the vote on unemployment sometime tomorrow, to getting back to the business of ending this recession. We have all had about as much of it as we can take.

We want to move to stronger times, to happier times. We are only going to do that by giving small business substantial and targeted tax cuts and a lending program that they can work for them and the businesses they want to serve and service every day on Main Streets throughout America.

#### EXHIBIT 1

#### SMALL BUSINESS ACCESS TO CREDIT COALITION (February 17, 2010)

DEAR SENATOR: Access to credit is a critical issue facing small businesses today. The undersigned organizations, representing millions of small business owners in every industry sector, were very disappointed to learn that only one provision related to expanding small business access to credit was included in the draft legislation offered by Senators Baucus and Grassley, the "Hiring Incentives to Restore Employment Act." Furthermore, none of the provisions aimed at improving the Small Business Administration (SBA) lending programs are currently being considered in Majority Leader Reid's latest proposal. We are concerned that if the Senate fails to listen to the needs of small businesses and address the credit crisis, a tremendous opportunity to help create new, sustainable jobs in 2010 and beyond will be lost.

We urge your support for appropriations to extend the SBA loan provisions of the American Recovery and Reinvestment Act (ARRA) through the end of December 2010. The depletion of funds last fall is proof that the SBA programs were, and continue to be, critically important for our nation's credit-worthy entrepreneurs. An additional \$354 million in appropriations is needed to fund the extension of the higher guaranty percentages and waiver of borrower fees for the balance of the fiscal year.

Additionally, we urge your support for an increase in the maximum loan size and the maximum guaranteed portion of SBA loans. Senators Landrieu and Snowe have introduced legislation that would increase the maximum size of SBA 7(a) and 504 loans from \$2 million to \$5 million. This legislation would also provide a commensurate increase in the statutory maximum guaranteed por-

tion of SBA 7(a) loans. Moreover, the CBO has determined that their legislation, S. 2869, will have no impact on spending or revenue. These levels are recommended by the Administration, have bi-partisan support and we urge your support as well.

By including these provisions in upcoming legislation aimed at spurring new job creation, there is the potential to leverage an additional \$16 billion in SBA lending in 2010. According to Federal Highway Administration data, federal spending on highway programs can generate about 34,100 jobs for every \$1 billion spent. Small businesses can generate the same rate of job creation, except that small businesses have the ability to create new, sustainable jobs in every local community. Therefore, by acting on these recommendations, the Senate will help increase small business lending that will result in over 545,000 sustainable new jobs in the next year.

We urge you to act quickly so that we can continue to realize the SBA lending momentum we saw in 2009. Small businesses cannot be the engine of our economy if they continue to face unrelentingly tight credit markets. The Senate must include these important provisions in the job creation bills currently pending in order to restart the flow of credit to America's small businesses or else these entrepreneurs will be left to sit on the sidelines.

Respectfully,

American Apparel & Footwear Association; American Bankers Association; American Foundry Society—California Chapter; American Hotel & Lodging Association; American International Automobile Dealers Association; Associated Builders & Contractors; California Association for Micro Enterprise Opportunity; California Association of Competitive Telecommunications Companies; California Cast Metals Association; California Chapter of the American Fence Contractors Association; California Employers Association; California Fence Contractors Association; California Hispanic Chamber of Commerce; California Metals Coalition; California Public Arts Association, Inc.; Council of Smaller Enterprises (Ohio); Engineering Contractors Association; Entrepreneurs Organization Los Angeles; Fashion Accessories Shippers Association; Flasher/Barriade Association; Golden Gate Restaurant Association; Greater Providence (RI) Chamber of Commerce; Heating, Air Conditioning & Refrigeration Distributors International; Independent Community Bankers of America; Independent Electrical Contractors; Independent Waste Oil Collectors and Transporters; International Council of Shopping Centers; International Franchise Association; Main Street Alliance; Marin Builders' Association; Marine Retailers Association of America; Monterey County Business Council; Napa Chamber of Commerce; National Association for the Self-Employed; National Association of Development Companies; National Association of Government Guaranteed Lenders; National Association of Manufacturers; National Association of Women Business Owners—Inland Empire; National Association of Women Business Owners—Los Angeles; National Automobile Dealers Association; National Cooperative Business Association; National Council of Chain Restaurants; National Council of Textile Organizations; National Federation of Filipino American Associations; National Gay & Lesbian Chamber of Commerce; Na-

tional Marine Manufacturers Association; National Ready Mixed Concrete Association; National Restaurant Association; National Small Business Association; North American Die Casting Association—California Chapter; North Carolina Bankers Association; Northern Rhode Island Chamber of Commerce; NPES—The Association for Suppliers of Printing, Publishing and Converting Technologies Oakland Metropolitan Chamber of Commerce; Oregon Small Business for Responsible Leadership; Peninsula Builders Exchange of California; Plumbing-Heating-Cooling Contractors of California; Recreation Vehicle Industry Association; Recreational Vehicle Dealers Association; Rhode Island Small Business Summit Committee; Sacramento Asian Chamber of Commerce; San Francisco Builders Exchange; San Francisco Chamber of Commerce; San Francisco Small Business Advocates; San Francisco Small Business Network; Small Business Association of Michigan (SBAM); Small Business Association of New England (SBANE); Small Business California; Small Business Majority; Small Manufacturers Association of California; South Carolina Small Business Chamber; Spa and Pool Industry Education Council of California; SPI; The Plastics Industry Trade Association; The Financial Services Roundtable; The Hosiery Association; Travel Goods Association; Tree Care Industry Association; Urban Solutions—San Francisco; U.S. Chamber of Commerce; U.S. Hispanic Chamber of Commerce.

Mr. MERKLEY. Mr. President, I again thank my colleague for her leadership. We together as a Senate need to stand with our small businesses so we can revive our communities, restore our economy and create jobs for our families. I thank the Senator again for the terrific job she is doing.

#### MORNING BUSINESS

Mr. MERKLEY. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### IMPEACHMENT TRIAL COMMITTEE RULES

Mrs. MCCASKILL. Mr. President, on April 13, 2010, the Impeachment Trial Committee on the Articles of Impeachment Against Judge G. Thomas Porteous, Jr., adopted two rules to govern aspects of its pretrial proceedings. On July 14, 2010, the committee adopted two additional rules.

The first rule, adopted pursuant to rule 26.7(a)(1) of the Standing Rules of the Senate, establishes seven members as the committee quorum. In the interest of fairness and continuity, and consistent with prior impeachment trials, the committee adopted this rule and established a "natural" quorum of at least seven of its members to receive evidence and conduct the business of the committee.

The second rule delegates the authority of the committee to the chairman

and vice chairman to conduct the daily operations of the committee. This includes, but is not limited to, hiring staff, issuing administrative orders, ensuring compliance with those orders, communicating with counsel for the parties, determining a course of proceeding, and for any other purposes necessary for the committee to discharge its responsibilities and address any other administrative or procedural matters.

The third rule delegates to the chairman, in consultation with the vice chairman, the committee's authority to issue subpoenas for witnesses called to testify or produce documents during all committee proceedings. Senate impeachment rule XI grants to the Impeachment Trial Committee the power granted by Senate impeachment rule VI to the Senate "to compel the attendance of witnesses."

The fourth rule, adopted pursuant to rule 26.7(a)(2) of the Standing Rules of the Senate, reduces to one member the committee quorum for taking sworn pretrial testimony. Judge Porteous has asked to examine certain witnesses in advance of the committee's evidentiary hearings, which will begin on September 13, 2010. Although the pretrial examination of witnesses in a Senate impeachment trial remains rare, the committee has concluded that it should, in the circumstances of the present impeachment, permit a limited number of them. The rule implements the committee's determination that pretrial examinations may proceed before a quorum of one member. As with prior impeachment proceedings, and pursuant to the rules of this committee, the evidentiary hearings will take place in the presence of a natural quorum of at least 7 of its 12 members.

I ask unanimous consent to have those rules printed in the RECORD.

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

#### RULE 1—DELEGATION OF AUTHORITY

The Chairman and Vice Chairman are delegated the authority to communicate as necessary with House counsel and counsel to Judge Porteous, for the purpose of determining a course of proceeding, pretrial and trial scheduling, and for any other purposes necessary for the Committee to discharge its responsibilities. The Chairman and Vice Chairman are further delegated the authority to address any other administrative or procedural matters necessary for the Committee to discharge its responsibilities.

#### RULE 2—QUORUM FOR RECEIVING EVIDENCE

A natural number of seven members shall constitute a quorum for the purpose of receiving evidence.

#### RULE 3—SUBPOENAS

The Chairman and Vice Chairman are delegated the authority to issue subpoenas on behalf of the Committee.

#### RULE 4—QUORUM FOR THE TAKING OF PRETRIAL TESTIMONY

One member shall constitute a quorum for the purpose of a pretrial examination of a witness at which sworn testimony is heard and evidence taken.

## HONORING OUR ARMED FORCES

CAPTAIN DAVID A. WISNIEWSKI

Mr. GRASSLEY. Mr. President, I rise to pay tribute to a brave and patriotic son of Iowa who gave his life for his country, CPT David Anthony Wisniewski. He graduated from Woodbury Central High School in Merville, IA, before attending the Air Force Academy. It had been his dream to be an Air Force pilot since visiting Offutt Air Force Base as a young child and he died doing what he loved. By all accounts, David Wisniewski was a remarkable man and his numerous accomplishments include the saving of many lives during his several tours of duty in support of the global war on terrorism. In reference to the reason for his service, I understand that he would end letters to his parents with the reminder that, "I do this so you can sleep safe at night." That is an excellent reminder for all of us to never take for granted the tremendous cost of our freedom. I find that words fail me in trying to describe the debt of gratitude we owe to the courageous and selfless Americans like Captain Wisniewski. We can never begin to repay the debt, but we can honor it by honoring David's memory and by fully appreciating our way of life and the sacrifices made to preserve it. Of course, his loss will be felt very deeply by his parents, Chet and Beverly Wisniewski, and all his family and friends. My prayers go out to them in this difficult time. They are no doubt very proud of their son, and all Iowans can be proud to call him one of our own.

## ADDITIONAL STATEMENTS

### TRIBUTE TO LENA ARCHULETA

• Mr. BENNET. Mr. President, I would like to recognize a treasured Coloradan, Mrs. Lena Archuleta, a champion of Hispanic rights who is celebrating her 90th birthday this year. Lena represents the true spirit of commitment to the greater good. Her dedication to education and public service demonstrates the change that we can inspire through hard work, sympathy, and kindness.

Lena was born in Raton, NM, in 1920. She was awarded a scholarship at the University of Denver where she studied Spanish and education and later received a master's in library science. In 1951, she joined the Denver Public Schools' Department of Library Services where she maintained her belief that a high-quality education should be accessible to all students regardless of gender, race, or nationality. This belief led Lena to work with the Denver Public Schools' Federal Project to promote and jumpstart programs for bilingual education. In 1974, she used her vast experience in the education field to become the principal at Fairview Elementary and the first Hispanic prin-

cipal in Denver public schools' history. In addition to this honor, she later became the first Hispanic woman appointed to a central administrative position. Mrs. Archuleta dedicated and accumulated 17 years to New Mexico and Colorado classrooms, as well as 14 years as a school administrator.

While I am pleased to have the honor of recognizing Mrs. Archuleta and her great accomplishments, this is not the first time her dedication and commitment to serving others has been recognized and I doubt that it will be the last. In 1963 the Latin American Educational Foundation appointed her to be the first woman to serve as president of its board of directors. In 1986, she was inducted into the Colorado Women's Hall of Fame as the first Hispanic inductee. In addition to these and other honors, both regional and national, Denver's Lena Lovato Archuleta Elementary School was named after her in 2002. This was perhaps, the most fitting of all of her honors as this elementary school nurtures the same environment of discovery and lifelong learning that Mrs. Archuleta herself created and passed along to fellow educators, students, and community members. Truly representative of her spirit and life's work, Mrs. Archuleta didn't merely accept the honor, she went on to raise \$20,000 for the school's library.

Mrs. Lena Archuleta continues to recognize and nurture the skills of her students and those around her. Through continued volunteer work with organizations such as the AARP in Colorado, she inspires others to achieve their goals using entrepreneurship, dedication, and compassion. Working in schools, Lena has inspired many of us through her example. She has shown Coloradans that with humility, devotion, and empathy we can improve the lives of others. For these reasons, today, we recognize Mrs. Lena Archuleta.●

### TRIBUTE TO THE REVEREND HARRY BLAKE

• Ms. LANDRIEU. Mr. President, I wish to recognize the career of Reverend Harry Blake, pastor of Mount Canaan Baptist Church of Shreveport, LA. After 15 years as the president of the Louisiana Missionary Baptist State Convention, Reverend Blake is retiring. He has been a friend and outstanding leader for many years.

Pastor of Mount Canaan Baptist Church for almost 44 years, Reverend Blake has also served in various capacities for a number of local and national organizations. Most recently, he was appointed vice president for the Southwest Region of the National Baptist Convention, USA, Inc., having previously served as general secretary. He has also held prominent roles in the Thirteenth District Baptist Association, and within the Louisiana Baptist State Convention, he has served on the Congress of Christian Education and the Evangelical Board.

Locally, he is involved with the Louisiana Recovery Authority Board and numerous community development initiatives, such as Grace Project Incorporated, Project UpLift, Mount Canaan Day Care Center, and Shreveport-Bossier Community Renewal. Additionally, he has served as president of the Board of Directors for both Canaan Village Apartments and Canaan Towers, dedicating himself to serving low-income, elderly, and handicapped housing needs.

In addition to these myriad roles in the local, State, and national communities, Reverend Blake has graciously played the role of educator, having lectured at Morehouse School of Divinity, Arkansas Baptist College, Leland College, Wiley College, Bishop College, L.K. Williams Ministers Institute, American Baptist College, Birmingham Bible College, United Theological Seminary, and Union Theological Seminary. Many have been inspired by his counsel and leadership for many years.

Reverend Blake's innovations within his own church should also be commended. By including various ministries as well as tutoring programs at Mount Canaan Baptist Church, Reverend Blake has developed a model prayer service which has been emulated throughout the country.

Finally, and perhaps most importantly, Reverend Blake has played the role of dedicated husband, father, and grandfather, raising his four children, Elizabeth, Harry II, Rodney, and Monica, with his wife Norma Jean and taking an active role in the lives of his 15 grandchildren.

I ask my colleagues to join me in congratulating Reverend Harry Blake on his distinguished 15 years of service to the Louisiana Missionary Baptist State Convention and in wishing him the best for years to come.●

#### REMEMBERING NICK BACON

● Mrs. LINCOLN. Mr. President, today I honor a true Arkansas and American hero, 1SG Nick Bacon, who passed away this weekend. First Sergeant Bacon, 64, was a Medal of Honor recipient and former director of the Arkansas Department of Veterans Affairs. He served in the U.S. Army from 1963 to 1984 and was awarded the Medal of Honor for his actions during a 1968 battle in Vietnam, along with countless awards and decorations including two Distinguished Service Crosses, the Legion of Merit, the Combat Infantry Badge, the Vietnam Cross of Gallantry, the Bronze Star and the Purple Heart.

With his passing, Arkansas has lost one of its finest citizens, and his death is a tremendous loss to our State. First Sergeant Bacon served our State and Nation honorably, fighting valiantly in Vietnam. He took command of two platoons after the leaders of each were wounded during a battle near Tam Ky, Vietnam, on Aug. 26, 1968. Using grenades, he destroyed an enemy bunker before singlehandedly killing an enemy

gun crew and disabling an antitank weapon. He then helped rescue several wounded and trapped soldiers.

After 20 years of military service, he returned to Arkansas to serve his fellow veterans as the director of Veterans Affairs for the State from 1993 through 2005. It was an honor to be able to work with him serving the State of Arkansas. As director of the Arkansas Department of Veterans Affairs, he helped establish the Arkansas State Veterans Cemetery and the Arkansas Veterans Coalition. He was also active in establishing a Veterans Cemetery Beautification Program. In addition, First Sergeant Bacon served as Commander, American Legion Post 1, Little Rock, after retiring as the director of the Arkansas Department of Veterans Affairs.

First Sergeant Bacon was a true "Arkansas son," born Nov. 25, 1945, in Caraway in northeast Arkansas. He moved with his family as a child to Arizona, where he joined the Army, but he returned to Arkansas in 1990 and most recently lived in Rose Bud. First Sergeant Bacon's legacy will live on through projects such as the Nick Bacon VFW Special Veterans Scholarship for selected children and grandchildren of veterans who have a 60-percent or more service-connected disability.

Along with all Arkansans, I am grateful for First Sergeant Bacon's service and for the service and sacrifice of all of our military servicemembers and their families. These men and women have shown tremendous courage and perseverance through the most difficult of times. As neighbors, as Arkansans, and as Americans, it is incumbent upon us to do everything we can to honor their service and to provide for them and their families, not only when they are in harm's way but also when they return home. It is the least we can do for those whom we owe so much.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO THE FORMER LIBERIAN REGIME OF CHARLES TAYLOR AND ON THE CONTINUATION OF THE NATIONAL EMERGENCY BLOCKING PROPERTY OF CERTAIN PERSONS AND PROHIBITING THE IMPORTATION OF CERTAIN GOODS FROM LIBERIA THAT WAS ESTABLISHED IN EXECUTIVE ORDER 13348 ON JULY 22, 2004—PM 64

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication stating that the national emergency and related measures dealing with the former Liberian regime of Charles Taylor are to continue in effect beyond July 22, 2010.

The actions and policies of former Liberian President Charles Taylor and other persons, in particular their unlawful depletion of Liberian resources and their removal from Liberia and secreting of Liberian funds and property, continue to undermine Liberia's transition to democracy and the orderly development of its political, administrative, and economic institutions and resources. These actions and policies continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to the former Liberian regime of Charles Taylor.

BARACK OBAMA.  
THE WHITE HOUSE, July 19, 2010.

#### MESSAGE FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5114. An act to extend the authorization for the national flood insurance program, to identify priorities essential to reform and ongoing stable functioning of the program, and for other purposes.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5114. An act to extend the authorization for the national flood insurance program, to identify priorities essential to reform and ongoing stable functioning of the program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 5712. An act to provide for certain clarifications and extensions under Medicare, Medicaid, and the Children's Health Insurance Program.

#### 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-6687. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class C Airspace; Flint, MI" ((RIN2120-AA66) (Docket No. FAA-2010-0599)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6688. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D and E Airspace; Yuma, AZ" ((RIN2120-AA66) (Docket No. FAA-2009-1141)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6689. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Kemmerer, WY" ((RIN2120-AA66) (Docket No. FAA-2009-1190)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6690. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Bryce Canyon, UT" ((RIN2120-AA66) (Docket No. FAA-2009-1011)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6691. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Lucin, UT" ((RIN2120-AA66) (Docket No. FAA-2009-1134)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6692. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Hamilton, TX" ((RIN2120-AA66) (Docket No. FAA-2009-0190)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6693. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Osceola, AR" ((RIN2120-AA66) (Docket No. FAA-2009-1183)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6694. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Cherokee, IA" ((RIN2120-AA66) (Docket No. FAA-2010-0085)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6695. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Kelso, WA" ((RIN2120-AA66) (Docket No. FAA-2009-1135)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6696. A communication from the Senior Program Analyst, 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-2009-1223)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6697. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier, Inc. Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601), CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604 Variants (Including CL-605 Marketing Variant)) Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-0039)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6698. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 737-200, -300, -400, and -500 Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-1224)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6699. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 737-200, -300, -400, -500, -600, -700, -800, and -900 Series Airplanes; Model 747-400 Series Airplanes; Model 757-200 and 757-300 Series Airplanes; Model 767-200, 767-300, and 767-400ER Series Airplanes; and Model 777-200 Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-1223)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6700. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F,

747-300, 747-400, 747-400F, 747SR and 747SP Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-0275)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6701. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Corporation Model DC-9-10 Series Airplanes, DC-9-30 Series Airplanes, DC-9-81 (MD-81) Airplanes, DC-9-82 (MD-82) Airplanes, DC-9-83 (MD-83) Airplanes, DC-9-87 (MD-87) Airplanes, MD-88 Airplanes, and MD-90-30 Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-0637)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6702. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747-400F, 747SR, and 747SP Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-0906)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6703. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Air Tractor, Inc. Models AT-802 and AT-802A Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-0707)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6704. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; CFM International, S.A. CFM56-5, -5B, and -7B Series Turbofan Engines" ((RIN2120-AA64) (Docket No. FAA-2010-0026)) received in the Office of the President of the Senate on July 15, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6705. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier, Inc. Model CL-600-2B16 (CL-604 Variant) Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-1227)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6706. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A330-243, -341, -342, and -343 Airplanes; and Model A340-541 and -642 Airplanes; Equipped with Rolls-Royce Trent 500 and Trent 700 Series Engines" ((RIN2120-AA64) (Docket No. FAA-2010-0177)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6707. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 747-100, -200B, and -200F Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-0132)) received in the

Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6708. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 747-400, 747-400D, and 747-400F Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-0454)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6709. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 747-100B, 747-200B, 747-200F, 747-300, 747-400, 747-400F, and 747SP Series Airplanes Equipped with Rolls-Royce RB211-524 Series Engines" ((RIN2120-AA64) (Docket No. FAA-2010-0641)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6710. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier, Inc. Model CL-600-2B19 (Regional Jet Series 100 and 440) Airplanes" ((RIN2120-AA64) (Docket No. FAA-2009-1029)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6711. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (90); Amdt. No. 3380" ((RIN2120-AA65) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6712. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (27); Amdt. No. 3381" ((RIN2120-AA65) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6713. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Use of One Additional Portable Oxygen Concentrator Device on Board Aircraft" ((RIN2120-AJ77) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6714. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Low Altitude Area Navigation Route (T-284); Houston, TX" ((RIN2120-AA66) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6715. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulation for Marine Event; 2010 International Cup Regatta, Pasquotank River, Elizabeth City, NC" ((RIN1625-AA08) (Docket No. USCG-2010-0363)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6716. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety and Security Zones; Tall Ships Challenge 2010, Great Lakes, Cleveland, OH, Bay City, MI, Duluth, MN, Green Bay, WI, Sturgeon Bay, WI, Chicago, IL, Erie, PA" ((RIN1625-AA87) (Docket No. USCG-2010-0073)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6717. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulation; Maggie Fischer Memorial Great South Bay Cross Bay Swim, Great South Bay, NY" ((RIN1625-AA08) (Docket No. USCG-2009-0302)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6718. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments" ((RIN1625-ZA25) (Docket No. USCG-2010-0351)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6719. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulation for Marine Event; Maryland Swim for Life, Chester River, Chestertown, MD" ((RIN1625-AA08) (Docket No. USCG-2010-0113)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6720. 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 Area; Gulf Intra-coastal Waterway, Inner Harbor Navigation Canal, Harvey Canal, Algiers Canal, New Orleans, LA" ((RIN1625-AA11) (Docket No. USCG-2009-0139)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6721. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Temporary Suspension of Certain Oil Spill Response Time Requirements to Support Deepwater Horizon Oil Spill of National Significance (SONS) Response" ((RIN1625-AB49) (Docket No. USCG-2010-0592)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6722. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Revision of LNG and LHG Waterfront Facility General Requirements" ((RIN1625-AB13) (Docket No. USCG-2007-27022)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6723. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Amended Safety Zone and Regulated Navigation Area, Chicago Sanitary and Ship Canal, Romeoville, IL" ((RIN1625-AA00 and RIN1625-AA11) (Docket No. USCG-2009-1080)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6724. 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 Regulation; Swim Across the Sound, Long Island Sound, Port Jefferson, NY to Captain's Cove Seaport, Bridgeport, CT" ((RIN1625-AA08) (Docket No. USCG-2009-0395)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6725. 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 Regulation for Marine Events; Temporary Change of Dates for Recurring Marine Events in the Fifth Coast Guard District" ((RIN1625-AA08) (Docket No. USCG-2010-0307)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6726. 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; Escorted U.S. Navy Submarines in Sector Seattle Captain of the Port Zone" ((RIN1625-AA87) (Docket No. USCG-2009-1057)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6727. 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 Regulation; Hydroplane Exhibition, Detroit River, Detroit, MI" ((RIN1625-AA08) (Docket No. USCG-2010-0435)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6728. 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 Regulation for Marine Events; Temporary Change of Dates for Recurring Marine Events in the Fifth Coast Guard District" ((RIN1625-AA08) (Docket No. USCG-2010-0180)) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6729. A communication from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Safety Standard for Infant Bath Seats: Final Rule" (16 CFR Part 1215) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6730. A communication from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Revocation of Regulations Banning Certain Baby-Walkers" (16 CFR Part 1500) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6731. A communication from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Safety Standards for Infant Walkers: Final Rule" (16 CFR Part 1216) received in the Office of the President of the Senate on July 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6732. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant

to law, the report of a rule entitled "Revisions to the Commerce Control List to Update and Clarify Crime Control License Requirements" (RIN0694-AE42) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6733. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Bridge Safety Standards" (RIN2130-AC04) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6734. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minimum Levels of Financial Responsibility for Motor Carriers" (RIN2126-AB05) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6735. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of VOR Federal Airway V-625; Arizona" ((RIN2120-AA66) (Docket No. FAA-2009-0248)) received in the Office of the President of the Senate on July 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6736. A communication from the Deputy Chief Financial Officer, Department of Homeland Security, transmitting, pursuant to law, a report relative to the transfer of funds from the Oil Spill Liability Trust Fund to the Emergency Fund, which is administered by the United States Coast Guard; to the Committee on Commerce, Science, and Transportation.

EC-6737. A communication from the Associate General Counsel for General Law, Office of the General Counsel, Department of Homeland Security, transmitting, pursuant to law, a report relative to a vacancy in the Department of Homeland Security in the position of Assistant Secretary/Administrator of the Transportation Security Administration, received during adjournment of the Senate in the Office of the President of the Senate on July 8, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6738. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting a report relative to the creation of a new entry on the Commerce Control List for specified human execution equipment; to the Committee on Commerce, Science, and Transportation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LAUTENBERG, from the Committee on Appropriations, without amendment:

S. 3607. An original bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2011, and for other purposes (Rept. No. 111-222).

By Mrs. FEINSTEIN, from the Select Committee on Intelligence, without amendment:

S. 3611. An original bill to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 111-223).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany H.R. 2765, a bill to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive computer services (Rept. No. 111-224).

By Mr. KERRY, from the Committee on Foreign Relations, with amendments and an amendment to the title:

S. 3317. A bill to authorize appropriations for fiscal years 2010 through 2014 to promote long-term, sustainable rebuilding and development in Haiti, and for other purposes (Rept. No. 111-225).

By Mr. JOHNSON, from the Committee on Appropriations, without amendment:

S. 3615. An original bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2011, and for other purposes (Rept. No. 111-226).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG:

S. 3607. An original bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. SCHUMER (for himself and Mr. GRASSLEY):

S. 3608. A bill to amend the Internal Revenue Code of 1986 to modify the credit for qualified fuel cell motor vehicles by maintaining the level of credit for vehicles placed in service after 2009 and by allowing the credit for certain off-highway vehicles; to the Committee on Finance.

By Mr. AKAKA:

S. 3609. A bill to extend the temporary authority for performance of medical disability examinations by contract physicians for the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Ms. SNOWE (for herself and Mr. KERRY):

S. 3610. A bill to require a study on spectrum occupancy and use; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN:

S. 3611. An original bill to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; placed on the calendar.

By Mr. SANDERS (for himself and Mr. LEAHY):

S. 3612. A bill to amend the Marsh-Billings-Rockefeller National Historical Park Establishment Act to expand the boundary of the Marsh-Billing-Rockefeller National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 3613. A bill to direct the Secretary of Agriculture to convey certain Federally owned land located in Story County, Iowa; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. HUTCHISON (for herself and Mr. LEMIEUX):

S. 3614. A bill to authorize the establishment of a Maritime Center of Expertise for

Maritime Oil Spill and Hazardous Substance Release Response, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON:

S. 3615. An original bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUE:

S. Res. 585. A resolution designating the week of August 2 through August 8, 2010, as "National Convenient Care Clinic Week", and supporting the goals and ideals of raising awareness of the need for accessible and cost-effective health care options to complement the traditional health care model; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the name of the Senator from New Jersey (Mr. LAUTENBERG) 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. 1156

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1311

At the request of Mr. WICKER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1311, a bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

S. 1320

At the request of Mr. TESTER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1320, a bill to provide assistance to owners of manufactured homes constructed before January 1, 1976, to purchase Energy Star-qualified manufactured homes.

S. 1553

At the request of Mr. GRASSLEY, the names of the Senator from Colorado (Mr. BENNET) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1603

At the request of Mr. BROWN of Ohio, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1603, a bill to amend section 484B of the Higher Education Act of 1965 to provide for tuition reimbursement and loan forgiveness to students who withdraw from an institution of higher education to serve in the uniformed services, and for other purposes.

S. 3034

At the request of Mr. SCHUMER, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Montana (Mr. TESTER), the Senator from New York (Mrs. GILLIBRAND), the Senator from Arkansas (Mr. PRYOR) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 3034, a bill to require the Secretary of the Treasury to strike medals in commemoration of the 10th anniversary of the September 11, 2001, terrorist attacks on the United States and the establishment of the National September 11 Memorial & Museum at the World Trade Center.

S. 3079

At the request of Mr. MERKLEY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3079, a bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes.

S. 3150

At the request of Mr. BEGICH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3150, a bill to increase the mileage reimbursement rate for members of the armed services during permanent change of station and to authorize the transportation of additional motor vehicles of members on change of permanent station to or from nonforeign areas outside the continental United States.

S. 3317

At the request of Mr. KERRY, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 3317, a bill to authorize appropriations for fiscal years 2010 through 2014 to promote long-term, sustainable rebuilding and development in Haiti, and for other purposes.

S. 3339

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor 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. 3371

At the request of Mrs. McCASKILL, the names of the Senator from North

Carolina (Mrs. HAGAN) and the Senator from Vermont (Mr. LEAHY) 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. 3409

At the request of Ms. LANDRIEU, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 3409, a bill to make certain adjustments to the price analysis of propane prepared by the Secretary of Commerce.

S. 3500

At the request of Mr. BROWN of Ohio, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3500, a bill to provide funds to States, units of general local government, and community-based organizations to save and create local jobs through the retention, restoration, or expansion of services needed by local communities, and for other purposes.

S. 3521

At the request of Ms. MURKOWSKI, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 3521, a bill to provide for the reestablishment of a domestic rare earths materials production and supply industry in the United States, and for other purposes.

AMENDMENT NO. 4443

At the request of Mr. UDALL of Colorado, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 4443 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4449

At the request of Mr. WEBB, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 4449 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4464

At the request of Mr. DEMINT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 4464 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments

in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4471

At the request of Mr. CORNYN, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 4471 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 3609. A bill to extend the temporary authority for performance of medical disability examinations by contract physicians for the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I am pleased to introduce legislation that would extend the Department of Veterans Affairs' authority to use contract physicians to perform medical disability examinations.

The VA continues to struggle to compensate disabled veterans quickly and accurately. While the Administration and Congress work to produce long-term, systemic solutions to this challenge, the reality is that we also need short-term solutions to most effectively leverage available resources. One such tool, which has helped VA better serve veterans, is the use of contract physicians for medical disability examinations.

In order to determine the type and severity of disabilities of veterans filing for VA compensation or pension benefits, VA often requires thorough medical disability examinations. Because these examinations form the basis of disability ratings, their accurate and timely completion is essential. In recent years, the demand for medical disability examinations has increased beyond the number of requests that VA's in-house system was designed to accommodate. This rise in demand is due to an increase in the complexity of disability claims, a rise in the number of disabilities claimed by veterans, and changes in eligibility requirements for disability benefits.

In 1996, in Public Law 104-275, the Veterans' Benefits Improvements Act of 1996, VA was authorized to carry out a pilot program of contract disability examinations through ten VA regional offices using amounts available for payment of compensation and pensions. During the initial pilot program,

one contractor performed all contract examinations at the ten selected regional offices. The pilot was deemed a success, with general satisfaction reported from all stakeholders.

Subsequently, in 2003, in Public Law 108-183, the Veterans Benefits Act of 2003, VA was given additional, time-limited authority to contract for disability examinations using other appropriated funds. That initial authority was extended until December 31, 2010, by Public Law 110-389, the Veterans' Benefits Improvement Act of 2008. VA continues to report high demand for compensation and pension examinations, and satisfaction with the contracted exams.

I urge my colleagues to support this legislation that will allow the extension of VA's authority to utilize qualified non-VA doctors for two additional years, until December 31, 2012.

Should we not authorize a temporary extension of VA's authority to use contract physicians, it will further contribute to the Department's pending claims inventory, which is not a result any of us would want for ill and injured veterans.

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. 3609

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITY EXAMINATIONS BY CONTRACT PHYSICIANS.**

Section 704(c) of the Veterans Benefits Act of 2003 (Public Law 108-183; 38 U.S.C. 5101 note) is amended by striking "December 31, 2010" and inserting "December 31, 2012".

By Ms. SNOWE (for herself and Mr. KERRY):

S. 3610. A bill to require a study on spectrum occupancy and use; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, along with Senator KERRY, to introduce comprehensive spectrum reform legislation to modernize our Nation's radio spectrum planning, management, and coordination activities. Taking this corrective action will allow us to meet the future telecommunications needs of all spectrum users. For consumers, these fixes will lead to additional choices, greater innovation, lower prices, and more reliable services.

Over the past year, there has been growing concern about a looming radio spectrum crisis. It is not without reason—there has been an explosion of growth and innovation with spectrum-based services over the past decade. In particular, the cellular industry has been a prominent driver of this expansion. Currently, there are more than 276 million wireless subscribers in the U.S., and American consumers use

more than 6.4 billion minutes of air time per day.

While the foundation for wireless services has been voice communication, more subscribers are utilizing it for broadband. According to the Pew Research Center, 56 percent of adult Americans have accessed the Internet via a wireless device. ABI Research forecasts there will be 150 million mobile broadband subscribers by 2014—a 2,900 percent increase from 2007. Spectrum is so important the Federal Communications Commission, FCC, has made it a major focal point of its National Broadband Plan in order to meet the growing broadband demands of consumers and businesses alike.

There are constraints however—spectrum is a finite resource—and we cannot manufacture new spectrum. Making matters worse, the government's current spectrum management framework is inefficient and has not kept up with technological advancements. As evidence, the Government Accountability Office, in a series of reports, concluded "the current structure and management of spectrum use in the U.S. does not encourage the development and use of some spectrum efficient technologies."

The legislation we introduce today fixes the fundamental deficiencies that exist in our policy and spectrum management and promotes efforts to improve spectrum efficiency. Specifically, the Spectrum Measurement and Policy Reform Act tasks the FCC and the National Telecommunications and Information Administration, NTIA, to perform much needed spectrum measurements to determine actual usage and occupancy rates. This data will assist policymakers and the public in making informed decisions about future spectrum uses. Also required is a cost-benefit analysis of spectrum relocation opportunities to move certain incumbent users and services to more efficient spectrum bands. Many legacy wireless services could employ newer technologies to provide more efficient use of spectrum.

In addition, my bill requires greater collaboration between the FCC and NTIA on spectrum policy and management related issues, implementation of spectrum sharing and reuse programs, as well as more market-based incentives to promote efficient spectrum use. It also sets a deadline for the creation of the National Strategic Spectrum Plan, which will provide a long-term vision for domestic spectrum use and strategies to meet those needs. While the National Broadband Plan touches on several of these areas, this legislation will provide greater assistance in developing a 21st Century comprehensive spectrum policy necessary to meet the future spectrum needs of all users.

It should be noted that the Spectrum Measurement and Policy Reform Act is intended to complement the National Broadband Plan and the recently announced Presidential Memorandum in

promoting more efficient use of spectrum and ensuring that the proper framework is in place to meet America's future telecommunications needs. But it also encourages greater focus on other areas outside the Plan or Memorandum by promoting technological innovation and more robust spectrum management. For example, a technology known as femtocell, that can increase capacity by offloading wireless traffic onto broadband wireline networks, wasn't mentioned once in the National Broadband Plan even though Cisco's Virtual Network Index indicated that at least 23 percent of smartphone traffic could be offloaded onto fixed wireline networks by 2014 through femtocells and dual-mode phones. These technologies and spectrum management practices such as spectrum sharing and reuse need to be fully explored and this legislation will assist in doing that.

Senator KERRY and I envision this legislation as a starting point to initiate an ongoing discussion about how to make the best use of this national asset and, in turn, encourage innovation and unleash opportunity. We look forward to continuing to work with all stakeholders as this bill advances.

Our Nation's competitiveness, economy, and national security demand that we allocate the necessary attention to this policy shortcoming—it is the only way we will be able to avert a looming spectrum crisis and continue to realize the boundless benefits of spectrum-based services. That is why I sincerely hope that my colleagues will join Senator KERRY and me in supporting this critical legislation.

By Mr. SANDERS (for himself and Mr. LEAHY):

S. 3612. A bill to amend the Marsh-Billings-Rockefeller National Historical Park Establishment Act to expand the boundary of the Marsh-Billings-Rockefeller National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LEAHY. Mr. President, today I am pleased to join my colleague and good friend Senator SANDERS to introduce the boundary expansion of the Marsh-Billings-Rockefeller National Historical Park in the State of Vermont. This amendment will add 159 acres and several historic farmstead structures to the 555-acre National Park.

This park is an extraordinary place in Vermont where a unique and enduring connection has been forged between the land and its inhabitants. The picturesque and historic landscape of the Marsh-Billings-Rockefeller National Historical Park is nestled in the rolling hills near Woodstock, in Vermont's Windsor County. It is a small park with the powerful mission of recognizing and continuing the legacy of three generations of stewardship thought, and stewardship in action. The successive owners of this estate,

for whom the park is named, were each in their own right giants of conservation ideas and practice. This legislation will expand the park's land area to help our generation and future generations to better fulfill and carry forward its mission.

The boyhood home of George Perkins Marsh, one of America's first conservationists, and later the home of Frederick Billings, the property was given to the American people by its most recent owners, Laurance S. and Mary F. Rockefeller. The park was created by an Act of Congress and signed into law by President George Bush on August 26, 1992. It is a living symbol of America's conservation ethic. The Marsh-Billings-Rockefeller National Historic Park tells a story of conservation history and the evolving nature of land stewardship in America.

The park puts the idea of conservation stewardship into a modern context, interpreting the idea of place and the ways in which people can balance natural resource conservation with the requirements of our 21st Century world. It is also a repository for the histories of these three American families. Visitors can tour the mansion and gardens and learn more about conservation by hiking in the sustainably managed forest, and they can visit the land stewardship exhibit at the Carriage Barn Visitor Center. The park operates in partnership with The Woodstock Foundation and the adjacent Billings Farm and Museum—a working dairy farm and a museum of agricultural and rural life that offers visitors the opportunity to experience both farm and forest landscapes, in side-by-side settings.

This new legislation would expand the boundaries of the park to incorporate the neighboring King Farm. The land and structures of this historic Woodstock farm will allow the National Park Service to expand the scope and delivery of its telling of the conservation story. The farm will provide a setting for programs in sustainable agriculture and a venue for community groups and others to undertake related projects and educational opportunities activities that have been limited in the past by the sensitivity of the historic structures constituting the Rockefeller estate. Model forestry activities and the trail network will also be enhanced through this boundary expansion.

This legislation also formally establishes the Conservation Studies Institute within the Marsh-Billings-Rockefeller National Historical Park. The Institute has evolved within the National Park Service over the past decade to enhance leadership in conservation throughout the National Park Service and to facilitate stewardship partnerships in local communities. It is through these partnerships that the Institute inspires collaborative conservation to engage communities and help them build their vision for the future. The park, the Institute and their

Vermont setting are a great fit and a valuable setting in which to offer prototypes for conservation and sustainable practices on so many fronts.

A Vermont author and professor, John Elder, said this at the park's dedication on June 5th 1998:

There is a mandate to invent an entirely new kind of park. It must be one where the human stories and the natural history are intertwined; where the relatively small acreage serves as an educational resource for the entire National Park Service and a seedbed for American environmental thought; and where the legacy of American conservation and its future enter into dialogue, generating a new environmental paradigm for our day.

This is a unique opportunity to enhance the mission of the Marsh-Billings-Rockefeller National Historical Park and its service to the American people.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 585—DESIGNATING THE WEEK OF AUGUST 2 THROUGH AUGUST 8, 2010, AS “NATIONAL CONVENIENT CARE CLINIC WEEK,” AND SUPPORTING THE GOALS AND IDEALS OF RAISING AWARENESS OF THE NEED FOR ACCESSIBLE AND COST-EFFECTIVE HEALTH CARE OPTIONS TO COMPLEMENT THE TRADITIONAL HEALTH CARE MODEL

Mr. INOUE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 585

Whereas convenient care clinics are health care facilities located in high-traffic retail outlets that provide affordable and accessible care to patients who might otherwise be delayed or unable to schedule an appointment with a traditional primary care provider;

Whereas millions of people in the United States do not have a primary care provider, and there is a worsening primary care shortage that will prevent many people from obtaining 1 in the future;

Whereas convenient care clinics have provided an accessible alternative for more than 15,000,000 people in the United States since the first clinic opened in 2000, continue to expand rapidly, and as of June 2010 consist of approximately 1,100 clinics in 35 States;

Whereas convenient care clinics follow rigid industry-wide quality of care and safety standards;

Whereas convenient care clinics are staffed by highly qualified health care providers, including advanced practice nurses, physician assistants, and physicians;

Whereas convenient care clinicians all have advanced education in providing quality health care for common episodic ailments including cold and flu, skin irritation, and muscle strains or sprains, and can also provide immunizations, physicals, and preventive health screening;

Whereas convenient care clinics are proven to be a cost-effective alternative to similar treatment obtained in physician offices, urgent care, or emergency departments; and

Whereas convenient care clinics complement traditional medical service providers by providing extended weekday and

weekend hours without the need for an appointment, short wait times, and visits that generally last only 15 to 20 minutes: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of August 2 through August 8, 2010 as “National Convenient Care Clinic Week”;

(2) supports the goals and ideals of National Convenient Care Clinic Week to raise awareness of the need for accessible and cost-effective health care options to complement the traditional health care model;

(3) recognizes the obstacles many people in the United States face in accessing the traditional medical home model of health care;

(4) encourages the use of convenient care clinics as a complimentary alternative to the medical home model of health care; and

(5) calls on the States to support the establishment of convenient care clinics so that more people in the United States will have access to the cost-effective and necessary emergent and preventive services provided in the clinics.

Mr. INOUE. Mr. President, today I rise to recognize all of the providers who work in retail-based Convenient Care Clinics in a Resolution to designate August 2 through August 8, 2010, as National Convenient Care Clinic Week. National Convenient Care Clinic Week will provide a national platform from which to promote the pivotal services offered by the more than 1,100 retail-based convenient care clinics in the United States.

Today, thousands of nurse practitioners, physician assistants, and physicians provide care in convenient care clinics. At a time when Americans are more and more challenged by the inaccessibility and high costs of health care, convenient care offers a vital high-quality primary care alternative.

This resolution will help pave the way for this effort. I ask my colleagues to join me in supporting this tribute to Convenient Care Clinics.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4484. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table.

SA 4485. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4486. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4487. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 4484.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title II, insert the following:

**SEC. —. QUALIFYING THERAPEUTIC DISCOVERY PROJECT GRANTS TO PARTNERSHIPS WITH TAX EXEMPT PARTNERS WITH LESS THAN 10 PERCENT INTEREST.**

(a) IN GENERAL.—Subparagraph (D) of section 9023(e)(6) of the Patient Protection and Affordable Care Act is amended by inserting before the period the following: “, other than a partnership or entity in which the aggregate equity and profits interests held by all such partners and other holders so described, at any time during a taxable year beginning in 2009 or 2010, does not exceed 10 percent of all of the total equity or profits interests in the partnership”.

(b) REGULATIONS.—Subsection (e) of section 9023 of the Patient Protection and Affordable Care Act is amended by adding at the end the following new paragraph:

“(13) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations to prevent the abuse of, or results inconsistent with the intent of, this subsection.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9023 of the Patient Protection and Affordable Care Act.

**SA 4485.** Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 102, after line 21, add the following:

**SEC. 1336. PATRIOT EXPRESS LOAN PROGRAM.**

(a) PROGRAM.—

(1) IN GENERAL.—Section 7(a)(31) of the Small Business Act (15 U.S.C. 636(a)(31)) is amended by adding at the end the following:

“(G) PATRIOT EXPRESS LOAN PROGRAM.—

“(i) DEFINITION.—In this subparagraph, the term ‘eligible member of the military community’—

“(I) means—

“(aa) a veteran, including a service-disabled veteran;

“(bb) a member of the Armed Forces on active duty who is eligible to participate in the Transition Assistance Program;

“(cc) a member of a reserve component of the Armed Forces;

“(dd) the spouse of an individual described in item (aa), (bb), or (cc) who is alive;

“(ee) the widowed spouse of a deceased veteran, member of the Armed Forces, or member of a reserve component of the Armed Forces who died because of a service-connected (as defined in section 101(16) of title 38, United States Code) disability; and

“(ff) the widowed spouse of a deceased member of the Armed Forces or member of a reserve component of the Armed Forces relating to whom the Department of Defense may provide for the recovery, care, and disposition of the remains of the individual under paragraph (1) or (2) of section 1481(a) of title 10, United States Code; and

“(II) does not include an individual who was discharged or released from the active military, naval, or air service under dishonorable conditions.

“(ii) LOAN GUARANTEES.—The Administrator shall establish a Patriot Express Loan Program, under which the Administrator may guarantee loans under this paragraph made by express lenders to eligible members of the military community.

“(iii) LOAN TERMS.—

“(I) IN GENERAL.—Except as provided in this clause, a loan under this subparagraph shall be made on the same terms as other loans under the Express Loan Program.

“(II) USE OF FUNDS.—A loan guaranteed under this subparagraph may be used for any business purpose, including start-up or expansion costs, purchasing equipment, working capital, purchasing inventory, or purchasing business-occupied real-estate.

“(III) MAXIMUM AMOUNT.—The Administrator may guarantee a loan under this subparagraph of not more than \$1,000,000.

“(IV) GUARANTEE RATE.—The guarantee rate for a loan under this subparagraph shall be the greater of—

“(aa) the rate otherwise applicable under paragraph (2)(A);

“(bb) 85 percent for a loan of not more than \$500,000; and

“(cc) 80 percent for a loan of more than \$500,000.”.

(2) GAO REPORT.—

(A) DEFINITION.—In this paragraph, the term “programs” means—

(i) the Patriot Express Loan Program under section 7(a)(31)(G) of the Small Business Act, as added by paragraph (1); and

(ii) the increased veteran participation pilot program under section 7(a)(32) of the Small Business Act, as added by section 208 of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Public Law 110-186; 122 Stat. 631), as in effect on the day before the date of enactment of this Act.

(B) REPORT REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States 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 on the programs.

(C) CONTENTS.—The report submitted under subparagraph (B) shall include—

(i) the number of loans made under the programs;

(ii) a description of the impact of the programs on members of the military community eligible to participate in the programs;

(iii) an evaluation of the efficacy of the programs;

(iv) an evaluation of the actual or potential fraud and abuse under the programs; and

(v) recommendations for improving the Patriot Express Loan Program under section 7(a)(31)(G) of the Small Business Act, as added by paragraph (1).

(b) FEE REDUCTION.—

(1) IN GENERAL.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i), by striking “With respect to” and inserting “Except as provided in subparagraph (C), with respect to”; and

(B) by adding at the end the following:

“(C) MILITARY COMMUNITY.—For an eligible member of the military community (as defined in paragraph (31)(G)(i)), the fee for a loan guaranteed under this subsection, except for a loan guaranteed under subparagraph (G) of paragraph (31), shall be equal to 75 percent of the fee otherwise applicable to the loan under subparagraph (A).”.

(2) CONFORMING AMENDMENT TO TEMPORARY FEE REDUCTION.—Section 501(a)(2) of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 151) is amended by striking “section 7(a)(18)(A) of the Small Business Act (15 U.S.C. 636(a)(18)(A))” and inserting “subparagraph (A) or (C) of section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18))”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(A) by striking paragraph (33), as redesignated by section 1133 of this Act;

(B) by redesignating paragraph (34), as added by section 1133 of this Act, as paragraph (33); and

(C) by redesignating paragraph (35), as added by section 1206 of this Act, as paragraph (34).

(2) SUNSET.—Notwithstanding section 1133(b) of this Act, effective September 30, 2013, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(A) by striking paragraph (33), as so redesignated by paragraph (1)(B) of this subsection; and

(B) by redesignating paragraph (34), as so redesignated by paragraph (1)(C) of this subsection, as paragraph (33).

**SA 4486.** Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

**PART V—EARNED INCOME CREDIT – FRAUD REDUCTION**

**SEC. 2141. FILERS OF SCHEDULE C (PROFIT OR LOSS FROM BUSINESS).**

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(n) INFORMATION REGARDING SCHEDULE C FILERS.—

“(1) TAXPAYER INFORMATION.—For any taxable year beginning after December 31, 2009, any taxpayer who is required to file a Federal schedule C and also claims the credit under this section with respect to 1 or more qualifying children shall include on the return of tax for such taxable year a sales tax identification number, professional license number, or its equivalent (if any) issued by

any State which relates to income reported on such schedule.

“(2) STATE INFORMATION.—For any taxable year beginning after December 31, 2009, each State shall forward to the Secretary, in a format to be determined by the Secretary, a sales tax identification number, professional license number, or its equivalent (if any) for each taxpayer issued such a number, along with the taxpayer’s name and address, not later than a date in the following calendar year determined by the Secretary.

“(3) COMPARISON OF INFORMATION.—The Secretary shall compare the information obtained under paragraphs (1) and (2) for each taxable year and shall request that any taxpayer who provided information on Federal schedule C that did not correspond with the information provided by a State, did not submit a number, or did not attach 1 or more Federal forms 1099 relating to the income reported on the Federal schedule C to the return of tax for such taxable year—

“(A) submit the correct number,

“(B) provide the Secretary 1 or more Federal forms 1099 relating to such income, or

“(C) document the existence of the business relating to such income.

Notwithstanding section 6103(d)(1), the Secretary shall, without a preceding request, share the results of the comparison and the documentation of the business with the corresponding State.

“(4) DENIAL OF CREDIT.—No credit shall be allowed under this section for any taxable year to any taxpayer who fails to meet the requirements of paragraphs (1) or (3) for such taxable year.

“(5) DOCUMENTATION REQUIREMENTS.—For purposes of paragraph (3)(C), a taxpayer may document the existence of a business relating to the income reported on a Federal schedule C for any taxable year by providing the Secretary—

“(A) 1 or more Federal forms 1099 relating to such income,

“(B) a document which reflects the registration of such business with a local or State government,

“(C) 1 or more business contracts relating to such income,

“(D) 1 or more sales invoices relating to such income, or

“(E) any other document the Secretary deems appropriate.

“(6) EXCEPTIONS.—This subsection shall not apply to—

“(A) any taxpayer’s return of tax with a Federal schedule C prepared under the auspices of the Volunteer Income Tax Assistance Program or the Tax Counseling for the Elderly Program, or

“(B) any taxable year if at any time during such taxable year the taxpayer or the taxpayer’s spouse is performing qualified official extended duty service (as defined in section 36(f)(4)(E)(ii)) outside the United States.”.

(b) MATHEMATICAL OR CLERICAL ERROR.—Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (O), by striking the period at the end of subparagraph (P) and inserting “, and”, and by inserting after subparagraph (P) the following new subparagraph:

“(Q) An omission of a State sales tax identification number, professional license number, or its equivalent as required under section 32(n) to be included on a return of tax.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

**SEC. 2142. PUNISHMENT FOR AGGRAVATED IDENTITY THEFT INVOLVING THE EARNED INCOME CREDIT.**

(a) IN GENERAL.—Section 1028A(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

“(3) IDENTITY THEFT INVOLVING THE EARNED INCOME CREDIT.—Whoever, during and in relation to any felony violation under section 7201 or 7206 of the Internal Revenue Code of 1986, in relation to the attempt to meet any requirement under section 32 of such Code, knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person, a corporation, an organization, or a business entity, or a false identification document shall, in addition to the punishment provided for such a felony under section 1028, be sentenced to a term of imprisonment of not more than 5 years.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any transfer, possession, or use after the date of the enactment of this Act.

**SEC. 2143. REQUIRING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO PROHIBIT THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON MEDICARE IDENTIFICATION CARDS.**

(a) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and begin to implement procedures to eliminate the unnecessary collection, use, and display of Social Security account numbers of Medicare beneficiaries.

(b) MEDICARE CARDS.—

(1) NEW CARDS.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall ensure that each newly issued Medicare identification card meets the requirements described in paragraph (3).

(2) REPLACEMENT OF EXISTING CARDS.—Not later than 5 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall ensure that all Medicare beneficiaries have been issued a Medicare identification card that meets the requirements of paragraph (3).

(3) REQUIREMENTS.—The requirements described in this paragraph are, with respect to a Medicare identification card, that the card does not display or electronically store (in an unencrypted format) a Medicare beneficiary’s Social Security account number.

(c) MEDICARE BENEFICIARY DEFINED.—In this section, the term “Medicare beneficiary” means an individual who is entitled to, or enrolled for, benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title.

(d) CONFORMING REFERENCE IN THE SOCIAL SECURITY ACT.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

“(x) For provisions relating to requiring the Secretary of Health and Human Services to prohibit the display of Social Security account numbers on Medicare identification cards, see section 2143 of the Small Business Jobs Act of 2010.”.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SA 4487.** Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4402 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institu-

tions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part II of subtitle A of title II, add the following:

**SEC. 2023. ESTABLISHMENT OF SMALL BUSINESS STARTUP SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 408A the following new section: “**SEC. 408B. SMALL BUSINESS STARTUP SAVINGS ACCOUNTS.**

“(a) GENERAL RULE.—Except as provided in this section, a Small Business Startup Savings Account shall be treated for purposes of this title in the same manner as an individual retirement plan.

“(b) SMALL BUSINESS STARTUP SAVINGS ACCOUNT.—For purposes of this title, the term ‘Small Business Startup Savings Account’ means a tax preferred savings plan which is designated at the time of establishment of the plan as a Small Business Startup Savings Account. Such designation shall be made in such manner as the Secretary may prescribe.

“(c) TREATMENT OF CONTRIBUTIONS.—

“(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a Small Business Startup Savings Account.

“(2) CONTRIBUTION LIMIT.—

“(A) IN GENERAL.—The aggregate amount of contributions for any taxable year to all Small Business Startup Savings Accounts maintained for the benefit of an individual shall not exceed \$10,000.

“(B) AGGREGATE LIMITATION.—The aggregate of the amounts which may be taken into account under subparagraph (A) for all taxable years with respect to all Small Business Startup Savings Accounts maintained for the benefit of an individual shall not exceed \$150,000.

“(C) COST OF LIVING ADJUSTMENT.—The Secretary shall adjust annually the \$10,000 amount in subparagraph (A) for increases in the cost-of-living at the same time and in the same manner as adjustments under section 415(d); except that the base period shall be the calendar quarter beginning July 1, 2010, and any increase which is not a multiple of \$500 shall be rounded to the next lowest multiple of \$500.

“(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to a Small Business Startup Savings Account may be made even after the individual for whom the account is maintained has attained age 70½.

“(4) ROLLOVERS FROM RETIREMENT PLANS NOT ALLOWED.—A taxpayer shall not be allowed to make a qualified rollover contribution to a Small Business Startup Savings Account from any qualified retirement plan (as defined in section 4974(c)).

“(d) DISTRIBUTION RULES.—For purposes of this title—

“(1) GENERAL RULES.—

“(A) LIMITATIONS ON DISTRIBUTIONS.—All qualified distributions from a Small Business Startup Savings Account—

“(i) shall be limited to a single business, and

“(ii) must be disbursed not later than the last day of the 5th taxable year beginning after the initial disbursement.

“(B) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from a Small Business Startup Savings Account shall not be includible in gross income.

“(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection, the term ‘qualified distribution’ means any payment or distribution made for operating capital, the purchase of equipment or facilities, marketing, training, incorporation, and accounting fees.

“(3) NONQUALIFIED DISTRIBUTIONS.—

“(A) IN GENERAL.—In applying section 72 to any distribution from a Small Business Startup Savings Account which is not a qualified distribution, such distribution shall be treated as made from contributions to the Small Business Startup Savings Account to the extent that such distribution, when added to all previous distributions from the Small Business Startup Savings Account, does not exceed the aggregate amount of contributions to the Small Business Startup Savings Account.

“(B) TREATMENT OF AMOUNTS REMAINING IN ACCOUNT.—Any remaining amount in a Small Business Startup Savings Account following the date described in paragraph (1)(A)(ii) shall be treated as distributed during the taxable year following such date and such distribution shall not be treated as a qualified distribution.

“(4) ROLLOVERS TO A ROTH IRA.—Subject to the application of the treatment of contributions in section 408A(c), distributions from a Small Business Startup Savings Account may be rolled over into a Roth IRA.”.

(b) EXCESS CONTRIBUTIONS.—Section 4973 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(h) EXCESS CONTRIBUTIONS TO SMALL BUSINESS STARTUP SAVINGS ACCOUNTS.—For purposes of this section, in the case of contributions to all Small Business Startup Savings Accounts (within the meaning of section 408B(b)) maintained for the benefit of an individual, the term ‘excess contributions’ means the sum of—

“(1) the excess (if any) of—

“(A) the amount contributed to such accounts for the taxable year, over

“(B) the amount allowable as a contribution under section 408B(c)(2) for such taxable year, and

“(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

“(A) the distributions out of the accounts for the taxable year, and

“(B) the excess (if any) of—

“(i) the maximum amount allowable as a contribution under section 408B(c)(2) for such taxable year, over

“(ii) the amount contributed to such accounts for such taxable year.”.

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 408A the following new item:

“Sec. 408B. Small Business Startup Savings Accounts.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

## NOTICE OF HEARING

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, July 20, 2010, at 2 p.m., to conduct an executive business meeting to consider the nomination of William J. Boarman, of Maryland, to be the Public Printer.

For further information regarding this hearing, please contact Lynden Armstrong at the Rules and Administration Committee, (202) 224-6352.

## PRIVILEGES OF THE FLOOR

Ms. LANDRIEU. Mr. President, I ask unanimous consent that Samantha Seiter be granted the privilege of the floor for the debate on the floor.

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

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 111-5, reappoints the following individual to the Health Information Technology Policy Committee: Dr. Frank Nemecek of Nevada.

The Chair, on behalf of the majority leader, after consultation with the Republican leader, pursuant to Public Law 93-415, as amended by Public Law 102-586, announces the appointment of the following individuals to the Coordinating Council on Juvenile Justice and Delinquency Prevention: Richard Vincent of Nevada (2 year term), vice Larry Brendtro and Deborah Schumacher of Nevada (3 year term), vice William L. Gibbons.

## ORDERS FOR TUESDAY, JULY 20, 2010

Mr. MERKLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, July 20; 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; that following any leader remarks the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each, with the time until 12:30 p.m. equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes; that the Sen-

ate recess from 12:30 until 2:15 p.m. to allow for the weekly caucus meetings; further, that when the Senate reconvenes it be in order to swear in Carte Goodwin to be Senator; that following the swearing in, the Senate resume consideration of the House message on H.R. 4213, the unemployment insurance extension, with the time equally divided and controlled between the two leaders or their designees, and at 2:30 p.m. the Senate proceed to vote on the motion to invoke cloture with respect to H.R. 4213, as provided under the previous order.

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

## PROGRAM

Mr. MERKLEY. Mr. President, at 2:30 p.m. tomorrow the Senate will proceed to a rollcall vote on the motion to invoke cloture on the motion to concur, with an amendment in the House amendment to the Senate amendment to H.R. 4213, a bill to extend unemployment benefits through November, 2010.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MERKLEY. If there is no further business to come before the Senate, I ask unanimous consent the Senate adjourn under the previous order.

There being no objection, the Senate, at 5:18 p.m., adjourned until Tuesday, July 20, 2010, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### EXECUTIVE OFFICE OF THE PRESIDENT

PHILIP E. COYLE III, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE ROSINA M. BIERBAUM, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

DONALD M. BERWICK, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, VICE MARK B. MCCLELLAN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### DEPARTMENT OF STATE

KRISTIE ANNE KENNEY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

JO ELLEN POWELL, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

### PENSION BENEFIT GUARANTY CORPORATION

JOSHUA GOTBAUM, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION, VICE CHARLES E.F. MILLARD, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.