SMALL BUSINESS LENDING FUND ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5297, which the clerk will report.

The 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. 4519, in the nature of a substitute.

Reid amendment No. 4520 (to amendment No. 4519), to change the enactment date.

Reid amendment No. 4521 (to amendment No. 4520), of a perfecting nature.

Reid amendment No. 4522 (to the language proposed to be stricken by amendment No. 4519), to change the enactment date.

Reid amendment No. 4523 (to amendment No. 4522), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 4524 (the instructions on the motion to commit), to provide for a study.

Reid amendment No. 4525 (to the instructions (amendment No. 4524) of the motion to commit), of a perfecting nature.

Reid amendment No. 4526 (to amendment No. 4525), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent Senator LANDRIEU be recognized to speak for up to 1 hour at 12:30 p.m. today and that the Republican leader or his designee then be recognized following Senator LANDRIEU.

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

Mr. BAUCUS. Mr. President, the Senate once again has before it the small business jobs bill. We have created this bill to help move the economy toward recovery. We have crafted this bill to create jobs. We have crafted this bill to strengthen capital investment.

Over the course of the great recession, small business capital investment has fallen dramatically. Since 2005, the percentage of small businesses that made a capital outlay in the previous 6 months fell by nearly 30 percent. Capital investments are an integral part of getting the economy back on track. We need to make sure that businesses, and especially small businesses, have the opportunity to make these investments so they can improve and expand.

Our small business jobs bill includes two accelerated cost recovery provisions. These incentives would lower the cost of capital and they would help businesses to make capital investments. One accelerated cost recovery provision in this bill would increase the amount of capital investment that a business could expense under section 179 of the Tax Code. Section 179 is one of the most widely used tax benefits available to small businesses.

We all hear of this constantly from our small business constituents in our home States. This year business owners may purchase and write off up to $250,000 in equipment for use in their trade or business. This tax benefit phases out for expenditures between $250,000 and $800,000, but in 2011, under current law, the $250,000 threshold will decrease sharply to $25,000, and the $800,000 ceiling on the benefit will decrease to $200,000. The bill before us today would increase the thresholds to $500,000 and $2 million in 2010 and 2011.

Expensing is an important tool for small businesses because it is the most accelerated type of depreciation. With expensing, a business can deduct the complete cost of an asset such as equipment or software in the same year the business buys the asset. With expensing, businesses do not have to wait for years to recover these costs as they do through traditional forms of depreciation.

In this weak and uncertain economy, the ability to deduct the cost of assets in the same year provides an immediate benefit for businesses. These immediate benefits strengthen the investment practices of a business, and that strengthens the economy as a whole. An increase in the thresholds for section 179 expensing effectively decreases the cost of newly purchased equipment, and that makes it more economical for a business to invest. These investments can help a business grow with relatively simple acquisitions.

For example, a business could boost productivity by updating office technology. This provision will also increase cashflow for businesses, and businesses that invest in new equipment put money back into the larger economy with their purchases. Take, for example, Brown's Automotive in Billings, MT. Brown's Automotive specializes in transmission repairs. Those repairs require significant equipment investments, such as lifts and scanners. Business has been down lately as few people are able to afford expensive transmission repairs these days. When business is slow, purchases of heavy equipment can put a major strain on cashflow. But section 179 expensing and the 50 percent bonus depreciation extension in this bill make a huge difference for Brown's Automotive. Brown's can now write off a portion of the cost of new equipment, and that helps them maintain their cashflow and encourages them to make further capital investments.

Because of provisions like 179 expensing, Brown's has retained all 43 of its employees despite the recession.

This bill also allows taxpayers to expense up to $250,000 of certain real property within the newly expanded thresholds in 2010 and 2011. Currently, taxpayers can expense only tangible personal property. Tangible personal property includes things such as machines or equipment. Expanding section 179 expensing to include some real property greatly increases the value of this provision to small businesses. This provision means a business could expense the improvements to the property itself.

For example, a small business owner with a retail clothing store may expense improvements that were made inside the store, such as built-in cabinets to better stock clothing or lights to brighten the fitting rooms. Allowing a retail owner to expense these improvements immediately lowers the owner's costs, and ultimately this will help the retail store owner to run a better business. This expansion also applies to qualified restaurant property and qualified leasehold improvement property.

A second accelerated cost recovery provision in this bill is bonus depreciation. Bonus depreciation also helps Brown's Automotive and many other small businesses. This bill would extend bonus depreciation through the end of this year. This important provision would quickly spark investment, increase cashflow, and help to create jobs.

Bonus depreciation especially helps businesses that need to make large capital expenditures but that may not be able to take advantage of accelerated depreciation under section 179. Currently, businesses are allowed to recover the cost of capital expenditures over time. As a result of the great recession, Congress temporarily allowed businesses to recover the cost of certain capital expenditures more quickly by increasing the writeoff to 50 percent of the cost of property placed in service in 2008 and 2009.

This bill would extend the additional depreciation to property placed in service in 2010. This additional depreciation makes property more affordable. The business can use the savings it receives to reinvest in the business and to hire new employees. This provision benefits immediate investments that can strengthen the economy now. We do not have to wait to see the benefits of this important provision.

Bonus depreciation also helps the business that sells the equipment. It helps manufacturers and suppliers retain and hire employees as their businesses rebound. The more purchases that are made, the more other businesses are helped. This double benefit makes bonus depreciation a cost-effective way to strengthen business investment.

Section 179 expensing and bonus depreciation encourage investment and creates jobs. There is no doubt about it, and very significantly, I might add, with this bill, we can help put the American economy back on track.

This bill would provide continued support to our small businesses on the path to economic recovery. The bill increases access to much needed capital, encourages entrepreneurship, and promotes equity. The small business jobs bill includes incentives to strengthen capital investment.

I urge my colleagues to support the small business jobs bill. I might add that today we are working to reach an

agreement on consideration of amendments to this legislation. We hope we will have more to announce later as we reach that agreement. I very much hope that can be done very expeditiously so we get this bill passed and get the needed assistance to our small businesses.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AFGHANISTAN

Mr. CASEY. Mr. President, I rise this morning to talk about the United States strategy in Afghanistan. However troubling the recent leak of classified documents, the topics discussed in those documents confirm some of the difficulty we face as a country today in Afghanistan.

Much of what was reported in the newspapers the last couple of days is, frankly, not news, but a review of what we already knew, that corruption continues to plague the Afghan Government, the performance of the Afghan National Army and police is uneven and at times problematic, and the Taliban have been emboldened in recent years.

As I said, this is all information we knew. It might have more details about it, some more reliable than others. But the release of these documents should, at the same time, help to sharpen our focus on all of those issues and more, and ask the tough questions, as is our responsibility in the Senate in a time of war.

This year, 2010, has already been the deadliest year on record in Afghanistan. We have new military leadership on the ground, General Petraeus, and assurances from the administration that civil-military relations are strong. Two weeks ago, Ambassador Holbrook appeared before the Foreign Relations Committee where he described the civilian component of our engagement in Afghanistan.

Our regular reports from the administration are instructive and do indeed show that we are making progress in some areas. But the overall picture is not encouraging. Casualties are up. Fifty-three servicemembers from Pennsylvania have lost their lives in Afghanistan. And, by way of comparison, in Iraq over the course of that battle, that war and the battles that were part of it, Pennsylvania has had 196 killed in action. So when we get above 50 Pennsylvanians killed in action, that is getting very high.

Of course, casualties mean both those who have been killed and those who have been wounded. So the 53 from Pennsylvania I mentioned are killed in action. We have many more who have been wounded. Our troops continue to be plagued by the threats posed by IEDs, improvised explosive devices, something I have been continually raising with the administration and others and will continue to do this until the threat to our servicemembers ends or is sharply reduced.

Unfortunately, we have a problem which is not just the IED itself but the ammonium nitrate, which is the most significant ingredient, which, as everyone knows, is a fertilizer which is used across the region and in other parts of the world as well. But that ammonium nitrate is both the main and most potent ingredient, and its inflow from Pakistan is still a huge problem. We are working to address this proliferation and the transport of this deadly material in the region. We are also working closely with the Government of Pakistan to address this threat.

But today I wish to review what I see as three main areas of our involvement in Afghanistan. The three we have talked about over and over here in the Senate are: security, governance, and development.

First, the most significant issue for many Americans is the basic security or military question, and that part of the strategy. On last Tuesday, the international community met in Kabul to assess the progress as it relates to Afghanistan itself and the stability in Afghanistan. This was the biggest international gathering in Kabul in 40 years, 70 dignitaries from around the world, including our own Secretary of State, Secretary Clinton, and U.N. Secretary General Ban Ki-moon. Kabul itself, the city, was under virtual lockdown for the gathering, which passed without any major attacks, thank goodness. That is a testimony to the Afghan security forces.

The conference attendees endorsed President Karzai's plan for Afghan security forces to take over the responsibility for safeguarding the country by 2014, setting a potential timeline for foreign troops' departure.

President Karzai also said his government ''continued earnestly and with the full dedication, the pursuit of the peace process,'' with the Taliban, which has been endorsed by the international community. The United States has laid down basic requirements or conditions for any group seeking to negotiate, seeking some kind of reconciliation. There are three, and we need all three.

First, any group that wants to engage in this process has to end its ties to al-Qaida; second, they have to end violence itself; and, third, accept the Afghanistan Constitution.

Secretary Clinton met with a group of women in Kabul and reiterated her commitment to protecting women during this difficult transition period in Afghanistan. This issue is critical and has a direct impact on U.S. national security.

Women are the backbone of Afghan society, and they play a determinative role in whether their sons resort to extremism. It is that simple. With American fighting men and women giving, as Lincoln said, their ''last full measure of devotion to their country,'' the product of our troops' sacrifice cannot be an Afghanistan that does not respect the rights of women. The Taliban cannot be allowed to impose their Draconian version of justice as it relates to women or society in general.

Senator BOXER and I cochaired a Foreign Relations Subcommittee hearing on women in Afghanistan a number of months ago and will continue to strongly advocate for the rights of women in Afghanistan. We commend and applaud the work of Secretary Clinton and her Department on this issue. It is not only the right thing to do, it is literally in our national security interest to do this work.

The most unfortunate indicator in the security environment, however, is the increase in American casualties, killed in action, and wounded. June was the deadliest month on record. The death toll was 103. More than half of them were American servicemembers, and from Pennsylvania four servicemembers were among those 103 killed in action.

A new Afghan study also revealed that civilian casualties are on the rise. More than 1,000 Afghan civilians were killed in the first 6 months of 2010, a slight increase compared to the same period in 2009. However, the number of people killed in NATO air strikes in the same period has decreased by 50 percent because of changes in the rules of engagement. So it is good news that that number is going down.

Most of the civilian deaths documented by the report were caused by insurgents, with the widespread use of roadside bombs, IEDs, as I mentioned before, particularly deadly. They alone have killed 300 civilians, those kinds of explosions.

In addition to security, which is essential, of course, in any strategy to make sure there is stability in Afghanistan, the second element is once you have security or are making progress on security, you hear this talk over and over again about clear, hold, and build. You clear out the insurgents, clear out the enemy, and then you have got to hold that region or that geography, and then build on it. The building, of course, cannot take place unless there is good governance. And to say we have a lot of questions in this area is a dramatic understatement.

Corruption in the Afghan Government was a major issue at this week's conference. President Karzai identified corruption as a major concern in his inaugural address, going back a number of months. We support steps he has taken to begin addressing this problem. These include issuing a Presidential decree in March of 2010 that provided that the USAID-supported High Office of Oversight have additional investigative powers.

It also outlined a process we are supporting for establishing a monitoring

and evaluation committee on corruption comprised of Afghan and international experts. Last week, Afghanistan's Cabinet approved a bill which will allow government ministers and senior officials accused of corruption to be put on trial. For Americans, that doesn't seem like a big development, but that alone is significant progress, to put corrupt officials on trial and have a judgment rendered pursuant thereto. Once passed by Parliament or Presidential decree, this bill will allow the creation of a special tribunal to try officials accused of graft or corruption. Under current Afghan law, ministers are immune from prosecution in ordinary courts. It is hard to understand that, but that is the situation as it stands now.

American officials estimate that $14 billion a year in assistance is put through the government, but most of the current assistance package now goes through Western organizations. As the Obama administration makes an effort to increase direct assistance to the Afghan Government, safeguards must be put in place to ensure Afghans bolster their financial management systems and combat corruption. As emphasized in the administration's January Afghan strategy document, there has been a major U.S. and Afghan push to build up local governance. This approach represents an attempt to build some of the tribal and other local structures destroyed in the course of constant warfare over several decades. We have a long way to go on governance, but it bears scrutiny and attention and a lot of tough questions asked by Members of the House and Senate and getting answers to those tough questions from the administration and from President Karzai and his government.

Third is the issue of development. In his testimony last week, Ambassador Holbrooke highlighted USAID's agriculture voucher program. Launched in September of 2009, this program has distributed wheat seed to more than 366,00 farmers—critically important to give farmers the resources and help to develop their crops. This strategy also resulted in the training of 80,000 Afghan farmers in best practices and employed over 70,000 Afghans on short-term rural infrastructure projects. In many places throughout Afghanistan's south, these programs are being administered increasingly under the auspices of the Afghan Ministry of Agriculture, whose extension agents receive training from forward-deployed USDA and USAID agricultural advisers. Many Americans might think the only people on the ground are soldiers and military personnel. We have a lot of dedicated Americans who work for the Department of Agriculture, for USAID, who work for a number of Federal Government agencies helping the Afghan people to develop their economy and to govern their country better.

Ambassador Holbrooke also discussed our new counternarcotics strategy, which combines law enforcement, intelligence, interdiction, demand reduction, regional coordination, and alternative livelihood programs. He reports that:

> We have seen significant increases in: the number of drug labs destroyed; the number of drug traffickers arrested; the amounts of opium, poppy, heroin, and morphine [based-drugs] seized; the number of joint operations with Afghan forces.

A joint ISAF-Embassy Kabul effort has been restoring cellular telephone service in areas where the Taliban has destroyed or deactivated cell towers. Over 20 cell towers have been reactivated in Helmand Province and Kandahar, with significant benefits for local communities. One of the civilians embedded with the Marines in Helmand Province reported that soon after a local cell tower resumed operation, ''three cell phone shops opened up in the district bizarre and SIM cards were available in the whole of the district—without involvement from the Marines or U.S. civilians.''

That is a bit of good news in the midst of a lot of difficult challenges.

All of us commend the Obama administration's work to bolster civilian efforts in Afghanistan. On a mission so important, where troops and families are sacrificing so much every day, building civilian capacity can never move fast enough. However, we have tripled the amount of civilian advisers since the Obama administration assumed office in 2009. The administration has refocused development priorities on agriculture and changed the rules of engagement to ensure fewer Afghan civilians are negatively affected and turned into potential enemies. We are making progress, but much more remains to be done on the three critical measurements: security, governance, and development.

I will continue to ask tough questions and demand answers on all three parts of our strategy. The American people have a right to these answers.

The threat posed by IEDs in Afghanistan is the No. 1 killer. We know this from many reports. The work done by the Joint Improvised Explosive Devices Defeat Organization, known as JIEDDO, is working actively to address the threat on the ground. The State Department, led by Secretary Clinton, is engaged with governments across the region to develop a comprehensive approach on countering IEDs and having a strategy for stopping the flow of ammonium nitrate into Afghanistan from Pakistan and other places in the region, which is the central ingredient in the IEDs. I am glad this effort is taking place by our government but much more work needs to be done. We need to do everything we can to stop the attacks that result from the use of ammonium nitrate and other ingredients in the IEDs. Nothing is more important as part of our strategy.

I yield the floor.

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

REFORM OF THE CRIMINAL JUSTICE SYSTEM

Mr. WEBB. Mr. President, I rise to point out to Members of this body that yesterday in the House of Representatives, the National Criminal Justice Commission Act of 2010 was passed in a noncontroversial manner by a voice vote. This legislation is identical to legislation my staff and I have worked on for more than 3 years, which has cleared the Judiciary Committee, which now has 39 cosponsors, including the Senator from Pennsylvania and the Presiding Officer. I urge leadership on both sides of the aisle to bring this legislation to the floor. Let's get the task of reforming our criminal justice system into motion. It has been more than 40 years since we have had a strong look at all the different components of our criminal justice system and how broken it has become. This legislation would provide the right vehicle to do so.

I started working on this issue as soon as I came to the Senate. We worked along with the Joint Economic Committee and many nonprofit groups and 501(c) groups to hold extensive hearings on the issues of mass incarceration, drug policy, how these different components of criminal justice interrelate, and why we need to take a larger look at the process. We designed this legislation with input from across the philosophical spectrum in order to provide strong advice to the Congress about how to fix all the components of the criminal justice system, from how people are apprehended, what to do with them after they are apprehended, when do we put people in prison, how long, what happens to them when they are in prison, what does prison administration look like, what do reentry programs look like, and how do we deal with issues such as transnational gains. While it is very difficult to deal with these issues one at a time, we have a vehicle here that has been scrubbed through the entire philosophical spectrum with great support. I will show some of the areas of support in a minute.

The starting point is why, why do we need to move on this now.

I wrote an article for Parade magazine last March when I decided to move our legislation forward. We got tremendous support across the country once we started talking about it. The two components we all ought to be concerned about are, first, incarceration in the United States has skyrocketed, particularly since about 1980. In the United States today, we have far more people in jail per capita than any other country in the Western world and actually in other parts of the world as well. We have 5 percent of the world's population and 25 percent of the world's known prison population. At the same time, we have another 5 million people in different parts of the criminal justice process who are not incarcerated. More than 7 million people are involved in the criminal justice process today.

At the same time, if we ask people if they feel any safer, more than 70 percent will tell us they feel less safe in their communities than they did 1 year ago. This is a trend that has actually increased over the years since about 2001. We are putting more people in jail, we have more people involved in the criminal justice system, and people feel less safe. Clearly, this is a leadership issue. We need to get our arms around it. We have a responsibility as leaders of the Nation to put the right process into motion so we can make better sense out of the criminal justice system.

Another statistic, before I talk about the process we went through, when we look at the increase in incarceration, a huge part of it has been through our inability to get our arms around enforcement of drug policies. If we go from 1980 to 2007 and look at Federal, State, and local prisons or jails, we will see that our incarceration of drug offenders has skyrocketed by 1,200 percent. In 1980, we had 41,000 people in jail on drug offenses. By 2007, it was 500,000. A significant percentage of these people are incarcerated for nonviolent offenses, and a very high percentage have been minorities.

When we started talking about this issue, we heard a lot of unease, particularly from law enforcement's side. We brought them in one at a time. I am not on the Judiciary Committee. My staff brought them right into the office. We sat down with more than 100 different organizations from across the philosophical spectrum to listen, to get their input on what this Commission ought to do, and to make sure we are reaching out to all aspects of the issue of criminal justice. We have support now from across the philosophical spectrum: Fraternal Order of Police, National Association of Police Organizations, the International Association of Chiefs of Police, nearly 20,000 members who called their own press conference a couple months ago to endorse this legislation. Among their leadership, they were saying this was the most important issue they would be working on in their careers.

At the same time, we have received endorsements from people who were more concerned about the individual rights area of criminal justice: the NAACP, the American Civil Liberties Union, Human Rights Watch, the National Association of Social Workers. This is a buy-in from all the elements in our country involved in this issue; that we need to find the type of solution that is going to make our system more fair, more efficient, and, in the end, is going to give us the potential, in terms of the reentry process, to reduce recidivism and reduce crime in communities.

The last point I would make—and I hope my colleagues will think about this—with the passage of this legislation from the House last night, we are ready. There is not any major piece of controversy over a piece of legislation that we have sat down and listened to from the Republican side. We have a seven and seven buy-in on the membership of the commission in terms of appointments from different party leaders.

This is a copy of the cover of this week's Economist magazine I show you in the Chamber. The Economist magazine, in my view, even though it is a British magazine, is probably the finest news magazine in the world. I have read it for more than 30 years. The cover is ''Why America locks up too many people.'' They have an indepth article in here asking the question, What is wrong with the American criminal justice system, and what needs to be done to fix it?

So I would ask the leadership of both our parties, and particularly those on the other side, let's step forward and create this commission. It is a 1½-year sunsetted commission. It is not something that is going to keep going. We are going to put experts on the commission to come back to us and talk to us about how we can make this system fair, take care of the problems of crime, the worries people have, and at the same time be a lot more sensible in terms of whom we are incarcerating and how we are assisting them in their reentry into our society.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Colorado.

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

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

Mr. UDALL of Colorado. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is considering the small business bill.

Mr. UDALL of Colorado. I ask unanimous consent to speak as in morning business.

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

Mr. UDALL of Colorado. Mr. President, I will speak to the bill we are considering.

I rise today because I know we need to throw a lifeline to small businesses by increasing their access to credit. They have bills to pay, payroll checks to issue, and accounts payable mounting as they try to drive economic development. I supported the $30 billion lending increase this past week—I think the Presiding Officer did as well—because we know we have to do all we can to get small business cranked up in our country. I supported it with the understanding that if we were going to finance $30 billion from the banking sector, the very least we could do as well would be to increase lending without costing taxpayers a dime.

I wish to speak specifically to a piece of legislation I introduced, and I introduced it in amendment format as well, with bipartisan support. This amendment would get government out of the way so that credit unions could increase their small business loan portfolios. Right now, credit unions are making small business loans, but there is an arbitrary cap on the size and how many loans they can actually issue. In every single State—in Illinois, Colorado, California, and North Carolina—there are credit unions that have money and are ready to responsibly lend more money, but the Federal Government is standing in the way. I, for one, am not ready to say to all businesses that they have to close their doors because of a Federal cap on loans. In an economy such as the one we now face, we have to change that situation. We all know that when small businesses expand and grow, that will be critical to pulling us out of this recession. In the last 15 years, small businesses have generated two-thirds of all the new jobs created in the United States, and they currently employ more than half of all Americans in the workforce.

As I travel across Colorado—as I know the Senator from Illinois travels across Illinois—and I visit with small businesspeople, they continually ask me: Where is the lending? I thought the banks were supposed to start lending again.

Despite remaining profitable, small businesses have been unable to secure the loans they need to make investments in inventory, expand, and ultimately hire new workers. That is, again, why I introduced this bipartisan amendment to allow credit unions to ramp up small business lending without costing taxpayers a dime. I wish to say that again. We are not costing taxpayers a dime to put these changes into current law.

Let me speak to current law. Under current statute, credit unions are required to limit their small business lending to 12.25 percent of their credit union's total assets. But credit unions have run up against that cap, and the only thing keeping them from jump-starting our economy is an outmoded, antigrowth law which I have referenced.

After we introduced our bill last year, we heard from inside-the-beltway banking representatives who said increasing credit union loans to small businesses wasn't going to be safe or sound. Now, I suspect they were more concerned about others making loans than they were about safety and soundness. We all know in this Chamber that banks and credit unions regularly snipe at each other. It is almost like the Hatfields and the McCoys. But in the end, this isn't a bank or credit union issue; this is a small business issue.

So in coming to this updated, bipartisan compromise, I have spoken to the Senate Banking Committee, the Treasury Department, and even the credit

unions' own regulator, the National Credit Union Administration. They have all agreed to support our compromise that will safely and soundly increase small business lending by the credit union sector without costing Americans a dime. Best of all, most important of all, this legislation could lead to large-scale job creation in my home State of Colorado and around our country.

The amendment takes the most well capitalized, the most experienced, and best run credit unions that have run up against this lending cap I have mentioned and allows them to meet the rising demand for small business loans. When they meet those conditions, their regulator will then allow that small business lending cap to slowly increase from the current 12.25 percent to a maximum of 27.5 percent of total assets. We know these credit unions are the most prudent financial institutions around, and nobody can argue that allowing them to throw a lifeline to small business is irresponsible. So this amendment is a sound, surefire way to grow our economy by increasing credit unions' ability to lend to small businesses. Again, I wish to remind my colleagues that this is at no cost to the taxpayers—no cost to our taxpayers.

The National Credit Union Association estimates that these sensible reforms would increase credit union lending to small businesses by $10 billion within the first year of enactment, with an increase of nearly $200 million in my home State of Colorado. This is just an example. This new access to credit is estimated to create over 100,000 new jobs nationwide. It sounds to me like a probusiness, projobs policy that we all can agree we need. The National Small Business Association and even the National Association of Realtors have gotten behind our efforts, and they are urging us to pass this important provision.

Everybody here—I look around the Chamber, and I see my friend from Oklahoma—knows what shape our economy is in today. Small businesses continue to struggle to access credit as large banks have significantly cut back on Main Street lending. We have all met business owners who have experienced this credit squeeze. If we are going to finance $30 billion to increase lending, which I do support, we should at least take this small step and help small businesses at no cost to taxpayers.

So as I close, I wish to urge my colleagues to avoid the infighting that would have us believe this is about banks or credit unions because it is truly about our small business sector. We can't turn away entrepreneurs in this economic climate. We want to create jobs and begin new businesses, especially because of our politics here in Washington. I know there is not a single Senator who wants to look a small business owner in the eye who hasn't been able to get a loan because of an arbitrary government cap on small business lending. So let's unlock credit markets in Colorado and throughout the country. This amendment could be an important part of that effort. I wish to work with colleagues on both sides of the aisle to quickly pass this amendment and allow our Nation's small businesses to again set our country on a path toward job growth and prosperity in the future.

Mr. President, I thank my colleagues for their attention, and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that after addressing the Senate for 5 minutes, Senator INHOFE be next in line.

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

Mr. BROWN of Ohio. Mr. President, I thank the Senator from Oklahoma, and I thank Senator UDALL from Colorado for his words.

Each day in towns and cities across my State of Ohio, small business owners and manufacturers will walk into a bank and apply for a loan to expand their business. They have workers, they have the capacity to grow, and they have orders for sales. They want to hire more workers. Too often, though, a creditworthy bakery shop owner, an auto supply manufacturer, or a clean energy entrepreneur will be turned away, snuffing out their dream and our economic recovery.

The strength of our economy depends on the strength of our small businesses. We know that about half of all employees in my State of Ohio and in most places across the country work in small businesses. We know that about two-thirds of jobs created in this country come from small business. Whether it is to create these jobs or supply services to other businesses or export products to new markets, small businesses, of course, rely on access to credit. Yet bank lending dropped by $578 billion last year—the largest decline since the 1940s. That means 60 percent of small businesses in America reported they didn't have the credit they needed to meet their business needs.

It is unacceptable that the same banks taxpayers helped save when the economy faltered are refusing to lend to responsible small businesses with good credit histories and good business plans. Many of these banks are building massive reservoirs of cash rather than making simple loans or extending lines of credit to small businesses. As a result, small businesses are denied the capital they desperately need to expand operations and hire more workers. That need is especially acute for Ohio manufacturers that have higher operating expenses, large upfront costs, and complex machinery to maintain. The issue of easing access to credit for manufacturers has been simmering for more than a year.

For the past year, I have chaired several hearings in the Banking Subcommittee on Economic Policy on how to restore credit to Main Street. We examined how to fix the problems to small business borrowing and lending programs, having heard directly from small manufacturers and other small businesses and small and big banks.

Chairwoman LANDRIEU of the Small Business Committee has assembled a powerful small business bill that strengthens our economic recovery by partnering business and government. Senator SNOWE has made significant contributions to this bill. There are few stronger advocates for small business and small manufacturers than she is.

This bill has several provisions that will help small business owners access new credit, refinance existing debt, and open cash flow as the economy continues to recover.

Last week, we took a big step toward helping small businesses in this country by ending debate on the amendment to add a $30 billion lending fund to the bill. I applaud Senator VOINOVICH, the senior Senator in my State, and Senator LEMIEUX for their work and support.

A key feature in the bill is the State Small Business Credit Initiative Program, a program I have worked on with Senators LEVIN and WARNER and STABENOW, along with the Secretary of the Treasury. This program would help small business owners and manufacturers whose collateral—it might be commercial real estate or it might be factory equipment—depreciated during the recession.

It is the same collateral, but it is not worth as much because of what has happened to the economy.

Too many small business owners have been forced to pay higher interest rates on their loans, through no fault of their own, because their underlying collateral lost value due to the weakened real estate market and overall economy.

Almost daily, Governor Ted Strickland and I hear from small business owners who would benefit from the program, along with other State-based small business lending initiatives.

The bill also extends the Recovery Act's Small Business Administration-backed loans, which have already helped create more than 650,000 jobs nationwide.

Because of these loans, small businesses can now create jobs and generate tax revenue for communities across Ohio, at no cost to taxpayers.

By extending these loans, startup small businesses could buy new equipment, or existing small businesses can make long-term investments to expand operations.

My office has held more than a dozen SBA workshops across Ohio—in New Philadelphia, Chillicothe, Toledo, Akron, Youngstown, Cleveland, and Columbus—to connect more than a thousand small businesses with SBA resources. Clearly, there is a demand for these types of loans, which is one of the reasons the bill is so important.

Let's not forget that 2 years ago, our economy was on the brink of another Great Depression. When President Obama took office, we were losing 700,000 jobs a month. Today, we are growing the economy—not fast enough, and there is not enough job creation to hire everybody back who lost their jobs. We know that. And there is not enough job creation to hire high school and college graduates and young men and women returning from service in the military. We are growing, but we are not growing the economy at the speed we need. We need to continue the growth.

From the Recovery Act, to the health care bill, to financial reform, we are helping small business owners achieve the American dream of entrepreneurship, while rebuilding the economy along the way.

Through the Small Business Jobs Act, more small business owners can walk into a bank and receive the loans they need to expand operations, hire new workers, and get our economy back on track.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

ENERGY

Mr. INHOFE. Mr. President, first, let me state that I have a great deal of respect for my friend from Ohio. I cannot agree, however, with the things this administration has done to pull us out of the recession. A lot of people believe the Federal Government can do that. I look at the institutions, and I say to the Chair, I have people who come into my office and it doesn't matter what industry they are in, they are all scared to death. It is a mentality that the Federal Government can take these things over and somehow make them better.

This administration is attacking every institution that made this country great right now. I don't care if you are in banking, insurance, health care, or the oil businesses—all of them are under attack. There is a myth out there that if the Federal Government takes it over, it will be run better than it would when run by the private sector. That is a prelude for the thoughts I want to share concerning what happened last night after 10 o'clock.

The majority leader, Senator REID, came out with a type of energy bill, I suppose you could say. He has been talking about an energy bill for quite some time. What I have seen in the bill that is called an energy bill—I can't speak too specifically about it, because it didn't come out until late last night. But we know this: First, they start off by taking off any liability cap on drilling, whether it is in the gulf or elsewhere. That is my understanding.

The problem we have—and some of the people in this Chamber might remember that I had occasion to come to the floor and object to the Menendez request about four different times in the last month, because what he was attempting to do is what this bill is suggesting—take all liability caps off. If you do that, something happens that is bad. I hope that is not the intent of the authors of the bill that came out last night. But what you do by taking the cap off is you limit who is going to be able—once the moratorium is lifted—to drill offshore to the giants.

We have five big oil companies—the big of the bigs—and everybody is talking about BP, the one responsible for the most devastating spill in our history. If you take the cap off, that allows the BPs and the nationally owned oil companies to drill. In other words, we have independents all over America that have the capability and are providing jobs in the gulf, to all the Gulf States. If you come along and, all of a sudden, say you cannot do it now because you cannot comply with this, there is a serious problem.

We have a solution to that, where oil companies would be putting into a fund—some of you might remember, 20 years ago, the Exxon Valdez oilspill. I remember going up there 20 years ago. That was a devastating thing. We are still feeling the damage that came from that spill. When I got there, something interesting was happening. The far-left environmentalists, who wanted to shut down all kinds of drilling all over America and elsewhere, were up there celebrating. I said: What are you celebrating? They said: We are going to parlay this spill—20 years ago—into stopping drilling on the North Slope. I said: Why would we do that?

That was a transportation accident. If you remember, that was a ship that came in carrying oil from foreign countries. They had the accident, and we had the devastating spill. But if you stop us from developing our own domestic resources, we are going to have to transport more oil from other countries. The incident of a potential oilspill would be much greater if we are transporting that much. They said: We are going to do it anyway.

I saw the same thing when the oilspill took place a few months ago in the gulf. All the people down there were almost celebrating, saying: We are going to parlay this into stopping all oil production offshore, and maybe even beyond that. That is essentially what the far left wants to do.

Here we have this bill that came out last night, which takes the caps off so that the only ones left—I call this the big oil bill. If we were to pass what came out of the majority leader's office last night, it would only allow giant oil companies, and maybe nationalized ones, to do the drilling. This is a huge thing.

The statement I am making—by the way, I have to quote someone I don't often agree with, and that is Carol Browner, the head of the EPA during the Clinton administration, and now the environmental czar in this administration. She said:

> So it will mean [talking about this subject] that you only have large companies in this sector, but maybe this is a sector where you really need large companies who can bring to bear the expertise and who have the wherewithal to cover the expense if something goes wrong.

She is saying that only big oil and China should be able to produce in the gulf. The problem with this is, everybody understands—certainly those Senators, Democrats and Republicans, from Texas, Louisiana, Mississippi, Alabama, and Florida all understand what the problem is here in terms of jobs. If you stop the independents from producing out in the gulf, it not only makes us more dependent upon foreign countries, or our ability to run this machine called America, but it does away with jobs.

The IHS Global Insight came out with a study that said if you do this, the gulf region would lose over 300,000 jobs by 2020. That is the IHS Global Insight. People don't argue with their credibility.

This is probably one of the biggest job loss bills we could have. I don't think it will pass, but if it did, that would be the problem.

I am going to address one more thing in this bill, and that is the technique of hydraulic fracturing. Hydraulic fracturing is a system whereby they go down—here is the aquifer here, 400 or 500 feet below the surface, and about 2 miles down—they drill down through that and use the hydraulic fracturing in order to get the close formation of oil and gas so they can produce that. Without that, they say—and I think nobody disagrees with this—we are not going to be able to produce natural gas. Everybody is talking about natural gas and how we are going to need more and more of it, how we would develop our potential and the shale potential particularly, and we can do away with having to be dependent upon countries such as Venezuela and countries in the Middle East for our ability to run the machine called America. So we have this methodology called hydraulic fracturing. The first hydraulic fracturing was done in 1949 in my State of Oklahoma. That is 60 years ago. There has never been one incident of contamination of water since that happened.

I am going to show you this. This is not me saying this; this is the EPA Administrator, Carol Browner:

> There is no evidence that the hydraulic fracturing at issue has resulted in any contamination or endangerment of underground sources of drinking water.

Ever. Again, that is Carol Browner. This gives you an idea of where all this shale is. If you look at this—and I remember talking about hydraulic fracturing at some length some time ago, and Senator DORGAN, from North Dakota, came in and said he agreed with everything that INHOFE said. Obviously, this is Bakken shale up here. This chart shows the extremely large potential all over the country. Last July, I addressed the Senate for 30 minutes on this invaluable technique to access natural gas and oil reserves throughout the country.

While the country is at nearly 10-percent unemployment, access to these reserves means good news for jobs. I provided some examples of the thousands of jobs and billions of dollars in royalties, State tax revenues, and economic activity shale plays, such as the Barnett shale in Texas, Woodford shale in Oklahoma and Arkansas, and Haynesville shale in Louisiana and, as you can see, all over America on this map.

People are talking about big oil or oil in some negative context. There are hundreds of thousands of royalty owners around the country who would be shut down if we try to close down this methodology called hydraulic fracturing. This 60-year-old technique has been responsible for 7 billion barrels of oil and 600 trillion cubic feet of natural gas. The National Petroleum Council reports that 60 to 80 percent of all wells in the next 10 years will require hydraulic fracturing to remain productive and profitable. In other words, it is almost all of them that will require hydraulic fracturing to be competitive.

In Oklahoma, we should know. The first hydraulic fracturing was near Duncan, OK, in 1949. Very simply, it is the temporary injection of mostly water with sand, nitrogen, carbon dioxide, and other additives to fracture and prop open a ground formation to improve the flow of oil and natural gas through rock pores and increase oil and gas production. Ninety-five percent of the fluid is water, and 99 percent is water and sand.

New reports over the last 2, 3 years reveal some of the highest totals ever of natural gas in the United States. These reports demonstrate that at 2 quadrillion cubic feet of current demand, we have enough natural gas for us to keep America going for the next 100 years. That is the significance of this. If you do this and do away with that process—hydraulic fracturing—that will shut it down. So we are talking about now we have the potential to supply enough natural gas to run this country for the next hundred years. That is how significant this is.

Due to new natural gas shale plays all over the country, new studies demonstrate recoverable reserves of natural gas to meet the current demand for at least the next hundred years.

By the way, a report that came out shows that the United States is No. 1 in terms of recoverable reserves. We are talking about gas, natural gas, oil, and coal.

Some Democrats may argue that this section 4301 is only a disclosure provision of the chemicals used in the hydraulic fracturing process. That is not true. State regulators have safely and effectively regulated hydraulic fracturing for the past 60 years, as was stated by Carol Browner. State rules, such as in my State of Oklahoma, require disclosure of chemicals. What this provision is about is a new EPA Federal control. Somehow this administration thinks that if the Federal Government isn't running something—this is an obsession, where the Federal Government has to run everything. When I was mayor of Tulsa, we had a guy, a police commissioner, and he had a saying that ''if it ain't broke, don't fix it.'' This hasn't been broken once in 60 years. At a press conference, somebody talked about, well, didn't this happen in Nevada once? Well, I have no record—neither does Carol Browner—that there has been contamination as a result of hydraulic fracturing.

Proponents of this language argue that it is needed because fracking contaminates groundwater. As the ranking member of the Environment and Publics Works Committee, I have asked the USGS and the EPA's Assistant Administrators for both the Enforcement Office and the Water Office in testimony in front of the Environment and Public Works Committee whether they are aware of any documented case of water contamination due to hydraulic fracturing. They could not name one. That is because there isn't any.

These officials are not alone in this opinion. President Obama's energy czar agrees with me. In 1995, as EPA Administrator, Carol Browner wrote in response to litigation that Federal regulation is not necessary for hydraulic fracturing. She correctly made the point that the practice was closely regulated by the States and that ''EPA is not legally required to regulate hydraulic fracturing.'' Most importantly, she further wrote that there was ''no evidence that hydraulic fracturing resulted in any drinking water contamination'' in the litigation involved. We are talking about something that is not broken.

It clearly is necessary for us to get all of this out to run this machine called America. As we can see, this is not a partisan Republican issue; Democrats alike understand the importance of hydraulic fracturing.

When I spoke on the floor last July, as I mentioned, Senator DORGAN from North Dakota followed my comments saying that he agreed with my assessment that not only is fracking needed to access new reserves, such as the ones in the Bakken shale in North Dakota, but that he is not aware of any groundwater contamination from the practice. I appreciate the fact that he is outspoken in this area.

It is also extremely important to point out that Congress has already tasked EPA in law to study the effects of any hydraulic fracturing on water quality and public health. The EPA has already begun using $4.3 million for this effort, which is being led by Dr. Robert Puls, who works in EPA's Groundwater Research Laboratory based in Ada, OK. I encourage this study. We know there has not been any problem. I want to make sure we can put the final nail in this coffin, that people somehow think hydraulic fracturing contaminates water. This is a way to do an independent study. Let the government study it.

This bill was drafted last night at 10 o'clock in spite of the fact that we do not have any results back from that study. Even if one wanted to believe so badly and did believe this is a problem, let's at least wait for the study before composing new legislation.

Natural gas development brings billions in private investment and millions of jobs to America. This country cannot afford to limit the production of its domestic energy resources due to unfounded rumors of environmental damage and the usual hysterical claims from extremist environmental organizations looking for the next crusade because cap and trade is dead.

Let me repeat that. It was 13 months ago that I made a statement from this podium that for the next 12 months, people are going to say: We are going to pass some cap-and-trade legislation.

I said: We are not going to because it is dead. How many people, particularly the newly elected Senators, want to go back to their States and say: Aren't you proud of me? I voted for the largest tax increase in the history of America. That would be cap and trade.

Cap and trade is dead. Yesterday, the White House made some kind of statement that if we can get something thrown into conference and then have a lameduck session after all these faces have changed, we are going to try it again. It is not going to work. It is dead.

Let's look at what came out last night and study it. We have not had time to do that. We have not seen the exact language yet. It was not drafted until 10 o'clock last night. When they come to the point where they say they are going to do something to change hydraulic fracturing, that would be critical. That is one thing that would kill the development and production of natural gas to run this machine called America.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HEALTHY, HUNGER-FREE KIDS ACT

Mrs. LINCOLN. Mr. President, I come to the floor today to speak again, as I did yesterday, on the committee-passed children's nutrition reauthorization legislation. Before I do, I ask unanimous consent that my colleague, Senator CHAMBLISS, be able to speak for 5 minutes following my speech.

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

Mrs. LINCOLN. Mr. President, I come to the floor today again to speak about our committee-passed bill, the child nutrition reauthorization, and certainly the critical need for us to pass this legislation before child nutrition programs expire on September 30. Most

people know we do not move at breakneck speeds in Washington, and we have very limited time between now and September 30. In that time, our children will be going back to school. They will be going to their respective schools across this country, and we will have missed an opportunity to improve their lives in that school and in that community, to improve their health and well-being through greater access to free and reduced lunches and—not summer feeding programs but our breakfast programs, as well as the nutritional value of those meals.

I hope all of my colleagues will join me in helping us move our child nutrition bill forward. The bipartisan Healthy, Hunger-Free Kids Act will make a tremendous step toward addressing the childhood hunger and obesity crisis in our country and put us on a path to significantly improving the health of the next generation of Americans.

Congress has the opportunity to make a historic investment in our most precious gift and the future of this country—all of our children, not just my children, not just the other Members' children, but children all across this Nation. Other mothers and fathers, parents all across this country, and grandparents who are raising their children, who love and care for their children just as much as I love and care for my children, will have an opportunity, when we pass this bill, to realize a greater opportunity for their children.

Today, I am here to talk about what it will mean if we miss this opportunity, what it will mean for our children, our hard-working families across this Nation, and schools across the country if we fail to pass this bill and pass it before we leave.

The obesity crisis America faces comes at a tremendous cost to our health care system. Many of us do not think of it that way, but it does. It costs us roughly $147 billion per year. We should not miss this opportunity to proactively address the obesity crisis and begin to relieve our health care system of those financial burdens that follow obesity-related disease.

This bill includes the first congressionally mandated, noninflationary increase in the reimbursement rate for school meals prepared and served across this country since 1973. I do not want to talk too much because in 1973, I believe I was in junior high, perhaps. We have not increased the reimbursement rate for meals in our schools since 1973. We know what 1973 dollars purchased and we know what today's dollars purchase. We are strapping our school districts with trying to do a better job at providing healthier meals since we now know the difference it makes in our children's lives, both in their ability to learn and in their ability to grow and be healthy.

This reimbursement rate is performance based in our bill. That means schools only get it if they provide healthy meals that meet program guidelines. This provision will invest roughly $3.2 billion in additional money over the next 10 years. That is over $300 million per year in additional revenue for our schools. That is meaningful to these schools that are working diligently to try to provide the healthiest meals possible for all of our children.

I toured a lot of our schools during some of the breaks we have had this year and listened to some of those food service folks who work hard day-in and day-out trying to come together and figure out how they can meet guidelines and provide the healthiest foods possible to our students and to our children and to do so on those 1973 dollars. One of the things I found, which is amazing, is that many of them are still using 40-, 50-year-old equipment, which means they are having an even harder time not only because they do not have enough dollars to purchase the kinds of foods they feel would be healthier, but they do not even have the equipment to provide the preparation of those foods. Steaming vegetables one pot at a time for 300 students is impractical.

We look at the opportunities that exist for us to do something. However, if we fail to pass this bill, schools will miss out on over $300 million each year, and the next generation will still continue to pay the price for the health risks caused by obesity.

We can see on this chart what schools in each of our States stand to lose if we fail to pass this bill. I have looked pretty heavily at the State of Arkansas, and I notice that the children of Arkansas will miss out on $3.5 million a year that we could be providing them for improving the health and well-being of our children through healthier meals and through greater access for low-income children.

We look at the economy and the economic crisis we have come through. We know many working families are in dire straits. Having to go through what they are going to have to go through to try to get their children into a free or reduced lunch is unbelievable. Yet that is a great place for those children to get a healthy meal when their families are suffering in these economic times.

I look at what some of my neighbors might receive. I notice Texas. Texas gets well over $32 million in these increases to help them provide for their children through breakfast programs and lunch programs in their schools and in their school districts.

Some of my other neighbors—Missouri. I look at Missouri and I see almost $6.5 million. Think about what it would mean to those school districts and those school service programs to have those additional resources. Those are critical dollars that schools desperately need to help reverse the dangerous trend of childhood obesity.

All it will take is just a few hours of floor time to pass this bipartisan, fully paid for legislation.

Another provision in our bill expands the at-risk afterschool snack program, also known as the Child and Adult Care Food Program. Our bill expands this program so afterschool sites in every State can offer children a full, healthy meal so they do not have to go hungry in the afternoons as parents are working and, at the end of their work day, having to pick up their children and then trying to get home to feed them. If we do not pass this bill, 29 million nutritious afterschool meals will not be served to hungry children.

Other provisions in our bill expand and improve the use of direct certification for free school meals through the SNAP and Medicaid Programs. There will be 120,000 eligible low-income children each year who will not receive quality meals if we neglect our responsibilities and fail to pass this legislation.

Again, as I mentioned yesterday, I think of the mountain of paperwork that comes home from school in the backpacks of my children at the beginning of the school year—paperwork that has to be filled out that is detailed. We know that through a direct certification program—and we know those families have already filled out that paperwork, whether it is for Medicaid or whether it is for other programs they qualify for, such as SNAP or other programs—it is critical that we use that opportunity and those resources to feed hungry children instead of the staff it takes or the time of the parent or the neglect, perhaps, because there is not enough time to fill out that paperwork so that child could have access in a dignified way to the free or reduced school lunch they need so desperately.

I emphasize again that the critical investment this bill makes is completely paid for and will not add one cent to the national debt. I know people have great concern about the debt because I do too. I know my constituents do, and I know my colleagues do. In the committee, we worked hard, in a responsible way, to ensure that this bill would be a good, common-ground area where we could come to find an increase for a very critical need but to also pay for it in a responsible way. This truly is an investment, Mr. President, in the next generation. It ensures that our children will be healthy, and it does so without saddling them with the financial burden they cannot afford.

Make no mistake, Mr. President, if we fail to pass this legislation there will be real-world consequences. Those statistics I just cited aren't just numbers, they are very real children. They are very real children from the age of 5 to the age of 18. Mine happen to be right in the middle right now, but they are growing boys. I know how desperately important it is for them to get nutritious meals, and I work hard at that. I know every other parent out there wants to do the same for their children; real children who come from hard-working families are struggling to make ends meet. These are real children who struggle with obesity and will

deal with long-term health consequences throughout their lifetimes if we don't take the steps to both increase their availability to choices and, more importantly, increase their access to nutritious meals in the schools where they spend the majority of their day to begin with.

Let's take the time to pass this legislation. If it is a priority, we should do it, plain and simple. Just a few hours is all it will take. I hope my other colleagues will look at this issue and realize that even in the busy world we are in here, and all the things that we do, taking just a few hours to focus on things where we have done our work in committee, where we know it is essential, where we know it will expire, and when it does we will lose resources, that we can take the time now to get something done and move it forward.

So I thank you, Mr. President, for this time, and I say a special thanks to my ranking member, Senator CHAMBLISS, who does a tremendous job on the Senate Agriculture Committee. I am grateful to him for his hard work and dedication, and I am a great admirer of all the things he does and will continue to enjoy working with him on any of the issues he finds before us in the committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I came to the floor to speak on something else, but I just want to say to my chairman that I commend her for her hard work and dedication and her leadership on this issue of child nutrition. We have worked extremely hard over the last couple of years on this issue, and when she assumed the chairmanship of the committee, she really put this as a top priority and I think it was the first major piece of legislation we passed out of committee under her leadership. Boy, did she ever work hard to make sure that happened.

It is a pleasure always to work with her. She is exactly right. We have actually modified the bill a little, even though it came out of the committee unanimously. It is totally paid for, and we are using existing farm bill money, for the most part, to pay for it. So it is a matter of adjusting priorities within good, solid, agricultural policy.

So I thank her for it, and I look forward to this bill ultimately coming to the Senate floor and its passage.

2009 LITTLE LEAGUE SOFTBALL CHAMPS

Mr. President, I rise today to congratulate the Warner Robins American Little League Softball team on winning the 2009 Little League Softball World Series.

They visited the White House yesterday, where President Obama offered them congratulations, and I appreciate his hosting them in that very generous way. I can't imagine this will be the last time the Warner Robins Little League girls come to DC as the Softball World Series champions because they have the knack for winning.

The girls went undefeated in the tournament. There was only one game that was ever in doubt. In the final game they beat a team from Crawford, TX, by a score of 14 to 2. Undoubtedly, there must be something in the water down in Warner Robins because, boy, do these girls know how to win. And they deserved to win. Throughout the tournament they played with heart, played with courage, and played with sportsmanship.

In 2007, the boys Little League Baseball team from the same town—Warner Robins—won the world championship title, making Warner Robins, GA, the first community in America to have a baseball team and a softball team win their respective Little League World Series championships.

I am proud of what the girls have accomplished, but my pride cannot compare to that of Warner Robins, to the State of Georgia, or to the entire Little League community. I am also proud of the commitment shown by the parents, coaches, and managers, who offered so much love and support for these girls so they could achieve their dream.

Softball is part of our American heritage, our history. It is a sport that cultivates competitiveness, hard work, and speed. It is also a sport that prepares children for the ups and downs of adult life because it brings together people and builds communities.

I am grateful to these girls not only for the sense of community their softball team helps bring to Georgia, but also for the economic opportunities this win is helping to bring to Warner Robins. The Little League International's southeastern regional headquarters and stadium recently moved from Florida to Georgia, bringing hundreds of jobs to this city of 60,000.

Mr. President, it is my privilege to be able to give voice to the citizens of our State in congratulating Warner Robins on a job well done and on thanking these girls for the recognition and opportunities they have brought to middle Georgia.

Once again, I offer my congratulations to the Warner Robins Little League Softball team on this very special occasion, and wish its players the best of luck as they defend their title over the next year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in just a few moments Senator LANDRIEU is going to come to the floor to talk about the small business bill, and I will just say a word or two about my support for her efforts.

She did something extraordinary last week. She is a determined Senator, and the time came when she wanted to see a fund created to lend money to small businesses. So she took to that desk and grabbed her charts and stayed there all day until she got the job done. She got 60 votes, which is a daunting task sometimes in the Senate, and added into this bill a fund to loan money to small businesses across America.

We need it. We need it across America, and we need it in Illinois. There were over 258,000 small business employers in Illinois in 2006—that is the last year for which we have data—led by professional services and construction firms. They account for over 98 percent of the employers in our State. These small businesses added 93,000 jobs in 2006, more than three times as many jobs added by Illinois companies with more than 500 employees. We can see that small businesses are a major part of our job economy. Another 850,000 people work for themselves, meaning the number of people working for small businesses was actually dramatically larger.

I fear that some of the firms likely to have failed during this economic crisis would have continued to do battle and might have prospered if they would have had access to credit. That is why this small business bill is so important.

Yesterday, the Republican minority leader, Senator MCCONNELL, came to the Senate floor and questioned why we would even raise the so-called DISCLOSE Act, about the Citizens United decision at the Supreme Court. He said we should be on the small business bill. I couldn't agree more. I hope that sense of commitment and urgency from the Republican side will be shown again today.

If there are amendments, let's bring them to the floor, debate them in an orderly fashion, and bring them to a vote so we can bring this bill to passage. The House of Representatives is waiting for this bill. They want to help us move forward to help create jobs and turn this economy around. The best place to start is with the small businesses across America. With 10.8 percent unemployment in Illinois, it is crucial we help Illinois small businesses start hiring again.

I personally thank Senator LANDRIEU for her leadership. What she is taking are TARP funds, funds that were originally designated to go to the biggest banks in America but didn't. They were funds that were held back. What Senator LANDRIEU is doing is claiming these funds that went to these big banks and saying: Now let's send them to healthy banks, banks that are not going to fail, with the understanding they will loan them to small businesses. That, to me, is a good answer.

I am disappointed with what happened to TARP initially. To think that we sent these moneys, taxpayers' dollars, to some of the largest financial institutions in America that were guilty of misconduct and bad judgment and they showed their gratitude by announcing bonuses for their officers instead of paying back the Government right away, is inexcusable.

The remaining funds, some $30 billion, will come into this small business effort. I think I have heard Senator LANDRIEU say the multiplier on this is a factor of 10, so there could be some $300 billion across the economy.

In Illinois, in Chicago, across my State small businesses say: If we could just borrow money, we are doing well, we can expand, we can hire more people. But even though we have a good story to tell, with banks we have always worked with, we can't get the credit.

I thank Senator LANDRIEU for her leadership. We are going to get back to this bill. As I said, as she was preparing to come to the floor, if there are amendments, let's get these amendments in order, let's have a reasonable time to debate them, and then let's move on. Let's get this done and pass it over to the House so they can act on it before we leave next week. That is critically important. The House, I know, is hoping to wrap up this week.

Let me clarify one point. Although at one point in time this $30 billion lending fund was to be created from unused TARP funds, I'm reminded that this is no longer the case. This fund will be created independent of the TARP or any other existing program. It will be a standalone lending facility within the Treasury that will help small businesses access loans through community banks. And according to the Congressional Budget Office, this fund will not cost the taxpayers a penny—in fact, it will raise money to help reduce the deficit.

I urge my colleagues to support this bill, to help Americans get back to work.

I thank Senator LANDRIEU for her leadership and I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Louisiana.

Ms. LANDRIEU. I understand, under a previous order, I have the next hour to follow up on Senator DURBIN's comments. I would like to claim that hour now.

The PRESIDING OFFICER. The Senator is recognized.

Ms. LANDRIEU. Mr. President, the Senator from Illinois is absolutely correct. One of the last remaining works that we have to do, as we try to wrap up this portion of the session as we move to an August work period in our home States and our home districts, is to get this small business bill passed. It has been a focus of the Democrats. It has also been the focus of some Republican support. That is what I wish to talk about today. I wish to make sure we understand that the team that is following this bill is a broad team of hundreds of organizations from the Chamber of Commerce to the National Federation of Independent Business, to the Small Business Alliance, to the Community Bankers of America, to individual business owners around the country, as the Presiding Officer knows because he himself has been a great leader in this effort. The point I wish to make in the first few minutes of this hour is the tremendous bipartisan support and input that has gone into this bill to get us to this point.

There is some criticism that is not valid. There is a criticism out there that Democrats are trying to ram this through and Republicans have not been able to offer amendments. The facts are that this bill, this small business job growth bill, has been built through two committees, the Finance Committee and the Small Business Committee.

I have the pleasure and honor of chairing the Small Business Committee. Senator BAUCUS chairs the Finance Committee. For the last, literally, year, these two committees have been working to bring a bill to the floor that is focused on Main Street, not Wall Street; that is focused on job creation, not capital accumulation; focused on job creation on Main Street through traditional, old-fashioned, smart strategic lending to small businesses that have the potential to grow.

We know there is no disagreement that the new jobs created—the Presiding Officer will know—will be created by small businesses that do not hoard their cash. They cannot wait for a better day. They have to act now. That is the nature of small business. Lucky for us it is, because if we give them a little help, they can start creating that one new job or two new jobs or three new jobs. But if it is done millions of times across the country, which it can be, it can make a difference in a significant way by creating literally the millions of jobs we need.

If people want to know why this is a jobless recovery, I would like to say—because it seems like it is—that is because we have been giving a lot of money to the big guys: a lot of money to Wall Street, a lot of money to big manufacturers, large manufacturers. But if we would spend some time today—and we have over the course of drafting a bill which we have done in a bipartisan way—to get money to Main Street, we might see an end to this recession. That is the hope of all of us.

This is a description, Small Business Jobs and Credit Act of 2010. These are just the small business provisions—small business access to credit. You will see here, this was done jointly by myself and my ranking member, Senator SNOWE. It passed our committee 17 to 1, and we have almost an equal number of Republicans and Democrats on our committee. It passed with overwhelming support. This will increase 7(a) loans from $2 to $5 million, increase 504 loans from $1.5 million to $5.5 million, and increase microloans from $35,000 to $50,000.

It also extends the 90-percent guarantee on loans up from 75 percent and eliminates fees.

Let me read what one business in Louisiana says. I can probably read you thousands of testimonies, but let me read from one. Sawyer Industrial Plastics of West Monroe has been in existence for 32 years. It has provided plastic repair parts for the paper industry. Mr. Sawyer's line of credit was canceled by his bank so he needed to term out his debt as well as arrange for expansion capital to move into other areas that could design plastic parts.

Mr. Sawyer's existing business would service his debt, but without capital to expand into new markets and industries, his long-term business prospects would be tied to the weakening paper industry.

With this provision that was in the stimulus package but which has expired, which is in this bill—which will reignite when this bill passes but not a minute before—Mr. Sawyer was able to get a 90-percent guarantee. It allowed the lender, North Louisiana BIDCO, to leverage its capital and provide more funds to meet this $700,000 loan. The waiver of the guaranty fee added over $20,000 to available working capital.

In other words, instead of paying the $20,000 to the Federal Treasury, under the provision we are passing, he paid it to himself, which is the point of our legislation.

We have $12 billion in tax cuts for small businesses and that is not including this fee waiver I am talking about now. This is a significant amount of money to go into the pockets of small business owners. Mr. Sawyer, from my State, took that $20,000 and, instead of paying a fee to the Federal Government, we are waving those fees under this bill, and he hired an additional worker.

That is the point. That is the point of this bill you have helped to draft. We are reducing fees, we are reducing taxes, and we are targeting much needed capital—access to capital to small businesses, which will create the jobs that lead us out of this recession. So he added a new employee and he added some new product lines.

Another story comes from First Bank and Trust. This is in Mandeville, LA. It is about Woolf Harris, Inc., a 14-year-old company. The acquisition of a building recently left the business short of cash. Although the national economy turned down, residual effects of two recent hurricanes continue to push demand for the product. It is a plumbing supply business. Lacking adequate collateral for a conventional loan, First Bank and Trust—again, a local trusted community bank—was able to extend a $120,000 line of credit, with a $125,000 3-year term loan for working capital to Woolf Harris. With the 90-percent guaranty, First Bank felt comfortable taking the soft collateral available to secure the loan while being able to provide Woolf Harris a most favorable interest rate of 2.25 over prime.

This might not sound like a lot, but to small businesses out there struggling, getting a loan at 2.25 points over prime is much better and much preferable to having to put it on their credit card and pay 16 percent or 20 percent or 24 percent or run down to the payday lender because they are so desperate for cash and pay 36 percent or 50 percent.

If we can't help small business now, I don't know when we can. This bill we

put together with bipartisan support is supported by the Independent Community Bankers, the U.S. Hispanic Chamber, the National Small Business Association, the National Federation of Independent Business, the Small Business Majority, the National Association of the Self-Employed, and, yes, the U.S. Chamber of Commerce. They told me this morning they are proud that their membership is actually representative—96 percent is made up of small business. So I am proud to have the Chamber support for this legislation.

Now we need all these coalitions to support bringing this debate to an end. We agree there are some amendments, two or three, that could be added—on the Republican side, on the Democratic side. We could have an open debate. But there is such a thing as amending a bill to death. I do not think that is going on. I hope it is not going on. I believe both leaders are working in good faith.

But to the small business team out there that has done such a good job in building bipartisan support for this bill, I hope you will trust me when I say that at some point the debate has to come to an end and we have to vote on a bill. If we do not, we will leave here—I do not want to be one who does leave here without doing one of the most important things that I think we were sent here to do; that is, create jobs. The people creating the jobs are not us, it is the small businesspeople out there. To leave without this bill—fully paid for, $12 billion in tax relief, reduced regulations, reduced fees, and expansion of very popular and broadly supported programs—would, in fact, be a shame.

I see the Senator from Virginia who has worked so diligently on this bill. If I could, as I relinquish the floor to him, I would like to ask him if he would comment, as a former Governor of the State of Virginia and someone knowledgeable about the programs he initiated as Governor, how this bill might be helpful to those programs and what other Governors are saying about this bill today, if the Senator would not mind answering that question.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I appreciate the opportunity to join my colleague and friend, the chair of the Small Business Committee, the Senator from Louisiana, in support of this very important piece of legislation. Let me first of all say: In her inimitable style, she has been relentless on this issue. The Presiding Officer and I are both new Members. I think we have seen, in our short time here, certain Members who get that bit in their mouth and just will not let it go. On this issue, Senator LANDRIEU has truly been a leader. It is an issue of paramount importance.

I wish to answer the question of the Senator, but I wish to first of all preface it by saying what I hear in Virginia—and I know what the Senator hears in Louisiana, with all the other challenges Louisiana has—is our constituents want us to focus on jobs. On any historic basis coming out of recession, 65 to 70 percent of all the new jobs created come from small businesses.

And while we can point to certain positive signs in our economy right now—the Dow at 10,500 from a low of 6,500, 15, 16 months ago; corporate balance sheets, large Fortune 500 companies with more money on their balance sheets than at any point in recent history—good news. But if they are not hiring—and I hear from corporate CEOs, as well, their concern that the small businesses that are in their supply chain are going out of business, not just the small businesses that would normally go out with a traditional recession, but this recession has been so deep and so hard that we have now cut through the fat and we are into the muscle and bone. And if we continue to lose small businesses at the rate we are, then the ability to create a robust recovery will be dramatically stymied.

So what do we do? There is no single silver bullet. And what the Senator from Louisiana has crafted is a menu of options for small businesses, to get them that additional assistance, particularly in terms of access to credit, that will allow them to get back and do what they do best—continue to innovate, grow, and create jobs.

The Senator asked me what I am hearing from other Governors. Other Governors, Democratic and Republican alike, are saying that we in Congress have to focus on jobs. The issue of credit and access to credit to small businesses is paramount to all of them, and they want to see this legislation passed.

I was a former chair of the NGA. This is the kind of issue where Governors of both parties come together because we don't see these issues simply through Democratic or Republican partisan lenses. And sometimes this is the kind of bill that, candidly, as I remember as Governor, you kind of scratch your head and say: This is kind of a no-brainer. This bill is paid for. Why would not the Congress do all it can to support small business?

The Senator has outlined, and I know I was repeating some of the items, but I want to reinforce again—I want to particularly focus on one part of this legislation, but there are really four buckets here. They are, how can we expand some of the initiatives within the Small Business Administration that were put in place, particularly in the trough of the downturn, to make sure that these SBA programs, which have been vitally important to small business lending, are maintained—the 90-percent matches, some of the other loan guarantee programs?

I should acknowledge right here that I think the Administrator of the SBA, Karen Mills, has done a remarkable job in streamlining a lot of the processes. I have heard from banks for years about their challenges in dealing with SBA. Well, the current SBA team realizes this is a moment of crisis, and they have done everything possible to streamline their procedures. They need to have these tools put back in place so that the SBA can continue to do the very important work and, candidly, work that goes much broader in terms of a portfolio of small businesses that they are now attracting to their programs than in the past.

I would also acknowledge the dramatic increase in the number of particularly independent and community-based banks that are now accessing and using SBA programs. If we don't pass this legislation, these programs will be dramatically cut back, No. 1.

No. 2, the Senator has crafted, again, at her committee, in a bipartisan way, a whole series of targeted small business tax cuts, a kind of accelerated depreciation that will have the ability to write off core investments, the ability to focus on these job creators. How can we give them a little bit of a break right now, during these challenging times, in our Tax Code?

The third bucket in this program is building on a proposal the Senator and I and others had. We actually suggested this to the administration last October, but they have now built in a $30 billion lending program. The interesting thing about this lending program is it actually, on CBO scoring, scores as a net positive. So this is money not only that we will recover, but we will make—albeit a small one—a profit on it, to shore up particularly independent and community-based banks and give them a direct incentive in terms of increasing their small business lending.

Then a fourth bucket, one that I have been working on—and I wish to commend both my colleagues from Michigan, Senator LEVIN and Senator STABENOW. They have been very active in this as well—which is saying: Can we take what is already working in the marketplace at a State level and build upon it? This is the so-called Capital Access Program. Twenty-six States in America already have this program in place, and those States that do not have it can, in effect, piggyback on other State programs. So there is no need to create new bureaucracy. There is no need to create tons of new paperwork.

I hear, I say to the Senator, from my banking community that this particular initiative is one that they are perhaps even the most supportive of because they know how to do it, they know how to access it, and it can immediately generate a great deal of additional lending.

Let me take a moment, at the Senator's discretion and time—I know this is her hour, but I wish to take one moment to explain it because I think we have focused on the lending facility, we focused on SBA, we focused on some of the tax cuts, but the Capital Access

Program has not received as much attention. Each State has slight variations, but let me describe how this initiative works.

Basically, the independent bank, frankly, at this point is probably a little leery of making a loan, even to a relatively healthy small business because chances are, most small businesses coming out of this recession, their cash flows are down, and if they have real estate as collateral, it has perhaps declined in value. So while I have great sympathy for the small businesses that cannot get their credit lines renewed, I also understand the bankers' predicament in that small business credit isn't quite as good as it was, perhaps, in 2007.

So how does this program work to benefit these small businesses? What it basically does is it creates a separate loss reserve pool for small businesses that fall into this category. What does that mean? If a small business was coming to a bank, a local bank in Baton Rouge or a local bank in Martinsville, VA, wanting to borrow $100,000, the bank would charge that small business a couple of extra points—$2,000 or $3,000 out of that loan that would go into a separate loss reserve pool. We, with this Capital Access Program, would then match that separate loss reserve pool for, again, a matching amount of points, 2 or 3 additional points. So on a $100,000 loan, you would have $6,000 that would be absorbed, first dollar loss, if this loan went into default. Now, the bank still has to do its due diligence because if you eat through that $6,000, the bank has to bear the burden. But it gives you a little cushion there. It takes that marginal credit and makes it creditworthy during these challenging times.

Think about this $100,000 with that $6,000 loss reserve pool taken times a hundred or times a million. You could have a $100 million basket of small business loans with a $6 million reserve, and suddenly you have a very valuable tool that can be used by banks across the country.

The roughly $1.4 billion, $1.5 billion that is in the legislation in this program, it has been estimated it will be leveraged. And I know ''leverage'' is a bad word in this Hall at this point, and I particularly have pointed out some of the concerns of overleveraging. But because the person who is receiving the loan is putting up money and we from the government side are putting up money, we actually double every dollar we put out, and on an actual dollar basis, we are going to be leveraging the Federal dollar commitment 20 to 30 times. So that means this $1.4 billion, $1.5 billion can create $50 billion of additional small business lending. Think about the power of this tool, a tool that banks are familiar with, a tool that already exists in 26 States, a short-term shot in the arm for an awful lot of small businesses that might not prefer to use the SBA program, might not want to go through a bank, that might want to access the lending facility. It just gives us one more tool.

So I hope my colleagues and folks who are watching and listening will recognize that what the Senator from Louisiana has tried to create is a menu of options because there is no one-size-fits-all in the case of small businesses. Their needs are different. The banking community's desires are different. I think she has crafted a great tool that will dramatically help small business lending.

If we want to go back to our constituents in the month of August and talk about a real, live deliverable, if we want to talk about what we have done in a tangible way that will get credit back into the small business lending pool, that could be delivered by Labor Day, we need to make sure we move forward on this important piece of legislation.

I again commend the chair of the Small Business committee for her relentless work on this issue. I hope our colleagues from the other side of the aisle will hear all of the various business organizations across the political spectrum that are supporting this legislation. My hope is that we can deal with the amendments, get those amendments dispensed with at some point during the day, and pass this bill today because it is very important to making sure this recovery we are just starting to creep into is actually not a jobless recovery but a recovery that creates jobs. To do that, we have to have these small businesses healthy.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I wish to thank my colleague from Virginia for that explanation and for his commitment to this bill and this effort. He was an extremely successful Governor before he became a Senator, and I say ''successful'' measured by the way those of us in public life are measured: by results. He left his State with a surplus. I know he did not do that singlehandedly, but it is a great feat these days to leave office with a surplus, and he did, with very high approval ratings and with a reputation as being very strong on fiscal matters. I think that is what our Congress needs. I thank the Senator so much for his help on this bill because that is exactly what people are looking for—a smart, strategic way to move big pieces of legislation forward but with our eyes on the bottom line and our eyes focused on results, not bureaucracy, not regulation, not additional rules, et cetera, but real results.

That is the way this bill was built. It was built with, as the Senator said, menus and choices, not one-size-fits-all. We did not say: There is one way to save small business in America, and this is what we are going to do. We said: We have heard a lot of good ideas. Let's try to put them together in a bill—some strategic tax cuts, some reduced regulation, some reduction in fees, and some options for capital.

Options—none of this is mandatory. All of this is voluntary on the part of the banks—all voluntary. If they want to use those programs to lend to small businesses, they can. No one is forcing them. No one is requiring them. And if they do, they can actually make a significant profit. So it really is putting the incentives in the right place.

That is why this is not anything like TARP. We are not using TARP funds to fund this. We are not designing it like TARP. TARP was a completely different program in size, scope, and focus. TARP stands for Troubled Asset Relief Program. It was for big banks that were failing. This is for small community banks on Main Street that are healthy, so that they can lend to the small businesses that can grow with the money the banks lend.

Let me read a letter we just received from the Lake Charles area, which is the southwestern area of Louisiana, from a business, Lake Area Marine.

It says: Dear Senator Landrieu. Lake Area Marine strongly supports your substitute bill, the Small Business Lending Fund Act, and the other parts of the bill. Our company is based in Lake Charles. The provisions outlined will restore much needed credit to small business owners like me, by addressing one of the primary reasons for the extent of the depression in the boating industry. By restoring the disruption in the recreational boating industry's distribution chain caused by the credit crunch, thousands of American jobs will be preserved or created.

It goes on to say: The Small Business Administration's dealer floor plan financing—which is part of this bill—is a critical component, helping, as I said, to raise the cap, from $2 million to $5 million.

We have hundreds of letters. This happens to be from a marine business, but there is floor plan financing for other businesses where large inventories are required. Although lots of people do buy products in the house from the Internet, as you know, millions of consumers still like to go to the showroom, they like to touch and feel and drive and see before they buy a car, buy a boat, buy other products. Many of these businesses in all of our States have seen their lines of credit evaporate, just go away. This bill is a lifeline for them.

So I thank the business owners, such as Jerald Link, who sent me this letter, and the thousands of business owners around the country who have said, yes, let's pass this bill now.

I see my colleague from Michigan. He also helped to craft a section of this bill. I would like him to explain the importance of that particular section which has to do with supporting weakened collateral in States such as Michigan, States such as Nevada, probably Florida, where they have seen such a depression of real estate prices. Thank goodness not so much in Louisiana, although the spill and the moratorium are giving us fits at the moment. But

last year our prices held pretty well. In Michigan, in Ohio, Florida, Nevada, California, these assessments collapsed. Small businesses were trying to function and were asked to put up collateral, and did. Then the banks came a long and said: Mr. Jones or Ms. Smith, you have collateral, but it used to be worth $500,000. Now the assessors are out there, and it is only worth $200,000. We are pulling your loan.

If we don't do something to fix that, they are going to lose their business. It is that simple. This is not complicated. It is horrifying, it is painful, but not complicated.

Senator LEVIN worked hard and came up with an innovative solution. Hopefully, he will speak about how this provision will technically work in Michigan and throughout many of the States.

I, again, wish to read into the RECORD some of the specifics about this initiative and talk about job creation by small businesses. First, to reiterate, there is great support for this bill, in large measure because it is not like TARP. It is not funded with TARP moneys. It is completely different—different focus, different scope—than TARP. What it does do is create a small business lending fund to banks with less than $10 billion in assets. TARP, although some of the money did go to middle-size and small banks, most of it was taken by the big banks, worth billions and billions of dollars. This is only for small banks, $10 billion or less. There are about 8,000 small community banks in America. The SBLF, Small Business Lending Fund, is performance based, unlike TARP, which we sort of gave the money and said: Do what you need to do with it. This says: If you take the money, you need to lend it to small business. When you do, we will give you a discounted rate so your bank can make more money, and the small business can make more money.

The most important part, equally important, the taxpayers can be repaid. This program doesn't cost the Federal Government money or the taxpayers money. It will make $1.1 billion, according to the CBO score. This is what I call smart government. This is not big or little government; it is smart government. It is leveraging the power and assets of the Federal Government. There are many to be proud of. It is using it to support Main Street so that jobs can be created, the recession can end, people can get back to work, business can flourish, and then we can work our way out of the terrible deficit situation we inherited. This recession called for additional spending which was necessary, although it is troubling. In this case we are going to make money on this program for the taxpayer.

It also supports a new small business credit initiative, as Senator WARNER explained. It is going to save taxpayers $1 billion.

One of the most important components of this argument is the 81-percent job loss in the last year. This is from the national employment report. People need to know—and it is startling—that 81 percent of the jobs lost in America were from small business. Only 19 percent were from large business. The dramatic dropoff in employment has come from small business. If we do our job right on this bill today and tomorrow—not in September, not next week but today and tomorrow—if we do our job in the Senate, it will give the House enough time to deal with this before they go home, and we can give relief now. The pain is so great. The times are so desperate. They are not getting better. This is the bill that will jumpstart, jolt, be a catalyst.

We have tried other things this year. Some things have worked; some haven't. But there is great confidence that this bill we are putting forward now will do the job. It is not one size fits all. It is not mandatory. It is a smart, strategic, voluntary, public/private partnership which makes so much sense in this day and age.

I see others who may want to speak. Then, hopefully, we can get to a vote in the next few hours.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I congratulate Senator LANDRIEU and thank her. I am on the Small Business Committee. I serve with her on the committee and others. I have watched her extraordinary talent flourish as chair of the Small Business Committee.

The bill before us does something we all say we believe in; that is, support small business. Every Member of this body has pointed out something which the Senator from Louisiana knows and reflects in her work; that is, the engine of jobs is small business. We all say that. Most of us believe it. I hope all of us believe it, if we say it. It is not a partisan comment. This is a jobs bill which should get bipartisan support. Some of the jobs efforts have not. But this bill, because it is focused on small business and because that focus has been supported so regularly by Republicans and Democrats, will pick up some Republican support, I hope. It deserves that support.

Senator LANDRIEU has reached out to try to obtain that support for this bill. I hope she succeeds. In addition to thanking her for her great work on this bill, I wish to note the work of the Presiding Officer who worked very hard on a provision of this bill. As a matter of fact, he has worked so hard on other provisions on other bills which have recently passed this body and been signed into law. But Senator MERKLEY is actually the key sponsor of a provision which I will not be focusing on but which I believe has either already been discussed or will be.

I commend Senator MERKLEY for his great work on this bill with that particular provision.

I wish to begin my description of the part of the bill I have focused on with a thank-you, a thank-you to Senators SHERROD BROWN, STABENOW, WARNER, BAUCUS, SHAHEEN, BEGICH, MCCASKILL, and others who have worked so hard with me on a very major provision of this bill which I will now spend a few minutes describing in detail.

Senator LANDRIEU made reference to a significant fact in this recession; that is, the value of real property has gone down. Almost all of our houses are assessed at less now than they were a few years ago. I don't know if that is 70 percent or 80 percent, but it is a high percentage of homes that have lost value because of the recession. The home is exactly the same home, it is either maintained well or not, the way it was before the recession. This is true with businesses.

In all of our States, when we go home the thing we hear about more than anything else is jobs—get credit flowing to small businesses that, through no fault of their own, are unable to obtain credit; not because they are not creditworthy, not because they don't have customers, but because the collateral for their line of credit has gone down in value because of the recession. It hasn't gone down in value because it isn't maintained. It has gone down in value like most other businesses and industries on the same block or in the same community because the recession has reduced the value of these real assets.

The part of the legislation I have focused on is called a State small business credit initiative. It provides crucial funding to State and local programs that expand capital access for small businesses. We have lots of companies in all of our States that have stayed open. They have customers, they have business. Indeed, in many instances, they have more customers than they are able to handle and want to expand. I will give a few examples of how that has happened in my home State of Michigan, and I believe it is true in other States. The customers are there; the creditworthiness is there. We have many examples of businesses that have never missed a payment on money they owed to the bank down the street or in their community. They are creditworthy.

The problem is, because the banks require a certain ratio of collateral to the amount of the loan, that ratio cannot be met because of the collateral's loss of some value in the recession.

A couple success stories are a powerful argument for expanding these programs which are in 30 of our States, and other States will be able to follow these programs and pursue these programs as well when this bill passes.

In Saline, MI, a company called Saline Electronics makes electric circuit boards. They are good at it, and they are so good that in 2009 the company began to plan for an extension of their facility because it was too small to handle increased production. However, it hit a roadblock when the recession came.

Just as the company was exploring their expansion possibilities, the recession battered down the value of their real estate. Their building fell in value. So, again, they had good credit and great demand for their product, so much so that they wanted to expand, but the value of the collateral it could offer in applying for a loan had shrunk. That logjam carried a real threat that good-paying jobs for American workers would be going overseas instead.

We have a collateral support program in Michigan. It stepped in to end that threat. The program is designed exactly for situations such as this, where the value of equipment or the real estate has fallen because of the recession and, therefore, the collateral amount is not there as it was previous to the recession and would not support the loan because of the ratio between collateral and the amount of the loan required by local banks. But the State has this collateral support program. With that support, Saline Electronics was able to add 32,000 feet of production space and hired 30 new workers. There are similar examples across my State, across the country and, again, in the 30 other States that have a similar program.

Another example from Michigan: In Grand Rapids a company called Display Pack, a packaging company, got more than $1 million in financing through Michigan's capital access program which uses, again, very small public investments to leverage larger commercial loans for small businesses. That particular funding created 20 new jobs and saved another 125 that may have been at risk.

Driesenga & Associates, a small statewide engineering firm, used the same program to get loans for operating capital expansion. They added 11 new jobs, protecting 120 existing jobs.

This program in Michigan has used only $24 million in State government commitments to generate over $600 million in private financing. That is a hugely smart investment, and especially so when small businesses are so starved for capital.

As Senator LANDRIEU pointed out, this is not big government. This is not small government. This is plenty smart government. If you can leverage $1 of Federal funds and get, in this case, $30 of private funds as a result, that kind of leverage of public funding to private funding is a particularly smart investment.

But as the State budgets have been stretched and more and more businesses have sought access to these programs, there is an inability to meet rising demand. So the need for Federal support is great.

The State Small Business Credit Initiative in the legislation before us would provide support for States such as Michigan and the roughly 30 other States that now have them. Again, States that do not have these programs would have access to that Federal support and could start these programs. The House has approved a larger amount than is in our bill. On the other hand, we have a significant amount in this bill, and I thank Senator BAUCUS—that even though it was not to the amount the House put in for their bill, it is a significant portion of that, and we are appreciative of his support for this provision.

So there are a lot of other provisions in the bill that are worth commenting on, and, obviously, we are supporting, including the Small Business Job Creation and Access to Capital Act, which raises Small Business Administration loan limits. It includes a proposal I offered for an Intermediary Lending Pilot Program, which allows the SBA to make loans to intermediary lenders, such as business incubators, which can then loan that money to growing businesses.

The Small Business Lending Fund, which is included in this bill, which is the provision I referred to, which Senator MERKLEY, Senator LANDRIEU, our chairwoman, and Senator LEMIEUX and others have worked so hard on, is very similar to the Bank on Our Communities Act, which I previously had cosponsored.

So this bill is the right approach because it supports the engine of job growth. It is a small business bill.

It deserves the support of Senators of both parties. I hope, given the job situation we find ourselves in and the support that has been proclaimed for small business across the aisle and on this side of the aisle, we can find some good, bipartisan support for this tremendous initiative.

(Ms. LANDRIEU assumed the chair.)

Mr. LEVIN. Again, I commend our chairwoman, Senator LANDRIEU, who I now see is the Presiding Officer, and all those who have worked with her to bring us to this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I also rise to discuss provisions of this bill and would like to begin by saying, when one gets into the details, you see there is a spectacular array of provisions that have been put together by the Small Business Committee to assist small businesses in helping them get themselves back on track, and, in the course of doing so, get our Nation back on track.

Particularly, I thank the chair of the Small Business Committee, the Presiding Officer, Senator LANDRIEU, for working in such a bipartisan manner to bring together the best ideas that can be brought to bear in that effort to assist our small businesses.

I will mention just a few of them. A 100-percent exclusion of small business capital gains will be big factor for helping our small businesses, a carryback provision so small businesses can take and balance out losses against former profits, making the general business credit not subject to the alternative minimum tax, increasing the Small Business Administration loan limits, eliminating the Small Business Administration loan fees, and so on and so forth.

These are terrific provisions to assist small businesses. But I wish to particularly speak to two additional parts of this bill. One is the Small Business Jump Start Act. This is intended to help businesses get started in their first year. Under this provision, it allows the deduction not of $5,000 in startup expenses but of $10,000. So it is a doubling of kind of a jump-start or a boost to getting businesses off the ground. It is for those entrepreneurs who say: Here is an opportunity, and I am going to take a big risk, and I am going to take my savings or borrow against my house or utilize my credit card in order to jump in and seize this opportunity.

It is giving those folks additional help in that first year, and who knows when those first-year efforts—when so much is at risk—are going to turn into the successes that employ person after person after person on Main Street in communities throughout this Nation.

The second piece I wish to address is the Small Business Lending Fund. I think every legislator who has been spending time back home in townhalls has heard from owners of small businesses, has heard the stories of how a long-term banking relationship—a relationship in which they knew they could always turn to their community bank for help—has not been able to yield the credit they need at this moment and not through the fault of the community bank. The community bank wants to lend but because the community bank's capital has diminished, they are at the limit of their ability to make loans. Unless they bring in additional capitalization, they are not able to make additional loans, no matter how good that opportunity might be.

We have heard about small businesses that, in fact, are having to rely upon their credit cards. The percent of small businesses in America that are currently turning to their credit cards has increased 14 percent in a single year—14 percent more small businesses having to rely on a credit card because they cannot get access to traditional lending from their community bank.

Well, this chokepoint in our system is essential to address because if the small business entrepreneur cannot access credit to seize an opportunity or to expand on a successful formula, then we will not be putting businesses back to work, we will not be putting citizens back to work for those businesses. So that is what the Small Business Lending Fund does.

There are a number of questions that have been raised about it. I wish to address each of those. But I wish to note the potential of taking $30 billion in recapitalization, which actually makes a profit for the taxpayer—CBO estimates a profit of $1.1 billion—and in addition will bring in additional revenue through the taxes on the additional

folks who are employed and the larger small business profits. So the $1.1 billion, that is just the base. That is not including the additional revenue that will flow from the success of small businesses and the restoration to employment of workers across this Nation.

So one of the questions has been: Will these funds recapitalize or bail out failing banks? The answer is absolutely not. This is a program for small business, making capital available to small businesses through healthy community banks. That is a very important distinction, and there are ratings in which the regulators evaluate the health of banks. They range from 1 through 5. They are called CAMELS ratings, and only those banks with ratings of 1, 2, or 3—that is, healthy banks—will be eligible for this program.

A second question has been: Well, if we help recapitalize community banks, is there a possibility they will sit on the funds, prepare for a rainy day or a rainier day? The answer is no. The program is structured so that if funds are lent out, then the dividend rate falls to 1 percent. But if they are not lent out, the dividend rate rises to as high as 7 percent. Well, that 7-to-1 distinction means you are not going to borrow money if you do not have an intention of using it to leverage funds to lend out because you will be losing money, and you want to take advantage of that incentive to only pay a 1-percent dividend. So there is a lot of carrot in this in a structure that makes it illogical for a bank to seek these funds in order to sit on them.

A third question is: Why utilize community banks to help get lending to small businesses? Why not just do it in some other direct government fashion?

Well, the answer can be discerned by anyone exercising a small portion of common sense. Main Street banks are in the business of evaluating opportunities, entrepreneurial opportunities, and funding those opportunities to make a profit. That is what community banks do. That is their expertise. This approach builds on the expertise of Main Street banks to produce successful Main Street small businesses across our country.

Another question that was raised was: Will recapitalization cause banks to have to rush to make speedy loans and not take the time to evaluate that business opportunity thoroughly? The answer is it will not, because this program was designed so there is a 2-year span of time in which a bank has the opportunity to make that transition from capitalization to lending before the dividend rate is locked in. So there is no incentive for a rush to judgment.

I ask all my colleagues: Is not this the type of bipartisan problem-solving America wants us to undertake, bringing forth, through the committee process, through an open discussion—with television cameras running—the consideration of this idea and that idea being merged together to bring to the floor a coherent piece of thoughtful legislation to help address one of the major challenges in America, which is getting our small businesses back on track? Is not this what we are being brought here to do?

So I applaud the Small Business Committee. I applaud the work of the chair and all the members of the committee who produced this type of concrete aid to put Main Street back on track, to create employment for citizens across this Nation, and, by so doing, put our Nation back on track.

Thank you, Madam President.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I thank my colleague from Oregon, who has been one of the creators and designers of this bill and who has been a leading advocate and tireless in his efforts. He has conducted probably dozens of meetings in his office with Treasury officials, with Members from both sides of the aisle.

I have put this poster up in the Chamber because I want everybody to know this is what we are talking about today: small business. We spend a lot of time in this Chamber talking about lots of other issues—foreign aid, other countries, big corporations, Wall Street—but today, in these few hours—today and tomorrow—we are going to be talking about small businesses on Main Street. Small businesses on Main Street, I think they deserve this time, and they deserve our focus.

I know there are many other issues Members of this body, both Democrats and Republicans, want to solve or try to solve before we break in a few days. But I have to say, we cannot solve every problem in the world in this bill for Main Street and for small business. Some have criticized and said: Oh, well, the Democratic leadership is not allowing amendments. Nothing could be further from the truth.

This bill was built on amendments in committee—amendments by Democrats, amendments by Republicans, negotiations. The Presiding Officer most certainly knows this. I see my colleague from Texas, and I know he will have time in a moment. But the Presiding Officer knows, because she is a member of the Small Business Committee, this bill was built on a foundation of bipartisan support for small business because we all agree we want to end this recession, and the best way to end it is by smartly investing in strategic alliances with community banks and other lenders to get money to small businesses on Main Street. That is what this bill does.

As I conclude, I am asking Members on both sides of the aisle: Let's work with our leaders. Let's not burden this bill to help Main Street with amendments that have nothing to do with small business, that have to do with other political objectives, et cetera. Let's try to come together for the benefit of all of the 27 million small businesses in America that are watching us, hoping we can take the right steps to help them end this recession and get the country moving again.

I see my colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas.

ENERGY

Mr. CORNYN. Madam President, I wish to speak for a few minutes on the subject of energy. Particularly I wish to contrast the approach that has been taken by the administration with regard to the blanket moratorium on drilling in the Gulf of Mexico for at least 6 months—but who knows how much longer that will slip—and a better approach that I think will provide a way of promoting safety but also not kill jobs in the Gulf of Mexico, particularly in the Gulf States, including Louisiana, Texas, Alabama, and Florida.

There is no secret about the fact that the blanket moratorium, which has been struck down by a Federal judge as unjustified by the rationale given by the administration, is now being appealed, so drilling activity has essentially halted—new drilling activity in the Gulf of Mexico. I think there is a better way to approach this. These ideas are actually included in the alternative we will be considering I hope as early as tomorrow. I think there is a better way to approach this.

A few weeks ago I had the opportunity to fly from Sugarland, TX, 200 miles offshore into the Gulf of Mexico to a drilling rig called the Noble Danny Adkins. This drilling rig was sitting in 9,000 feet of water, and of course it was idle as a result of the drilling moratorium. When fully operational, it employs up to 200 people, but of course they weren't working because there isn't any drilling going on. This particular rig was scheduled to drill in more than 12,000 feet of water to a depth of 37,000 feet. It is one of dozens of rigs not doing any work today because of the uncertainty caused by the moratorium. I had a chance to talk with a number of the professionals who work on that rig, and I have to tell my colleagues my impression of being on an offshore rig was like my first experience going to NASA. It is that technically advanced and that impressive.

The offshore drilling industry is a highly technologically advanced operation in which many very skilled professionals are working. These are typically high-paying jobs, as my colleague from Louisiana knows. My fear is that the blanket moratorium imposed by Secretary Salazar of the administration, unless it is modified in a more rational way, will destroy 50,000 jobs and up. We already know that the moratorium has caused two drilling rigs, offshore rigs—which cost an incredible amount of money to lease, and, of course, you can't afford to have them sit idle and not do what they are designed to do. What happens is with the moratorium attached, two of these rigs we know of moved to Egypt and one to the Republic of the Congo. Of course, with the departure of the rigs, the

workers go too, and it is a big question as to whether those rigs and the jobs associated with them will ever return.

But it is not just the people who work on the rigs such as the Noble Danny Adkins and the other rigs that are idle now as a result of the moratorium; it is the associated businesses that support the oil and gas industry in the Gulf of Mexico, such as Sunbelt Machine Works Corporation. This is a small family-owned business I visited which manufactures many of the tools that are actually used in deepwater rigs such as the one I visited in the gulf. We need to think of not just the impact on the people who work on these rigs but also everybody who supports those efforts, including the people who supply food, people who supply the machinery, people who fly, the people who work on those rigs. Everyone is impacted negatively by a blanket moratorium.

My colleagues don't have to take my word for it. The Energy Information Administration recently projected that in addition to killing jobs, it will actually cost a lot more than that in terms of the domestic production of oil and gas that we will have to make up for by importing it from abroad. The dependency we have in this country, which is a true national security problem, would be exacerbated by this moratorium, because as long as America is going to continue to consume oil and gas, until we are able to develop new forms of energy in the future, as I hope we will, we are going to continue to consume oil and gas in this country. Right now, about 30 percent of the oil consumed in America comes from the Gulf of Mexico—30 percent.

The Energy Information Administration recently projected that domestic production will decline as a result of the moratorium by an average of 31,000 barrels a day in the fourth quarter of 2010 and then by an average of 82,000 barrels a day in 2011. By December 2011, monthly oil production in the Gulf of Mexico will decrease by an average of 100,000 barrels a day. Assuming the economy picks up, as I hope it will, we know there is going to be demand for that oil which will need to be replaced and, of course, where does that come from but places which I know most of us would rather not have to do business with: Venezuela, to mention one.

The Louisiana Mid-Continent Oil and Gas Association estimated last May that the impacts of the moratorium were estimated to be 80,000 barrels of production loss per day . That is what they estimated for 2011. They estimate up to 37,000 jobs will be lost, and $7.6 billion in future government revenue will be put at risk. That is the effect of this blanket moratorium.

I wish to talk about a better solution, I believe, that was offered in the energy legislation Senator MCCONNELL introduced last Thursday which incorporates this approach.

I also wish to talk for a minute about the attempts to basically make it impossible for independent oil and gas companies from working in the Gulf of Mexico. How do you do that? Well, it would be by raising the liability cap, or by removing it entirely, thereby making it impossible for independent oil and gas companies to work in the Gulf of Mexico because they, frankly, can't afford the insurance for unlimited liability. Under the current regime, there is a limit of individual liability up to $75 million and, above that, 8 cents on every gallon of oil imported into the United States or produced in America goes into an oilspill trust fund which is then used to pay for anything not covered by the $75 million liability for the company.

Well, if, as some of my colleagues have proposed, we eliminate that cap, it makes it impossible for smaller companies—these independent oil and gas companies—to operate in the Gulf of Mexico or anywhere else. They simply will go out of business or take their operations elsewhere if they can.

Let me give my colleagues an idea of what the job impact on that would be. In 2009, independents accounted for more than 200,000 jobs and $10 billion in State and Federal taxes and royalty payments. As my colleague from Louisiana knows, because she was one of the principal negotiators, we were able to get royalties which actually go to the Gulf Coast States for the incidental impact of oil and gas operations in the Gulf of Mexico. Of course, all of that income will be lost, together with the royalty that would be paid to the U.S. Treasury, as a result of the moratorium and certainly by chasing off these independents. The study forecasted that by 2020 this would eliminate 300,000 jobs and cost $147 billion in Federal, State, and local taxes from the gulf region.

The study also concluded that if independent oil and gas companies are excluded from deepwater oil and gas operations, the job loss would be 265,000 by 2020 and $106 billion in lost tax revenues over the 10-year period. Of course, we know other countries are delighted with this moratorium because it means these rigs and these operators are moving to these other countries, creating jobs there and producing oil and gas from there.

For example, a recent Washington Post article reported that Brazil, Canada, Nigeria, Angola, and Libya are among the countries that are moving forward with drilling, lured by oil reservoirs they are discovering that are two to six times as big as the average Gulf of Mexico reservoir. As I mentioned, once these rigs leave the United States, leave the Gulf of Mexico, they go to places with far less stringent regulatory controls than we have here in the United States, so actually the risk of an environmental disaster is greater in these countries that have far more lenient regulatory regimes. In fact, the moratorium has the perverse effect on safety as the newest and most expensive and most technologically advanced rigs move overseas to work while the less-in-demand older rigs stay behind.

I mentioned there is a better alternative than a blanket moratorium such as the administration has proposed, and unlimited liability exposure which will basically chase off most of the independent oil and gas companies as proposed by the legislation that we will be considering tomorrow. My trip to this rig and my visits with these workers and these experts in producing this domestic energy source have made me even more convinced that it is an absolute mistake and really, frankly, not very smart, to essentially cut off our domestic oil and gas production from the gulf. Senators VITTER, WICKER, and I have introduced legislation which would lift the Obama administration's blanket moratorium and instead would require companies to go through new safety inspection requirements and then to be certified by third parties, after which the Department of the Interior would have to issue a permit for continued exploration and development of our domestic oil and gas reserves in the Gulf of Mexico.

Our legislation would essentially limit the moratorium and make it easier for good-faith and conscientious operators who are in compliance to get their permits approved quickly and keep the rigs and jobs here at home. Our approach would ensure that operators who are in compliance with safety guidelines have some deadline on when their permits would be considered and keep gulf coast residents, and particularly those who work in the oil and gas industry, at work, and continue to produce American energy and not make it necessary for us to continue to buy that additional amount, in addition to what we already are purchasing, from abroad.

Instead of reconsidering this devastating moratorium, though, I know the majority leader has introduced a bill that would have the Secretary of Energy publish a monthly study evaluating the effect of the moratorium. Well, I have to say we don't need a study to know what the effect of the moratorium is in Louisiana and in Texas, in Alabama and along the gulf coast, because we already know its devastating impact. I wish to invite my colleagues, any of them who wish, to come and talk to some of the folks who work in this industry and to look at the sophistication and the technological expertise that they employ in producing oil and gas in the Gulf of Mexico. I would be glad to help host them.

One example, though. A seismic company in Texas is spending $250,000 a day under a contract with the leaseholder to explore a potential area for oil and gas, but the seismic company can't even get a permit to do the work. I don't know how long they can hold on, how long they can continue to keep people on their payroll if they don't have any work to do. Something has to

give. These hard-working folks who live along the gulf coast don't want to wind up as another statistic on a monthly report on the impact of the moratorium, nor do they want to add to the 9.5 percent unemployment in this country, higher even in some parts of the country; as high as 14.2 percent in Nevada. They want to work. They don't want to collect unemployment benefits. They want to work, and they want to provide for their families. I think they deserve better from their elected officials than this blanket moratorium or job-killing policies which are going to basically move their jobs overseas.

The fact is we need to maintain our position in the gulf. Eighty percent of oil produced in the Gulf of Mexico comes from deepwater reserves now off limits due to the moratorium.

Without this activity, production will fall as much as 100,000 barrels a day by December 2011. To put this into perspective, the United States uses almost 20 million barrels of oil a day and produces nearly 5 million barrels a day, obtaining the rest from imports. The moratorium will not only destroy tens of thousands of jobs; it will leave us more dependent on foreign oil and gas, raising the cost of any products shipped and transported, not to mention travel.

I think Jay Leno basically had it right when he said:

> President Obama said today he is going to use the Gulf disaster to immediately push a new energy bill through Congress. I've got an idea. How about first using the Gulf disaster to fix the Gulf disaster?

That ought to be our focus—preventing recurrences such as we have seen in the gulf—and I think we can do that by the safety inspection mechanism and third-party certification and let's get on with the production of oil and gas from American sources, rather than having to bring it in from abroad.

We need to focus on the problems and look at solving these problems and not use these disasters as a reason to exploit them and to grow government and kill jobs in the meantime.

America's energy security will continue to depend on oil and gas for the foreseeable future. As much as I like the idea that we are developing new energy resources—Texas, for example, produces the most electricity from wind sources of any State in the country—we know that developing these alternative sources of energy is still going to be a long time coming. We need to bridge into that new energy future, and that bridge will continue to consist of American-produced oil and gas.

The question is, Will it be to the benefit of the American people in the form of good-paying jobs and associated revenue or will the misguided policy, included in the bill introduced by the majority leader, ensure that we merely increase our imports that we need and send the good jobs and rigs overseas by this misguided policy?

I hope my colleagues will reconsider this misguided approach that would drive independent oil and gas producers out of the Gulf of Mexico by making it financially impossible for them to purchase the insurance they need in order to comply with an uncapped liability. We know the resources will remain there in the case of another disaster, which we hope and pray will never occur because of the oilspill liability trust fund—again, funded by 8 cents on every barrel produced in America, as well as every barrel imported from abroad. So this isn't eliminating a fund that will actually pay in the event of another catastrophe.

Certainly, we don't ground all airplanes in America or around the world when there happens to be a terrible airplane crash. We look at the problem and try to make sure we understand the reason why it happened, and then we move on and continue flying.

I think the oil and gas industry basically operates the same way. We need to make sure we understand what happened in this spill, do everything humanly possible to make sure it never happens again and make sure BP is held accountable and pays for all the cleanup that needs to be done as a result of this unfortunate incident. But the conclusion we should reach should not be let's shoot ourselves in the other foot by denying ourselves access to American energy and increasing our dependency on imports from abroad and, at the same time, kill jobs along the gulf coast in the oil and gas industry and all those companies and businesses that support the oil and gas industry during a time when unemployment is already at 9.5 percent.

We can do a lot better than what the majority leader's bill proposes and continuing job-killing policies. We can actually do it smarter and better and come up with a real solution rather than creating more problems.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ISAKSON. 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.

CONGRATULATING WARNER ROBINS' GIRLS SOFTBALL TEAM

Mr. ISAKSON. Mr. President, I am very pleased to come before the Senate today and commend the Warner Robins, GA, girls softball team that yesterday attended the White House and was honored by President Obama.

The 11- and 12-year-old girls who went all the way last year and this year are in the finals to hopefully do the same thing again. This team of young women is coached by a great group of coaches: Emily Whaley and her assistants, Patti Carriker and Roger Stella.

I commend each one of these young ladies individually: Kaylee Albritton, Sydney Barker, Carson Carriker, Melissa Cox, Sabrina Doucette, Ashley Killebrew, Avery Lamb, Hannah Livingston, Caitlyn Parker, Sierra Stella, Kelly Warner, and Chelsea Whaley.

This is a fine group of young Georgians who went all the way in the Little League level and are about to do it again. In fact, yesterday, as she was leaving the White House, President Obama asked her if there was anything she had to say. Ashley Killebrew said: Mr. President, we are doing really well this year, and we are going to be back next year because we are going to win it again. That is the type of positive attitude in sports that separates the winners from the second-place finishers.

I commend the Warner Robins Little League softball team, young women from Warner Robins, GA. I thank the President for honoring them yesterday at the White House.

BIENNIAL APPROPRIATIONS

Mr. President, we have been going through difficult economic times as a country, not only in our expenditures but in the revenues of our citizens of our States who face higher unemployment, lower productivity, and very difficult economic times.

As I have watched us on the floor time and again deal with paying for new amendments that have been proposed, we are all of a sudden scrambling to find a savings here to borrow from Peter to pay Paul to patch together an appropriations bill that hopefully keeps us out of debt but unfortunately continues to keep us in a downward spiral of borrowing.

I wish to talk today about legislation I have introduced and have been joined by other Members of the Senate, a bill that has a simple proposition to it, and that is that maybe as a government we should start doing what the people of our country have to do—determining how much we take in, prioritizing what we spend—and get back into balancing our budget, while providing oversight on what we spend to see where savings can come from.

There is a great American who has a syndicated radio show called Dave Ramsey. I don't know how many of my colleagues have ever heard him. He started Financial Peace University. He started it after he went bankrupt in the real estate business. He did a great job in real estate on the way up but leveraged himself all the way, so when times got tough and the leverage was too difficult, Dave Ramsey went bankrupt. After a couple years of struggling, he got himself back together and built himself a large company on the basis of a philosophy of staying out of debt and spending within your means. I commend everybody to look at his proposals, read his book, or attend Financial Peace. It is really an interesting concept because it works.

Dave Ramsey suggested that what you really ought to do when you get

into economically difficult times and you owe more than you take in is sit down and say: All right, what do I make? And you write that down. You write down what you have to spend—utilities, food, whatever it might be—and then see what is left over. If nothing is left over, then you have to take the things you are spending on and don't have the money for and have been borrowing and begin to cut it piece after piece, so that each month and year you live on a budget that is not predicated on going into debt and living beyond your means.

We as a country must do the same. There may be an exception, obviously, for war. There may be an exception, obviously, if there is a significant terrorist attack or a tremendous international incident or a natural incident that takes place that might demand some short-term appropriations. But in the general expenditures of government, we have to get back to the business of spending within our means.

How do we do that? We have 12 individual appropriations bills or an omnibus bill that rolls in at the end of the year talking about spending $3.6 trillion. We cannot do it that way. We have to have a process where we are able to examine on what we are spending money, quantify how much money we are going to take in, and balance the two numbers so we do not go into debt.

My suggestion and what I want to talk about is a biennial budget or appropriations, a change in the way we do business and how we do it, which I believe will result in less debt, more reasonable spending, and a more rational expenditure by the U.S. Government. First of all, it is predicated on appropriating for 2 years rather than 1 year. The appropriations years should be the odd-numbered years, and the even-numbered years should be dedicated to oversight.

I know the distinguished Presiding Officer, as I do, sits on a number of committees. Every now and then, we will have an oversight meeting, but more often than not, oversight gets left out because the focus is on what we are going to spend next or what project is going to be added to what we spend our money on. That process itself builds more debt, builds a bigger appropriations act, and never allows us to do those things we should be doing; that is, focusing on prioritizing the expenditure of our money.

We all know, because from time to time we have found them, there are savings in the appropriations. We know that from time to time in oversight, we find dollars we did not realize we had. We need to make it a part of our culture in the Congress of the United States that when the even-numbered years come, two things ought to be happening: One, Congress ought to be doing oversight of its expenditures, and second is running for office. I would love to see a time when running for office is in a year when we are doing oversight so we are focusing more on what we are saving the American taxpayers than what we are going to spend to try to impress them to get their vote one more time.

We have a serious, difficult problem in our country. We have a debt of $13 trillion. I am going to be the first—not the first who ever said this. I am not going to let this speech end without saying it. I voted against appropriations bills under President Bush, and I voted against them under President Obama. I am not taking a target at anybody. We all have a responsibility, and it is time we focused on a way to start saving rather than continuing to spend.

I would like nothing better than that focus on savings to take place in the same election year where everybody is running to be reelected to come back and do the job. We would change the dynamics and paradigm of Congress toward a focus on savings rather than a focus on expenditures. Will it be difficult? Yes, but it is going to be a whole lot more difficult very soon. Our country owes $13 trillion today and is moving toward a number that could be as high as $19 trillion before the end of the next decade.

To put in perspective how much that is, I will tell a short story. I was in Albany, GA, making a speech at the end of last year, and I referred two or three times to $1 trillion.

At the end of the speech, this farmer raised his hand and said: Excuse me, Senator, can I ask a question?

I said: Sure.

He said: How much is 1 trillion?

I don't know if you ever thought about it, Mr. President, but when somebody asks you a question like that, you try to come up with a comparison to explain, and it is hard to do, and I had a difficult time. In fact, I fumbled around, and I am not sure I ever did a good job of quantifying how much 1 trillion really is.

I got home and talked with my wife. I said: I got stumped today, sweetheart.

She said: What happened?

I said: I was on the stump in Albany and was asked by a farmer to explain what 1 trillion was, and I couldn't quantify it. I didn't know a good comparison.

In her own inimitable way, she said: Why don't you figure out how many years have to go by for 1 trillion seconds to pass?

I thought, that is a great idea. I got a calculator out and multiplied 60 seconds times 60 minutes to get the number of seconds in an hour. I multiplied that times 24 to get the seconds in a day. I multiplied that by 365 to get the number of seconds in a year. And then I divided that product into 1 trillion.

Mr. President, do you know how many years have to go by for 1 trillion seconds to pass? It is 31,709 years. We owe $13 trillion. We are at a point where we are going to go one way or another. Fortunately, we are recognizing that we are at that point.

I submit one of the keys to stopping the growth of debt and improving the plight of our country in the future for our children and grandchildren is to begin spending within our means. And it takes a process such as a biennial budget or biennial appropriations where we combine the responsibility of spending with the absolute responsibility of oversight.

Everybody in America today during these difficult times is looking at where they spend their money, and they are trying to find savings. They are trying to find those places they can better allocate their money so they are not going into debt, not borrowing, and not raising the prospects of debt in the future. The American Government ought to be doing the same thing.

I voted for the supplemental for our troops in Afghanistan last week, and we will do it again. That is a special appropriation for our men and women, who deserve that backing at a time we commit them to war. We are not always at war. War is a special and difficult time, and we ought to give our troops the support they need. But in every other case, it ought to be an expenditure that is based on the priorities of what are the most important things we should be doing. When we find those things that do not meet that test through oversight, that is where we begin the cutting process. Over time, the process is motivated toward savings, motivated against borrowing, and motivated for a balanced budget. I submit that we can talk about it all day long, but until we put it in a framework that brings about that type of process, we will never really do it.

The biennial budget with appropriations in odd-numbered years and oversight in even-numbered years ensures we begin in an election year being accountable to the electorate on what we are spending. And in those off years when we are appropriating, we are doing it based on the previous year's oversight, so we know the effectiveness of the department we are appropriating the money for and whether it was prioritized appropriately the way it should have been.

At a time when we are focusing on spending money, focusing on an appropriations act which will come up this November after the elections, I think we can look this year at going to a biennial budget process in future years so that instead of rolling everything into an omnibus bill after the elections, we have a process that ensures it is done systematically, as it should be, in odd-numbered years for appropriations and in even-numbered years we are doing oversight, so our election is based on accountability of spending money, not how much we can borrow and how much we can spend.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

A SECOND OPINION

Mr. BARRASSO. Mr. President, I come to the Senate floor again today as someone who has practiced medicine in Casper, WY, taking care of families there since 1983. I come also as the medical director of the Wyoming Health Fair and someone who has brought low-cost blood screening to people, looking for ways to help with early detection of medical problems, whether it is high blood pressure or diabetes or cancer because so often early detection means early treatment and, as a result, longer survivability and better care.

So I come to the floor of the Senate today with a doctor's second opinion about the health care law that was signed by the President a little over 100 days ago. The goal, of course, of health care reform was to lower the cost of care, to increase the quality of care, and to increase the access to care around the country. Since this bill was signed into law, we have heard week after week of new unintended consequences. We hear the personal stories of people whose lives have been affected because of the law, whose lives have been impacted by the unintended consequences of the law.

During the entire debate, I was concerned if the legislation passed and became law that it would be bad for patients relying on our health care system, bad for providers—the nurses and the doctors in this country who take care of patients—and bad for payers because I believed the law would drive up the cost of care, making insurance more expensive, and also have an impact on the taxes people would pay. So I have come each week, as I do today, with this doctor's second opinion of things that have happened during the past week; new things that we have learned about the health care law and what is happening with trying to provide health care to so many Americans but also people worldwide.

As part of the discussion of this health care law, there was a discussion about the Canadian health care system and the British health care system. We now have in charge of Medicare and Medicaid in this country someone who has said he is in love with the National Health Service, which is the British health care system. So, Mr. President, I come to the Senate floor today having come across an article in a British paper—the Sunday Telegraph—about their National Health System—a system who some in this country have held up as a model. It is a system I look to as one that results in people having care delayed and care denied.

When I look at the survivability of patients after, say, cancer in the United States, we know patients with cancer survive longer in the United States than in Britain or in Canada, and not because our doctors are better but just because people receive more timely care.

Mr. President, I am going to quote from this article, but I ask unanimous consent to have printed in the RECORD the entire article.

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

(See exhibit 1.)

Mr. BARRASSO. Mr. President, this article, as I said, is from the Sunday Telegraph, and the headline is ''Axe falls on NHS services.'' This is dated July 24, and it talks about some of the most common operations performed in England, including hip replacements and cataract surgery. I am an orthopedic surgeon, so I have done many hip operations, but this is what the article says:

> Many of the most common operations—hip replacements and cataract surgery—will be rationed as part of attempts to save billions of pounds, despite government promises that front-line services would be protected. Patients' groups have described the measures as ''astonishingly brutal.'' An investigation by The Sunday Telegraph has uncovered widespread cuts planned across the National Health Service, many of which have already been agreed by senior health service officials. They include: Restrictions on some of the most basic and common operations, including hip and knee replacements, cataract surgery, and orthodontic procedures. Plans to cut hundreds of thousands of pounds from budgets for the terminally ill, . . . the closure of nursing homes for the elderly . . . a reduction in acute hospital beds, including those for the mentally ill.

The article goes on:

> Thousands of job losses at NHS hospitals, including 500 staff to go at a trust where cancer patients recently suffered delays in diagnosis and treatment because of staff shortages.

They are cutting 500 more staff positions there. The article continues:

> The Sunday Telegraph found the details of hundreds of cuts buried in obscure appendices to lengthy policy and strategy documents published by the trusts. In most cases, local communities appear to be unaware of the plans.

When we read on in this article, it is very disturbing. If I were living in Britain, I would be very disturbed. As someone living in the United States, with a new person now in charge of Medicare and Medicaid who has said he loves what is happening in the British health care system, I have great concerns.

The article also says:

> As well as sending more patients home to die, the paper said the savings would be made by admitting fewer terminally ill cancer patients to hospital because they were struggling to cope with symptoms such as pain. Instead, more patients would be given advice on ''self management'' of their condition.

In other words, essentially telling them to go it alone. These are very disturbing words and a very disturbing situation now occurring in Britain.

Next, there is an article that appeared in Tuesday's New York Times—yesterday's New York Times—entitled ''Settling Down to a New Job, but Hampered by Old Words.'' This is an article about the new Director of Medicare and Medicaid. This article by Robert Pear talks about the fact that the new administrator has never had a confirmation hearing, never had a confirmation hearing and never had to respond to the American people through Congress to the questions that the American people have about the person who is newly in charge of Medicare or Medicaid, especially when we see the hundreds and hundreds and hundreds of billions of dollars spent every year by Medicare and Medicaid.

The article says he never had a confirmation hearing and has not responded publicly to critics. It goes on to say:

> The White House has declined to make him available for an interview.

Amazingly, the budget—we hear so much about the Pentagon and the military budget—but, amazingly, the budget of Medicare and Medicaid is larger than the budget for the Pentagon. Here we have someone newly appointed, in a recess appointment, someone in charge of Medicare and Medicaid at a time when this Congress, through its action and the laws signed by the President, cuts $500 billion from our seniors on Medicare and does it without having someone come and explain to Congress how he plans to keep the quality of care up or try to keep the quality of care up at a time with such cuts—not to save Medicare but to start a whole new government program.

Dr. Berwick, it goes on to say, ''has received an honorary knighthood from Queen Elizabeth II in 2005,'' because of his love of the British health care system. In fact, they quote him here in this article saying, ''I am romantic about the National Health Service.'' He says, ''I love it.''

The other thing so interesting, at this time in the history of the United States, is we now have someone in charge of Medicare and Medicaid who says that ''any health care funding plan that is just, equitable, civilized and humane must—'' and he repeats the word ''must''—''must redistribute wealth from the richer among us to the poorer. . . .''

It is no surprise that this week in a report out Monday, 58 percent of Americans, in a Rasmussen poll, favor repeal of the health care law. Fifty-eight percent of Americans favor repeal of a law that was forced down their throats, with people around the country saying no, don't do this to us, we do not want to go in that direction. But this Congress, this body, felt it knew more than the American people.

I talked a little bit about the British health care system. People also look to

Canada where, as the President said to us when we had our roundtable discussion in January, the summit at the White House, he said: Everybody in Canada gets coverage.

There is a big difference between coverage and care. It is interesting where things are turning in Canada. It is in Regina, which is the birthplace of Canada's socialized health care system. That is where, in 1962, the bill was passed and the law was signed for a government-run health care system. Now the health care plan there is contracting out CT scans to the private sector. They are contemplating private reforms because the government system is failing.

Some people say: But in Canada everybody has a doctor. According to the Canadian Medical Association, this report shows 4 million to 5 million people still do not have a family physician.

By the government's own standards in Canada—and that is a government and those are standards where they are used to waiting in line, where they expect long delays—even according to their own standards they are saying the Canadians are now waiting too long for care. This is even after massive increases in spending.

They go on to talk about how much better the care is in the United States, in terms of surviving cancer, surviving heart attacks, surviving transplants—because in America there is greater access to preventive screening tests and higher treatment rates for chronic illnesses. So Canada is rethinking their system. Britain has announced they are rethinking their system under the new Prime Minister there, and the new government. They are cutting significantly more.

That brings us back to Dr. Berwick, who said ''the decision is not whether or not we will ration care, the decision is whether we will ration with our eyes open.''

It is no surprise that many people across this country view this nominee the same way that a former nominee who received a recess appointment was viewed. I will quote at the time Senator Obama when he was talking about a recess appointment made by then President Bush. He talked about the appointee, saying, ''He's damaged goods. He'll have less credibility.''

That gets back to the New York Times headline, ''Settling Down to a New Job But Hampered By Old Words.''

Does the public deserve a hearing for this Medicare appointee? Does the public deserve a hearing? Do they have a right to hear what this man has to say? According to the Washington Post, in a headline of their July 23 editorial, ''The public deserves a hearing for a Medicare appointee.''

This goes on and says, in explaining his move to sidestep the Senate:

> President Obama said in explaining his move to sidestep the Senate and use a recess appointment to install Donald Berwick to run Medicare and Medicaid—they had some reasons.

But they go on to say:

> Mr. Obama's hurry would have been more understandable had he not waited for more than a year to select an administrator. . . .

Now the President has resubmitted Dr. Berwick's nomination, as is the general practice here, and those Members of this body and specifically those on the Senate Finance Committee, want and have made a reasonable request for a confirmation hearing. Still, none has been planned.

It is interesting because the American people still want to know more about this nominee, what his beliefs are, and what we have to go by are the quotes. I have gone through a number of them now.

The question comes also to what questions does Dr. Berwick not want to answer. When one looks into the past, you say: He is a doctor, he is going to be involved with health care, he is going to likely have to live under the system with Medicare and Medicaid. I am sure he is not going to establish something that is going to impact his health personally. But that gets back to the source, where Dr. Berwick has come from. It turns out Dr. Berwick does not need to worry about those things. He does not have to deal with the anxieties the rest of America deals with, created by limited access to care and the extent of coverage. I am reading now from an article from Washington, from the Examiner:

> As it turns out, Berwick himself does not have to deal with the anxieties created by limited access to care and the extent of coverage.

It goes on to talk about a ''special benefit conferred on him by the board of directors of the Institute for Health Care Improvement,'' where he came from, ''a nonprofit health care charitable organization that he created and which he served as chief executive officer.''

He and his wife will have health coverage ''from retirement until death.'' He has now retired to come work for the government, to be the head of Medicare and Medicaid. According to page 17 of his employment contract, under postretirement health benefits, ''health care coverage from retirement until death.''

How many others can look for that sort of benefit who are working for nonprofit charitable organizations? Maybe he does not want to answer those questions. The Senate has a right and the American people have a right to ask the questions.

I also found it interesting that for somebody at a nonprofit charitable organization, that that benefit of health care from retirement until death went along with the salary he earned. His compensation in 2008—$2.3 million, in a nonprofit charitable organization. I think it is reasonable for people to want to ask the questions, where does the $12 million in contributions come from? Where are the grants? How did it come in? What impact are those people going to have and try to have on you as you work on rules and regulations in Medicare and Medicaid? Those are reasonable questions that the American people would want to have answered, yet we do not have the answers.

As a doctor, I go home every week, visit the people in Wyoming, and visit with doctors and nurses and patients. One of the things that strikes me is the last report—they talk about side effects. ''Obamacare,'' it says, ''Could Punish Docs for Better Quality Care.''

That is what I hear about the most at home from doctors who are taking care of their patients, saying: I do a good job, I do everything I can. Yet the rules and regulations are going to punish me for doing what I know is right for my patients.

Part of that is rules and regulations that are coming out of Medicare and Medicaid and the Secretary of Health and Human Services who is developing these with financial incentives dealing with patient outcomes. One of the things they want to do is punish people, punish physicians and hospitals by penalizing them if a patient returns to the hospital after they have been discharged within a certain number of days.

One of the finest hospitals in this country is the Cleveland Clinic, specifically relating to heart conditions. People from around the world—kings, sultans, queens—come to the Cleveland Clinic. Some fly in in their private jets. Why? Because of the quality of care at the Cleveland Clinic—very understandable.

It is interesting, when the Cleveland Clinic took a look at their numbers, seeing how they are likely to do under the scenario that the Secretary of Health and Human Services says is the way to improve care in this country, the clinic found—it has to do with people with heart failure, people who are being readmitted to the hospital, patients with heart failure. It is considered to be a sign of poor quality care when a heart patient must be readmitted for further treatment.

What the clinic did is they studied their readmission rates and they found that their readmission rate, in a 30-day period, was actually much higher than the national average. So they must not be a very good hospital, according to the Secretary of Health and Human Services, because that is how they are being judged.

But when you look at the Cleveland Clinic in terms of how the patients do, how many live for much longer, what we find out is that the survivability of the patients at the Cleveland Clinic is also much longer. More people survive. The results are better. So if you are a patient with heart failure, you want to go to the Cleveland Clinic. If, on the other hand, you are somebody who works at Health and Human Services and are just keeping the records, they are going to say: You don't want to go there because some people come back into the hospital.

Once again, we have a situation where government is saying one thing

and people—doctors, nurses, patients, families—know that the government is wrong and we should trust the doctors to make the right decision.

That is why I return to the floor today to say it is time to repeal and to replace this health care law. We need a patient-centered health care bill. We need to replace anything that is either insurance company centered or government centered, and be patient centered. We can do that by allowing patients to buy insurance across State lines, to give people who buy their own health insurance the same tax breaks that the big companies get; by providing individual incentives for people who stay healthy, take preventive measures, lose weight, get their diabetes under control, get their blood pressure down, quit smoking—provide those incentives because that will lower the cost of care.

We need to deal with lawsuit abuse and the expenses of unnecessary tests provided by doctors practicing defensive medicine. We also need to allow small businesses to join together to buy health insurance much more effectively.

Those are the things that will work to get down the cost of care, increase the quality and increase the access. That is why today I offer my second opinion: It is time to repeal and replace this health care law.

EXHIBIT 1

AXE FALLS ON NHS SERVICES

(By Laura Donnelly, July 24, 2010)

NHS bosses have drawn up secret plans for sweeping cuts to services, with restrictions on the most basic treatments for the sick and injured.

Some of the most common operations—including hip replacements and cataract surgery—will be rationed as part of attempts to save billions of pounds, despite government promises that front-line services would be protected.

Patients' groups have described the measures as ''astonishingly brutal''.

An investigation by The Sunday Telegraph has uncovered widespread cuts planned across the NHS, many of which have already been agreed by senior health service officials. They include:

Restrictions on some of the most basic and common operations, including hip and knee 7 replacements, cataract surgery and orthodontic procedures.

Plans to cut hundreds of thousands of pounds from budgets for the terminally ill, with dying cancer patients to be told to manage their own symptoms if their condition worsens at evenings or weekends.

The closure of nursing homes for the elderly.

A reduction in acute hospital beds, including those for the mentally ill, with targets to discourage GPs from sending patients to hospitals and reduce the number of people using accident and emergency departments.

Tighter rationing of NHS funding for IVF treatment, and for surgery for obesity.

Thousands of job losses at NHS hospitals, including 500 staff to go at a trust where cancer patients recently suffered delays in diagnosis and treatment because of staff shortages.

Cost-cutting programmes in paediatric and maternity services, care of the elderly and services that provide respite breaks to long-term carers.

The Sunday Telegraph found the details of hundreds of cuts buried in obscure appendices to lengthy policy and strategy documents published by trusts. In most cases, local communities appear to be unaware of the plans.

Dr. Peter Carter, the head of the Royal College of Nursing, said he was ''incredibly worried'' about the disclosures.

He urged Andrew Lansley, the Health Secretary, to ''get a grip'' on the reality of what was going on in the NHS.

The Government has promised to protect the overall budget of the NHS, which will continue to receive above-inflation increases, but said the service must make ''efficiency savings'' of up to £20 billion by 2014, which would be diverted back to the front line.

Mr. Lansley said last month: ''This protection for the NHS is protection for patients—to ensure that the sick do not pay for the debt crisis.''

Dr. Carter said: ''Andrew Lansley keeps saying that the Government will protect the front line from cuts—but the reality appears to be quite the opposite. We are seeing trusts making job cuts even when they have already admitted to being short staffed.

''The statements he makes may be well intentioned—but we would implore him to get a grip on the reality, because these kinds of cuts are incredibly worrying.''

Katherine Murphy, of the Patients Association, said the cuts were ''astonishingly brutal'' and expressed particular concern at moves to ration operations such as hip and knee operations.

''These are not unusual procedures, this is a really blatant attempt to save money by leaving people in pain,'' she said.

''Looking at these kinds of cuts, which trusts have drawn up in such secrecy, it particularly worries me how far they disadvantage the elderly and the vulnerable.

''We cannot return to the days of people waiting in pain for years for a hip operation or having to pay for operations privately.''

She added that it was ''incredibly cruel'' to draw up savings plans based on denying care to the dying.

On Thursday, the board of Sutton and Merton primary care trust (PCT) in London agreed more than £50 million of savings in two years. The plan included more than £400,000 to be saved by ''reducing length of stay'' in hospital for the terminally ill.

As well as sending more patients home to die, the paper said the savings would be made by admitting fewer terminally ill cancer patients to hospital because they were struggling to cope with symptoms such as pain. Instead, more patients would be given advice on ''self management'' of their condition.

Bill Gillespie, the trust's chief executive, said patients would stay at home, or be discharged from hospital only if that was their choice, and would be given support in their homes.

This week, Hertfordshire PCT plans to discuss attempts to reduce spending by rationing more than 50 common procedures, including hip and knee replacements, cataract surgery and orthodontic treatment.

Doctors across the county have already been told that their patients can have the operations only if they are given ''prior approval'' by the PCT, with each authorisation made on a ''case by case'' basis.

Elsewhere, new restrictions have been introduced to limit funding of IVF.

While many infertile couples living in Yorkshire had previously been allowed two cycles of treatment—still short of national guidance to fund three cycles—all the primary care trusts in the county are now restricting treatment to one cycle per couple.

A ''turnaround'' plan drawn up by Peterborough PCT intends to make almost £100 million of savings by 2013.

Its cuts include closing nursing and residential homes and services for the mentally ill, sending 500 fewer patients to hospital each month, and cutting £17 million from acute and accident and emergency services.

Two weeks ago, Mid Yorkshire Hospitals trust agreed plans to save £55 million in two years, with £20 million coming from about 500 job losses.

Yet, a month before the decision was taken, senior managers at a board meeting described how staff shortages were already causing delays for patients being diagnosed and treated for breast cancer.

Mr Lansley said any trusts that interpreted the Government's demands for efficiency savings as budget or service cuts were wrong to do so, and were ''living in the past''.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

HEALTH CARE

Mr. CARPER. Mr. President, I was going to talk about small business lending and some ideas about how to get our economy moving again. I feel compelled to say something. I had the privilege of visiting, almost a year ago, the Cleveland Clinic. The Cleveland Clinic is one of a number of well-known, highly respected health delivery systems in this country—the Cleveland Clinic, the Mayo Clinic, Geisinger, which is in Pennsylvania, Intermountain up in Utah, Kaiser Permanante out in northern California, and several others. They have demonstrated the ability to provide better care for less money. Think about that. Better care, better outcomes, for less money.

Their reputation is well known in this country, along with Mayo and some of the others I have mentioned. So I had an opportunity to go visit, go along with a member of my staff, Racquel Russell. We went and spent a day and actually stayed into the evening. It was so fascinating.

What we learned was that if we look at the health care delivery systems, including the Cleveland Clinic I just mentioned, try to look and drill down on why they are able to provide better health care, better outcomes for less money, they have a lot of things in common with one another. I want to mention some of them.

They focus on primary care, access to primary care. They like to catch problems when they are small, easy to repair, easy to cure. They focus big time on preventive care, making sure when people are the right age, they get colonoscopies or they have mammograms, and just a variety of other tests. They use preventive medicine to catch things when they are early.

If prescription medicines, pharmaceuticals can be helpful in controlling particular cases, they make sure people have access to that medicine. They actually coordinate care across not just doctors that happen to maybe be in oncology but doctors and nurses who are in different parts of medicine. It may be oncology, maybe it deals with pulmonary disease, dementia.

They do a better job working across medical lines than we work across party lines some days. But they do a very good job of coordinating care with different aspects of their health care delivery system. They have gotten away from what we call fee for service. Here we have something called fee for service. If the Presiding Officer, instead of being a Senator were a doctor, and I were a patient, I would come to see him. Every time I would come to see him, he would get paid. He would get paid for each visit. If he actually owns the lab he refers me to, every time he refers me to the lab for tests he gets some remuneration for that. If he has an interest in an imaging center, and I go for x rays or for MRIs or that kind of thing, then that is called fee for service.

What happens in a number of places in our country, not all, is sometimes the doctors will, in an effort partly to make sure they do not get sued, and partly to make sure they are doing the best job they can to cure people, and in other cases there is some financial incentive, just refer people to maybe more visits, more tests than they really need. That is called fee for service. That helps drive the cost of our health care system. They do not have that problem at the Cleveland Clinic.

I remember listening to an interview on television with a cardiologist at Cleveland Clinic, on CNN last year, before I went for the visit. He said: I am a cardiologist. He said: I am here at the Cleveland Clinic. I used to have my own practice. It used to be in my old practice I got paid—largely my salary came out of operating on hearts. He said: People came in and they were overweight or bad diet, bad fitness, and that kind of thing and just were not taking care of themselves, were not taking the right kind of medicines. I would urge them to do the right thing. But, he said, at the end of the day, if they did not do it, I would operate on their hearts, and that is how I made the bulk of my income.

He said: Here at the Cleveland Clinic, when somebody comes to me with a heart problem, at the end of the day, I may operate on their heart. But we work very hard to make sure they are fit, that they are eating the right food. We work hard to make sure they are involved in some kind of appropriate exercise regimen. He said: We work hard to make sure they are not only prescribed the right medicines, they actually take the right medicines and do all of those things.

He said: I get paid pretty much the same amount of money whether I am treating a patient that way or if I am operating on their hearts. I probably operate on fewer hearts today, but I think we get a better outcome for less money.

One of the things I learned at the Cleveland Clinic that day is all of the amazing things they do to harness information technology for the delivery of health care. I was in a Walgreens drugstore in Seaford, DE, about a week or two ago and had an opportunity to see how at the other end—in this case we will use pharmaceuticals—but this is a way to use information technology to drive down health care costs.

Anybody who was ever had a prescription given to them, written by a doctor, sometimes you look at it, you read it and say: What is this? Is this a prescription or does this say Alpo? What does this actually say? It is hard to read. My handwriting is not the best, but I read some others that are even harder than mine to read.

At the Cleveland Clinic, they do not handwrite prescriptions; they do electronic prescriptions so there is no mistake. They are smart enough with their IT system that all of their patients have electronic health records. So they have the full health care picture of their patient.

Not only that, if they were going to prescribe something, a medicine—let's say a patient is already taking 10 medicines. Whatever new ones they are prescribing, their IT system looks at the other 10 medicines. They look to see whether the new prescription is compatible with medicines they are already taking. They do not want to prescribe medicine that creates more problems than actually helps people.

Also, they have the ability—a bunch of our leading health care delivery systems—to know when a prescription has been ordered or that it has actually been picked up; that it has been filled and someone is taking it. They have the ability to know whether someone, if they are supposed to get refills in so many days, if someone actually refills the prescriptions and continues to take the medicines they are supposed to be taking. If they do not, they get a call from their health care delivery system, clinic, hospital, or doctor's office.

We are getting smart enough now, after mapping the human genome, to actually know what medicines—let's say the Presiding Officer and I have the same health condition, but we have a different genetic makeup. He can take this medicine, and it will make him well. I can take this medicine all day, all week, all month, all year, and it will never help me at all. We have the same problem, but because of our genetic makeup it will help him but it will not help me.

We are smart enough now to start figuring this stuff out. We are making sure that not only people are taking the medicines they need to take, but they do not interact badly with other medicines; that they continue to take the medicines they are supposed to be taking. But we stop spending money on medicines that are not going to help people and spend that money in ways that will help them and continue to provide the money for medicines that will help someone who has the right genetic makeup.

My colleague who spoke before me said we need to sell insurance across State lines. Well, one of the things we do in terms of things that work, we have a big purchasing pool that all Federal employees are part of, the Federal Employees Health Benefits Plan. We buy our health insurance from an 8 million-person purchasing pool, 8 million people. We do not have 8 million Federal employees, but if we add up all Federal employees, all Federal retirees, all of our dependents, it adds up to 8 million people. That is a large purchasing pool. We buy private health insurance from all kinds of private health insurance companies. They compete with each other, and it drives down prices. We have a large purchasing pool, economies of scale. The administrative cost for our purchasing pool is 3 percent; 3 percent for every premium dollar goes for administrative cost.

If you go out on your own and try to buy health care in the DC area or back home in Delaware or Illinois or wherever you are from, administrative cost for an individual, for a family, for a small business, is more like maybe 23 percent of premiums or 33 percent. But they are not 3 percent.

What we call for in our legislation, this new law, we want to create these large purchasing pools all across the country. Every State is going to be required to establish, by 2014, a large purchasing pool that individuals can join, families can join, small businesses can join to buy their health care. If it is a little State like Delaware, we are too small to have a big purchasing pool. But under our legislation, we can enter into an interstate compact with our neighbor, Maryland, or maybe with Pennsylvania, or maybe with New Jersey, or maybe with all of them and create a large regional purchasing pool, be able to drive down administrative costs, increase competition.

Listen to this, to my colleague's point: sell insurance, health insurance, across State lines. We have a four-State exchange or purchasing pool. The insurance sold in Delaware could be sold in Maryland; it could be sold in Pennsylvania; it could be sold in New Jersey, and vice-versa, to drive down costs.

My colleague mentioned we ought to incentivize people who take better care of themselves. Well, Senator ENSIGN of Nevada and I offered, and it was adopted and is part of the law today, something that says employers can offer premium discounts to employees who are overweight and lose weight, keep it off; employees who smoke, stop smoking, continue to stop smoking; employees who have high blood pressure, high cholesterol, if they bring it down, keep it down, they can receive premium discounts through their employer by as much as 30 percent for those employees to incentivize them to take better care of themselves and be less of a health risk.

A lot of the problems we have with health care today in this country flow from the fact that we are overweight. One-third of us are overweight or on

our way to being obese. Almost one-third of us are obese, kids too.

We actually have done in the legislation what my colleague was calling for, incentivize people to take personal responsibility. If they do that, they are better off. He also mentioned medical malpractice reform. We actually included in the legislation medical malpractice reform based on earlier proposals by Senator MIKE ENZI, also from Wyoming, and Senator MAX BAUCUS. They are in the bill. I think they are going to give us a lot of good ideas of what is working to do three things across the country: One, reduce medical malpractice lawsuits; two, reduce the incidence of defensive medicine; and, three, provide better outcomes. We will be seeing results of some very exciting things done in Delaware and other States to be able to emulate Michigan among those other States.

I did not come to the floor to talk about that. But when I hear stuff like this, I say: Someone needs to set the record straight. As a guy who is on the Finance Committee, I worked a lot on the legislation and focused on, day after day, month after month, trying to figure out how to provide better health care for less money, looking at other the Cleveland Clinic or Mayo Clinic or other entities, or looking at other countries, such as Japan. They spend half as much for health care as we do. Eight percent of gross domestic product is what they spend. We spend 16 percent. They get better results: lower rates of infant mortality, higher rates of longevity. They get better results. They cover everybody. We have about 30 to 40 million who are not covered.

So for us to say, well, we will just go willy-nilly on for the rest of this decade or this century and pretty much do what we have been doing, that is foolish. Ironically, some of things that my colleague was recommending, we are actually doing in the legislation and will be rolling out and doing more in the years to come.

The last thing I want to say before I move to small businesses and job creation is Dr. Donald Berwick has been nominated to be the head of CMS, which is the entity that oversees Medicare and Medicaid. One of the people I most respect in trying to learn about health care and health care delivery, finding out how we provide better outcomes for less money, is a guy named Mark McClellan. Mark McClellan, when I first met him, was a health adviser to former President George W. Bush. He ended up being the head of the Food and Drug Administration. I think for a while he was the head of CMS, the position to which Dr. Berwick has been nominated.

Among the people who have recommended Dr. Berwick highly for this position is Mark McClellan, who is an economist, who is a physician, who has actually run a couple of big Federal agencies. I think it would be smart to listen to a fellow who actually worked in a Republican administration, had the President's ear, and served us very well in some high-level positions, including the same agency, CMS.

It would be smart to listen to Mark McClellan. I think I might have misheard, but I thought there was an assertion that Dr. Berwick and his wife had worked for a nonprofit and he had health care insurance for the rest of his life, up to death.

I would just think, for the folks who serve here today, who served in wars—we have people who have earned the Congressional Medal of Honor for their service in World War II, folks who were prisoners of war in Vietnam and served, gosh, 20, 30 years and more in some cases in the military. They have lifetime insurance as well—not from being in the Senate but from the work for nonprofit; whether it was a State government or Federal Government or local government. I do not think there is anything that is so unusual about that. Should they be disqualified from being a Senator because they have lifetime health care because of their service or because they were Governor of a State or attorney general of a State? I do not know if that makes a whole lot of sense.

So I did not come here to talk about any of this, but I just felt compelled to mention these things.

Let me pivot, if I can, and just take 5 minutes to talk about small business. Mark Zandi is an economist, a smart one too. He started something called moodyseconomy.com. He comes and speaks to not just our caucuses, Democrats in the Senate, but he was, during the Presidential campaign in 2008, an economic adviser to JOHN MCCAIN, very well respected. He just calls them like he sees them, calls them like he sees them.

We asked him earlier this year: Well, why are we not seeing—even though job loss is way down, where 18 months ago we lost 700,000 jobs a month, last month we actually gained 50,000 or 60,000 jobs or so. I think that is about what we are averaging for the first part of this year. We want to do better than that. It is not like losing 700,000 jobs a month. So we have made improvements.

But we asked him: Dr. Zandi, why aren't big businesses hiring?

He said: Uncertainty. Businesses like certainty. There is too much uncertainty. He said this earlier this year. There is uncertainty about what, if anything, you all are going to do about health care; drive down costs, better outcomes, drive them down. What are you going to do about financial regulatory reform, Wall Street? What are you going to do about deficit reduction? What are you going to do about climate change, global warming, energy policy?

What are you going to do about transportation policy? What are you going to do about a variety of things but those major things I have just mentioned.

Dr. Zandi's counsel is: You want big companies to start hiring? They are making money. You want them to start hiring people? Address the uncertainties.

So we have addressed the uncertainty with health care, not to everyone's satisfaction, but it does a lot more good than bad. We have addressed the uncertainties with respect to financial regulatory reform. I think it does more good than bad. Not everyone shares that view, but I think it does. We are trying to address with our legislation today and this week, this month, next month, something called tax extenders; a lot of tax cuts, tax credits that expired at the beginning of this year, such as the R&D tax credit and biodiesel tax credit. A bunch of them are expired and have been expired for 7 months. We need to provide some certainty so that businesses and families know what to plan for and do.

We need to provide some certainty so businesses and families know what to plan for and do. Mark Zandi said those are the concerns for big businesses that want to start hiring, to address the uncertainty, and to provide predictability and certainty.

We said: How about small businesses?

He said: Unlike big businesses—a lot of big businesses are reporting pretty big earnings levels—a lot of small businesses are not doing so well. One of the things that small businesses need is better access to capital. They need to be able to borrow money and raise money, whether they want to buy or rent a building, buy new equipment for their building, whether they want to buy transportation equipment, trucks or whatever, forklifts, whether they just need money for working capital. Small businesses need access to capital.

There is not a perfect solution for that problem, but that is a big problem for small businesses, and access to capital is not the solution for every small business, but it is for a number.

The legislation before us seeks to address that need for small businesses. I will take a moment and read through a couple items in the legislation that commend it to the Senate and to our acting on it soon.

This bill has about $12 billion in tax incentives to help boost investment in small businesses and promote entrepreneurship. The bill eliminates the capital gains tax on small business stocks for people who purchase these stocks this year and hold them for 5 years. This legislation will encourage more people to invest in small businesses and will help give these businesses the capital they need to grow and create new jobs. The legislation also allows more small businesses an immediate tax write-off. We call this expensing for upgrades in their buildings and equipment. If they buy a building, a business, they usually have to depreciate it over a period of years. This legislation allows small businesses that make a capital expenditure, whether it is a

building or equipment, to write it off in the first year. That is a great incentive to making major investments. This kind of tax break will encourage businesses to purchase everything from new software and computers to buildings, new roofs, windows, and vehicles. At the same time, it will encourage hiring in industries that sell those products.

The bill before us fosters the next generation of entrepreneurs by temporarily doubling the tax incentive, an existing tax incentive from $5,000 to $10,000 to incentivize entrepreneurs to start a new business. We call this the startup deduction. This increase will help offset the high cost of launching a new company.

These ideas, along with many other bipartisan tax breaks in the bill, will encourage smaller employers to create jobs. It will strengthen capital investment and ultimately move the economy forward on the road to recovery.

(Mr. MERKLEY assumed the chair.)

The bill also includes what we call a Small Business Lending Fund to help our Nation's struggling small businesses succeed. Almost every week I visit businesses, small and large, in Delaware. I hear over and over again, especially from small businesses, the same concern—access to capital. The $30 billion Small Business Lending Fund in this bill addresses this concern by providing our community banks with the funds they need to increase lending to small businesses. We incentivize banks to increase their lending by lowering the dividend rate they must pay back to the Treasury as they demonstrate an increase in small business lending.

We did something similar to this earlier. We created a fund, and we essentially didn't give the money to the banks. We didn't loan the money to banks. We bought the bank's preferred stock. They had to pay us a dividend on the stock. Five percent was the dividend rate on the preferred stock we bought. If they didn't buy back the preferred stock within several years, they had to pay us a 9-percent dividend rate on the preferred stock. We infused capital into the banks, largely banks with over $10 billion in assets. For the most part, they have returned to profitability. They have repaid, bought back their preferred stock. They have paid dividends on all of it for the most part. Actually, we have exercised, on behalf of taxpayers, something called warrants which, as the stock values recover, enables taxpayers to participate in the debt and the return of profitability.

We wish to do a similar thing with banks of less than $10 billion. In this case, we buy the preferred stock. The amount of dividend they have to pay back to the Treasury depends on whether they lend the money to small businesses. If they lend the money and they use essentially this capital infusion as it is intended, they end up with almost a zero dividend rate. If they don't lend any of it, they have to pay a 9-percent dividend rate. So there is an incentive there.

Finally, we are building upon successful Small Business Administration initiatives that were part of the Recovery Act. By increasing both loan sizes and the guarantees for the Small Business Administration loans, we can help meet the credit needs of small businesses. According to a recent report by the National Small Business Association, these Recovery Act programs are working, and they are still greatly needed. Last week, the National Small Business Association announced that when the small business provisions of the stimulus package, adopted about a year and a half ago, expired at the end of May, Small Business Administration lending plummeted. In June of this year, the Small Business Administration approved only $647 million of loans to small businesses. The previous month, before this expired, it was $1.9 billion in loans. It is clear—to me at least—that the enhancements to current Small Business Administration programs in the bill are critically important and will help lenders provide loans and help small businesses create jobs in communities.

One of the things we need to do to relieve uncertainty and get us going on the right track is to eliminate uncertainty. One of the great sources of uncertainty is what we do on health care. We have done something on health care—more good than bad. The CBO tells us the actual effect on the deficit is to reduce the deficit, forecasted deficits by $120 billion over the next 10 years and by roughly another $1.2 trillion in the years after that. So not only do we have the potential of providing better health care to people who don't have it but also to do something positive on the deficit side, beginning to address the uncertainty. In terms of uncertainty, it is important for large business and for small business. The real problem for small business is to make it possible for them to access capital, to get loans, whether for plant and equipment or for working capital. The legislation we are debating this week actually does that in a variety of ways.

The Presiding Officer is somebody who has actually worked on this stuff pretty hard. I commend Senator MERKLEY and a variety of others, Senator LANDRIEU and others, for the good work they have done on this legislation, on both sides of the aisle. We ought to let this bill go. We ought to give this bill an up-or-down vote. In doing so, we will do the right thing not only for the Senate and those of us who are privileged to serve here but for the country, particularly our small businesses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I am impressed by the distinguished Senator from Delaware. Not only has he outlined the information in the small business legislation which we are in the process of debating, but he so eloquently expounded on what we have done in health care to respond to the second opinion of our distinguished colleague from Wyoming. The Senator from Delaware did a tremendous job of covering the health care issue and what is actually in the bill. It has to be on the record. I thank the Senator for being eloquent in that regard.

I am here to speak about the small business legislation. I must also commend the Senator from Delaware, as he covered some key points. Being a former banker myself, an individual who actually financed companies—when I was in the banking business, I financed small businesses, even startup businesses—I have a great knowledge of what it takes to make sure those businesses have the necessary capital and resources in order to survive and provide jobs across the respective communities they serve. The legislation before us is crucial to the recovery of our respective communities with this recession.

As a public servant, I have been a strong advocate for American small businesses, especially disadvantaged and minority-owned businesses, because they are the engine of the economy. Before I was a public official, I was a banker. I worked hard every day to spur investments on Main Street. I worked to make capital available for small businesses so entrepreneurs and innovators could create jobs and bring prosperity to local communities. Today, as a result of the harsh economic reality in which we are existing, many of these businesses are finding it tougher than ever to survive. Credit is largely dried up. Capital investment is difficult to come by. Even as our economy begins to move forward toward recovery, small and disadvantaged businesses continue to lag behind. I believe we need to place small businesses at the heart of our response to this crisis. More needs to be done. Passing the Small Business Lending Act would be a step in the right direction. This incentive will create jobs for struggling Americans by providing increased lending to small businesses so they can support and expand their operations.

Small businesses are in a position to create well-paying jobs and produce growth at the local level. It is time to make them a priority again. If we fail to act today, if we fail to pass the Small Business Lending Act and fall short of our commitment to America's innovators and entrepreneurs, I fear our Nation will fall into a jobless recovery, and small businesses across the country will continue to suffer the detrimental effects of this recession.

I recognize government cannot directly create jobs in the same way the private sector can but few can deny that government has an integral role in getting America back on track. Our job as public officials is to support and

promote responsible practices, implement sensible regulations, and help direct investments to the areas that need it most. Under current law, the Small Business Administration provides key support to small businesses through its 8(a) program. This program offers technical assistance, training, and contract opportunities to small businesses that meet specific criteria. I am a strong advocate of this initiative which has helped to keep small and disadvantaged businesses viable and make sure everyone has a chance to share in the economic prosperity.

Mr. President, 8(a) has made a difference in numerous communities. It has eased some of the worst effects of the crisis for those entities that are most vulnerable. Yet despite its success, this program's impact and reach has been restricted because only a small number of businesses are eligible for this kind of support. That is why I introduced an amendment during the debate that would expand the 8(a) program.

My measure would have increased the continued eligibility amount from $750,000 to $2.5 million, so more small businesses could benefit from this assistance. But, unfortunately, my amendment was not included in the final package.

While it did not make the cut this time, I hope my colleagues will join me in giving further consideration and attention to the 8(a) program in the near future. What this will do is allow those individuals who may have reached a net worth of $1.1 million or $1.2 million or $1.5 million or even $2 million to say they are still small. In this economy, if you have $2 million, people say you are rich. Well, that is not the case if you are a small businessperson. That is the reason why I am saying in order to still be able to qualify for the 8(a) program, we should increase the eligibility amount to $2.5 million, and thereby they can continue to compete and continue to have a chance to be in the small and disadvantaged minority category.

Expansion of this program would afford our small businesses the assistance they need and create jobs for Americans amid this rough economic climate.

With the Small Business Lending Act before us today, we have an opportunity to renew our investment in America's small businesses. I urge my colleagues to vote in favor of this legislation so we can foster economic growth on the local level and generate much needed jobs.

I wish to reiterate what the distinguished Senator from Delaware said in terms of how we can expand these businesses by giving tax incentives to these companies, by eliminating the capital gains tax that would come about for any transaction they would make, by allowing them to write off the depreciation for their capital purchases.

We have this legislation before us now, which we must pass before we adjourn for our summer recess, and get this legislation over to the House so the House can pass it before they adjourn, a week before we adjourn. We need to make sure we get this legislation passed.

We saw the Senator from Louisiana fight gallantly to pass the amendment to allow the banks to have $30 billion which they could put out for small businesses. That amendment had been stricken, and the Senator did not yield to that deduction from that piece of this package. She fought to get that amendment into this legislation. Now what we must do is get the 60 votes needed to pass the Small Business Lending Act so we can get about the business of saying, yes, we are concerned about Main Street as much as we are about Wall Street. When we do that, we can go back to our constituents and say we have done something that is beneficial to our communities which will help us to get this economy moving again to help those people who need it the most.

Mr. President, I see the distinguished Senator from New Hampshire on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I am pleased to join my colleague, Senator BURRIS, from Illinois, and the other Senators who have been on the floor this afternoon to speak to the Small Business Jobs Act that is pending before us today.

For weeks now, the Senate has been considering the Small Business Jobs Act. Today, I hope we will finally be able to pass this commonsense legislation that will help small employers and entrepreneurs to grow their businesses and to hire new workers.

While we have seen some signs that our economy is beginning to recover in New Hampshire, too many workers still cannot find the jobs they need to put food on the table and pay the mortgage. The best way to create those jobs is to invest in our small businesses.

Over the past 15 years, small businesses have created almost two-thirds of the new jobs in America. Small businesses are the cornerstone of New Hampshire's economy. Over 96 percent of businesses in the Granite State are small businesses with fewer than 50 employees.

But small businesses, as we all have heard, continue to feel the effects of a recession they had no hand in creating. That is why we need to pass the Small Business Jobs Act today.

This bipartisan legislation will dramatically increase lending to small businesses. It will enhance the ability of small companies to export. It will provide tax relief to so many small firms.

I am proud, as a member of the Small Business Committee, I worked with my chair, MARY LANDRIEU, who has done a terrific job on this bill, and ranking member OLYMPIA SNOWE, on provisions to enhance critical SBA programs. I am pleased to report this was a bipartisan effort.

I have come to the floor several times over the past few weeks to talk about the many important provisions in this bill—provisions that will get capital moving to small businesses again, and to provide them with some tax relief. But today I want to come to the floor to discuss another critical component of this bill, one that every Senator in this Chamber should support; that is, helping our small businesses sell their products overseas.

Exports are a great opportunity for small businesses that are looking to grow. Growing a small business is often about finding new markets for your products. Selling into foreign markets is especially important for businesses in my home State of New Hampshire.

Even in the difficult economic climate last year, one of the real bright spots in New Hampshire's economy has been exports. In 2009, New Hampshire had its second highest export year ever. But there is still a huge potential to continue to increase exporting by America's small businesses.

This chart I have in the Chamber shows the opportunity that exists for our small businesses. Only 5 percent of the world's customers live in the United States. We can see on the chart that is that very small blue portion of this pie chart. So that means 95 percent of the world's markets are outside of the United States.

But, of course, there are still significant barriers to small businesses as they try to access that remaining 95 percent of the world's population. For a small business, starting to export can be challenging. Unlike big firms, they do not have the technical capacity to identify new markets. They do not have the resources to go on trade missions, and they do not have the marketing expertise to promote their products to foreign buyers.

We can see the challenge small businesses face versus the challenge large businesses face on this pie chart. For large businesses, 42 percent of them export. For small businesses, only 1 percent of them in the country export. So 99 percent of small businesses still have the opportunity to access those international markets.

A vote for this bill is a vote to help small businesses in New Hampshire and across the country—businesses that are looking to export but do not have the resources or the expertise to do so. It is a vote to help small businesses create the jobs that will help us emerge from this recession.

I want to talk a little bit about one New Hampshire business that has been able to benefit from the kind of export assistance this bill will offer. The company is called Dartware. It is a high-tech company in West Lebanon, NH, over in the western part of our State, right across the river from Vermont. It is a pretty sophisticated business. It builds software to help improve professional networks. But even though they

are sophisticated, they still had a tough time navigating the international terrain. So Dartware went to New Hampshire's International Trade Resource Center where they found a U.S. Foreign Commercial Service specialist who could help them, along with the folks at the Trade Resource Center. The center provided Dartware with a customized international market assessment and connected the business to international buyers for their services.

As a result, Dartware now has developed partner relationships in countries such as Brazil, China, South Africa, Egypt, and Argentina—countries that are emerging markets that offer opportunities for New Hampshire and America's small businesses.

The bill that is pending before us would give more small businesses such as Dartware the opportunity to succeed in exporting.

The Small Business Jobs Act includes two bipartisan bills I cosponsored that will help more companies access critical export resources. For the past few years, Federal and State resources have dwindled, while companies such as Dartware have clamored for more of these services to help them know how to export.

The Foreign Commercial Service has not been able to replace many of their retiring officials and, as a result, the service has been severely understaffed. This legislation, the small business jobs bill, restores staffing at the Commerce Department to 2004 levels and creates a competitive grant program so that strapped State export assistance centers will have that ability to provide grants to companies. This bill passed out of the Senate Commerce Committee with broad bipartisan support.

The Small Business Jobs Act also includes bipartisan legislation which will strengthen SBA export assistance programs. These programs help small businesses get the loans they need to finance their export growth and will provide export expertise. This part of the bill passed out of the Small Business Committee by a vote of 18 to 0.

So two more provisions in the legislation pending before us that have broad bipartisan support. These commonsense measures that had strong bipartisan support in committee deserve support on the floor when we vote on this legislation. There is no reason we should not have a strong bipartisan vote today when the full Senate takes up this legislation.

I hope all of my colleagues on both sides of the aisle will join me in voting for this bill because it is going to make a difference to our small businesses, and it is going to mean they can grow, they can add jobs, and we can put people back to work in this country. I urge my colleagues to join us in voting for this legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

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

AVIATION SAFETY

Mr. DORGAN. Mr. President, I have come to the floor to talk about a piece of legislation that perhaps is not on the front pages of the newspapers today but is very important in this Congress and to the American people. It is very important that we pass this legislation. We have been waiting and waiting, and we continue to wait. It is called the reauthorization of the Federal Aviation Administration bill. We have been working on this for a long time.

This is not just reauthorization for some bureaucracy; this is about safety for the American public who is flying today. Let me put up a chart that shows where the airplanes are in the skies today. I think I have a chart on that which describes the number of flights in this country. The air is literally packed with airplanes flying all across this country. The question is, How are they controlled? Ground-based radar systems are keeping track of all of these flights. This is a map that shows the airplanes that are flying in the country at a given time—very crowded skies. This FAA reauthorization bill has a lot to do with safety. The reason it is so important—I am going to talk about the safety piece first, and then I will talk about why it has been blocked and how we finally get some action on this and why I finally have had a bellyful of trying to persuade people that we ought to pass legislation that I think is critically important to save lives in this country.

Let me remind all of my colleagues about February 12 last year. February 12 of last year was the tragic crash of Colgan Air flight 3407. That crash should not have happened. That crash took the lives of 45 passengers, 2 flight attendants, 2 pilots, and 1 person on the ground. It should never, ever have happened.

The families of the victims of Colgan Air flight 3407 have consistently been to every hearing I have held on safety dealing with aviation. They have been, at every moment possible, here in the Capitol Building, office to office, door to door, saying: Pass this legislation to reauthorize the FAA, including the dramatic safety changes we propose.

They provided a chart board that shows photographs of their loved ones, those who climbed on that airplane that evening to fly from Newark to Buffalo, NY. It was a night flight on a Bombardier-8. During that flight, icing occurred on the wings.

I have read the transcript from that cockpit between the pilot and the copilot. Let me describe a couple of things we learned.

The young pilot lived in Seattle, WA, and commuted to work to Newark. She deadheaded all night long on a FedEx plane stopping in Memphis, landed in Newark—no evidence that she slept—and then she boarded an airplane to haul passengers to Buffalo, NY. That was the copilot. The copilot, I understand, earned somewhere around $20,000, $22,000 a year and had a second job in a coffee job to make ends meet. My understanding was she lived with her parents. That was the copilot. The pilot commuted from Florida. There is no evidence that the pilot slept the night before. He spent time in the crew lounge, where there is no bed. That pilot boarded the same plane. That raises all kinds of issues about fatigue and commuting—commuting all night to board an airplane to haul passengers.

When you read the transcript of what occurred in that cockpit, you also understand there were very serious issues about training—the stick pusher and the stick shaker and flying into ice and not following procedures, all of these issues.

Forty-five passengers died that night. The question is, Is there one level of safety in this country when you get on an airplane and you look in that cockpit? Is there one level of safety if you are on a large plane or carrier versus a small regional carrier? Do you have the same experience in the cockpit, the same level of training? Where have the crews come from? Did they fly all night all across the country just to get to their work station?

Well, the Colgan crash told us a lot. Here is what happened that evening. There was ice on the wings. This was the crash site near Buffalo, NY, on February 12, 2009.

Here is another photograph of the crash site. This crash should never have happened. Those victims should not have died. They should have been safely on the ground with their loved ones.

What has gone wrong here? Let me at least describe a few things that I think. One was fatigue. Clearly, that played a role. Here is a quote that NBC News ran from a pilot on a 737 jet flying to Denver, CO:

> I had been doing everything in my power to stay awake: coffee, gum, candy. But as we entered one of the most critical phases of flight, I had been up for 20 straight hours.

Fatigue. Is this someone in a working condition who is sharp, on edge, landing a plane with perhaps 150 people on board?

Here is another quote from an 18-year veteran pilot, describing the routine of commuter flights with short layovers in the middle of the night:

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

He said that is the way it works.

Here is another quote from a pilot:

> I was bathed in sweat and scared to death.

That is an 18-year pilot describing the approach to the runway after numerous early morning commuter flights over 3 days.

Here is a photograph of a pilot crash pad. He watches a movie on his computer at a crash house in Sterling Park, VA, which is not far from here. These houses, which can have 20 to 24 occupants at a time, are designed to give flight crews from regional airlines a quiet place to sleep near their base airports. Many can't afford hotels, so they use crash houses where they pay $200 a month for a bed.

I described the young lady who was the copilot on the Colgan Air flight that crashed. She commuted from Seattle, WA to Newark to get to her duty station. There was no evidence that she had slept in a bed. It raises a lot of questions.

At hearings I held, I held up this chart to show where the Colgan pilots were commuting from flying on that particular regional airline. They were flying out of Newark. You could see where they are commuting from, such as home stations in Los Angeles, in Seattle, in Texas, and they commuted to work all the way across the country.

I describe these charts only to talk about one phase of the investigation of the Colgan crash, and that is fatigue and rest—crew rest. We have a piece of legislation that addresses a number of these issues: What is the experience of the pilot in the cockpit? How many hours must that pilot have of relevant experience and training to sit in that cockpit and haul passengers on a commercial airplane?

We addressed that and so many other critical areas of safety. That is in the FAA reauthorization bill—a piece of legislation we passed in the Senate Commerce Committee long ago. Now it is awaiting action on the floor of the Senate. Yet, we have not been able to get it done.

I want to talk a little about the importance of this legislation. No. 1, it creates jobs. It is investment in infrastructure, airport improvement funds—investing in the infrastructure of this country.

Let me describe the central elements of this bill. Airport Improvement Program. That is tens of thousands of jobs around this country.

Aviation safety. I have touched on that.

Air traffic control modernization.

A passenger bill of rights.

Small community air service.

Let me talk for a moment about the air traffic control modernization. I showed a chart with all of those airplanes in the air. Every single passenger on every one of those planes could be flying in safer conditions now if we were moving, as we should, with this bill, in modernizing the air traffic control system. Our kids carry cell phones around that have GPS capability. Those of the commercial airliners in this country are flying to ground-based radar, not GPS. They don't utilize what our kids have in their cell phones in commercial airplanes, which would allow them to fly safer routes, fly more direct routes. Modernization of the air traffic control system is long overdue, and it has a lot to do with aviation safety. It is in this bill.

This bill must get done. To not move forward on this—Europeans are, and others—and to have us fall further behind is unthinkable to me. The passenger bill of rights—we include that in this bill, and it says some very important things. The passenger bill of rights says that they are not going to be able to keep you on an airplane for 6 or 8 hours when they have trouble on the runway and you sit on the tarmac for 6 or 8 hours. Three hours. We set the conditions under the passenger bill of rights, airplanes—that is, the aircraft companies, airline companies, must comply with the rules that we have established.

This legislation provides consumer benefits for 700 million plane trips per year taken by the American people. We have heard horror stories from around this country: passengers stuck on the tarmac for 6 hours, 8 hours, bathrooms not working, out of water. The fact is, this bill will improve that and the disclosure of flight information to passengers, impose certain burdens on the airlines, and that is the right approach. All of these things are in this FAA reauthorization bill.

What is holding up the bill? Well, first and foremost, in the Senate, we passed the bill with the understanding that there is a controversy called slots and perimeter rules at Washington National Airport. When we passed it through the Senate, 93 to 0, we understood that we didn't resolve the slots and perimeter rule issue. The House has additional slots at DC National, but we didn't do anything on it. We didn't do zero. We understood that we passed the bill and would negotiate it later, and negotiations have ensued. Now we have several representations saying: I represent my area, my region, or my airport, and therefore I object.

Do you know what. It is fine to represent your interests in your region, but it is not fine to block the bill. It is not fine to block this bill. In fact, the latest discussions that have been held, with respect to slots at DC airport, are 16 additional slots—not new flights in or out of DC National Airport, but flights that would have flown within the perimeter that would now fly outside of the perimeter. I know that is lost on most people because this perimeter rule limits the number of miles you can fly from DC National Airport. This would convert flights inside the perimeter to flights outside of it—16 flights. So it is no new traffic to DC National. Those who proposed it said: We would agree that we would have the same size airplanes flying the flights.

Yet, we have massive amounts of controversy around here with people saying: Well, I am going to block this and that.

Let me say this: If you care much about safety in the skies and at long last you want to pass an FAA bill to improve safety, if you care about the airport improvement program and infrastructure and airports and runways and building the infrastructure and creating tens of thousands of jobs, and if you care about small community air services, a passenger bill of rights and having America keep up with air traffic control modernization, you can't possibly be blocking this bill.

I am not going to describe who it is, with names and so on. This is not about Democrats or Republicans, or conservatives or liberals; this is about, are we going to fail again? I have watched so many failures because people have decided they are going to block this or that. What we have had in this entire Congress is one side of the aisle blocking most everything for a long period of time. This bill happens to be bipartisan. There is no excuse, no reason to block this legislation.

It appears to me that a couple things are likely to happen. If interests that have been involved in these discussions continue to block this, this bill will fail, and the American people will be flying in skies that are less safe than they could be. We will not have made the improvements we should make. We will not make the investments and create the jobs we should create. I suppose those who block it will think they have done something meritorious for the country, but they will have injured this country's interests.

My hope is that in the coming couple of days, those who have said they are going to block this legislation will think again and understand that this place only works through compromise; it only works if we are willing to understand that everybody has different views on these things, and let's find a way to effectively compromise and pass legislation that strengthens this country.

If I sound a little irritated, I am, because I have had a belly full of the intransigence that exists in this Chamber. Nobody fights harder for their interests than I do. But I also understand, having served here long enough, that there is a need to make this place work by being willing to compromise your interests in a fair way. We have gone at this now for some weeks. It has been a long while since the Senate passed this bill. It is very close to a point where, I believe, we will not have the time to continue working on this, and what we will see is that this bill will, once again, fail, and we will extend, once again, the FAA reauthorization bill for a short time, and then until the next Congress. God bless everybody who dug their heels in and decided they could only live with what they could live with and would not compromise, but they have done no favor to this country. They can all chew on that for a while.

I hope that in the coming days, yes, families of the victims of Colgan will

perhaps have some ability to influence those who want to block this legislation. Perhaps those who are out of work and would get work with the airport improvement funds will influence them. Maybe those who care about continued air service to small communities would have some ability to influence them. Maybe those who care about the passengers bill of rights—at long last, maybe they will be persuasive.

One way or another, I hope that finally we will see if maybe there is a public spiritedness in this Chamber and also an interest in doing the right thing and pass the FAA reauthorization bill.

I understand my colleague from Kansas is here ready to speak. I will defer until later.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

RENEWABLE ENERGY STANDARD

Mr. BROWNBACK. Mr. President, I thank my colleague for yielding the floor. I invite him to stay. I want to talk about a renewable energy standard we need to have in an energy piece of legislation. I know it is something he is interested in, and has been, and it is something I am interested in. I think it is one of these commonsense approaches that you can get bipartisan support built for if you do it in a sensible fashion that doesn't raise utility rates; and that is a key issue to watch here—not to raise utility rights.

I think if we have a robust enough—but not greedy—renewable energy standard that is prudent, workable, over a period of time, where companies can work into this, we can start moving forward on renewable energy in a sound economic fashion, and we can balance our energy needs with our environmental needs and our economic demands and not raise utility rates.

That is why I was hoping that the leader, when he introduced his energy bill, would put forward a renewable energy standard. He didn't call for that. I do. If we get an energy bill on the floor—which I hope we do—I will certainly be supporting a renewable energy standard the likes of which we passed on a bipartisan basis through the Energy Committee.

I am looking forward to supporting what we put forward in the American Clean Energy Leadership Act of 2009, which was reported out of the committee on a strong bipartisan basis. There was a provision in it that called for a 15-percent renewable energy standard by 2021, and within that 15 percent was even allowed 11 percent by renewables and up to 4 percent by conservation, so there were some ways for groups and individuals to be able to work forward, building in some conservation but also renewable energy into the portfolio, such as renewable energy of wind, solar, biomass, or other means.

I have been advocating this, as has my colleague from North Dakota. It is something we have voted on recently in this body, as recently as 2005, when we looked at a 10-percent renewable energy standard. The differences in the conference prevented that from moving forward.

The amendment I would support on this bill that I hope the leader will reconsider and put forward in his base bill that he puts up on the floor is 15 percent, as I stated, by 2021. That is something that could have and would gain bipartisan support.

If we are serious about moving forward on reducing our dependency on foreign oil, from foreign sources, if we are serious about moving forward on environmental needs, this is a very sensible, pragmatic, prudent approach. It is one we can do. It is one we can accomplish. It is one that has passed this body before. We already know the votes are here to pass something like a modest renewable energy standard. That is why I am calling for this to be put forward in the leader's base bill. If not, I am supporting an amendment that would be put in this Energy bill should it come to the floor. I hope it does come to the floor. We need to address the energy needs of this country. We have a huge problem that has been going on for some time in the Gulf of Mexico. We have enormous energy needs in this country. We need to balance our energy needs with the environment and our economic abilities. We are in difficult economic shape now. We cannot put a load on the economy. We should not put any load on the economy. If we are wise and prudent about this, we can do these renewable energy standards and not put any load on the economy. I ask the leader to do that. I hope we can in moving this process forward. It is my hope that this will be included in any energy legislation that ultimately passes this body.

Mr. President, I ask my colleague from North Dakota for any comments he might have on a renewable energy portfolio in energy legislation.

Mr. DORGAN. Mr. President, if I may, I know the Senator from Kansas spoke about this issue that we worked on in the Energy Committee over a year ago. We worked together to get what is called a renewable electricity standard, some people also call it a renewable portfolio standard—through the committee process. A renewable electricity standard is a requirement that a certain percentage of electricity delivered be from renewable sources—wind, solar, and so on. I believe that it is very important to do that. I appreciate the Senator from Kansas and his position.

There is an old saying: If you don't care where you are going, you are never going to be lost. If our country does not describe the route we want to take, if we don't say here is where we want to go as a country, then wherever we find ourselves 5 and 10 years from now, that is where we are, I guess.

I believe however, that it ought to be a circumstance where we decide what our energy future looks like. I believe that we should incentivize the development of renewable energy. How do we maximize the development of wind and solar energy? By creating a renewable electricity standard that drives the development and by building the transmission that allows us to produce it in one area and move it to a load center in another area. We did that in the bill that passed the Energy Committee just over a year ago.

I fully support the notion of the Senator from Kansas that the 15-percent renewable electricity standard we created in committee ought to advanced in any energy bill. In fact, I don't know whether we will part company on this point, but I have always indicated that I support a 20-percent renewable electricity standard. I believe our country ought to push very hard to move in the direction of maximizing the capability to produce renewable energy where the wind blows and the Sun shines, and put it on the wires and move it to the load centers. That is exactly what we ought to be doing. The Senator and I sure agree on the philosophy of this issue and the need for this provision in an energy bill.

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

Mr. BROWNBACK. Mr. President, I wanted to engage my colleague from North Dakota because there is a strong base of bipartisan support to do this, and I also believe there is a strong majority community across America that supports this. Don't get it out there so wild that it starts driving up utility rates. Nobody wants to do that, and everybody is opposed to pushing up utility rates. We don't want them to go up. They cannot go up. We cannot afford for them to go up in bad economic times, and I do not want it to happen in good economic times. But if we do this in a balanced approach where we say we are going to have a modest renewable electricity standard, a modest RES that people can work with—and in the bill in committee, we actually had an 11-percent energy standard—we could do 4 of the 15 by conservation, which is prudent as well. This is something we can support.

I know this is something which we could see a strong majority of the American public support. This is balanced and it makes sense and it moves us forward. That is why I hope that if we get into this Energy bill this week—it may not happen this week or it may not happen until September—that this is a piece that is in the bill, and it is something we can get done, and the vast majority of the public, if we do it wisely and prudently, will support this.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. BROWNBACK. Yes.

Mr. DORGAN. The fact is, I happen to support limiting or capping carbon. I will support a price on carbon. I do not support cap and trade as a mechanism, as a way of doing that, or giving Wall Street the ability to trade carbon

securities. But that is another side to this.

Because we have not been able to do climate change legislation and develop a consensus on broader climate change legislation in this country, I have always felt we should bring the Energy bill to the floor which was, in fact, bipartisan and which would, in fact, do the very things we would want done to limit carbon. Take energy from the wind—that limits carbon. You develop energy without putting carbon into the air, just as an example.

I know Senator REID is trying very hard to do a couple of things. No. 1, he is trying to get this session moving on issues that matter. He has a lot of things on his plate. The Senator from Kansas knows—I am not being partisan when I say this—that a lot of things have been blocked, even motions to proceed. So the Senator from Nevada, Mr. REID, has a difficult job getting legislation to the floor and getting them moving. He has indicated he wants to bring to the floor an energy bill that includes a lot of items with which the Senator from Kansas and I would agree. We need to do something about oilspill regulation and safety and try to address those issues in the right way, and we do need to address a number of the other issues the Senator from Nevada suggested. I happen to think that using natural gas for long-haul vehicles on the interstate roadways makes a lot of sense. He has proposed a number of items, including electric vehicles. The bill I introduced, along with my colleagues, Senator ALEXANDER and Senator MERKLEY, that we passed through the Energy Committee last week, begins incentivizing and moving toward an electric vehicle fleet. All of those things are good. I support that, and I commend the Senator from Nevada for doing that. To the extent we can, if we can find ways to add other things that have a broad bipartisan consensus, that makes a lot of sense to me. I think that is what the Senator from Kansas is saying.

In order for a renewable electricity standard to be added, it would take 60 votes because things just take 60 votes around here. I went to a small school, and I thought a majority was just a majority, but it is not these days. But if we have the 60 votes—and I think there is some evidence that may exist—then adding a renewable electricity standard will substantially improve, I believe, the potential to pass an energy bill that would matter to America.

I want to say quickly that I understand Senator REID is trying very hard to get something done, to get it up, get it passed, and get it done. I commend him for that. I do not want to be critical at all. But I commend the Senator from Kansas as well because he and I agree: If we can add a renewable electricity standard to this legislation, we will advance our country's energy interests in a very significant way.

Mr. BROWNBACK. Mr. President, I thank my colleague.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

KAGAN NOMINATION

Mr. SESSIONS. Mr. President, I wish to share a few thoughts on the nomination of Elena Kagan to the Supreme Court. I will share some other thoughts as we go along, and I will be producing for my colleagues a summary of some of the concerns I have about the nomination that would explain why I and a number of other Senators voted against this nomination in committee and why I think that calls for our colleagues to vote against the nomination on the floor of the Senate.

This nominee has the least experience of any nominee in the last 50 years, perhaps longer than that, having practiced law only about 2 years, right out of law school, with a large law firm, never having tried a case or argued a case before a jury of any kind, and spent 5 years in the Clinton White House, spent time teaching and being active politically. Those are issues that I think go to the basic qualities that you look for in a nomination. She had 14 months as the Solicitor General of the United States, and that is a legitimate legal job, but as I will point out, she didn't perform very well in that job and made some serious errors that I think reflect a weakness in her judicial philosophy.

So while there is no sustained legal practice that gives us a direct view of her judicial philosophy, other things do indicate it. There is plenty of evidence that I think will show this nominee is not committed to faithfully following the law. The Constitution's words say we "do ordain and establish this Constitution for the United States," not some other constitution—not a European constitution, not a constitution as viewed by somebody in Argentina or France or wherever but our Constitution, passed by real Americans through the process that calls upon American input to pass that Constitution. Judges take an oath to be faithful to our Constitution. They take an oath to serve under the Constitution and laws of the United States.

So I think the evidence will show that this nominee believes judges have powers that go beyond what a judge has. This is what we have taken to calling an activist judge—a judge who believes they can advance the law, further the law, bend the law; that the Constitution is not plain words or a contract with the American people but a living document, which means they can make it grow into what they would like it to be; that they can set policy from the bench. That is not law, that is politics. Judges are required to adhere to the law. This is the great American principle that we are taught from elementary school on.

This nominee, pretty clearly, is a legal progressive and acknowledges that in her own testimony. When I asked her if she was, she didn't acknowledge it to me. But later, when she was asked again about it, she acknowledged to Senator LINDSEY GRAHAM that she was. That is what liberals have taken to calling themselves today—progressives—apparently thinking that is more popular than calling themselves liberals. I don't know why they have taken to doing that, but progressivism has a history in this country, and I think the people who call themselves legal progressives today are indeed in the tradition of progressivism that was rejected in the early part of the 20th Century by the American people.

President Obama is a legal progressive, I am convinced. He is a lawyer, a good friend, and somebody we all liked when he was in the Senate. But he has a view of the law that I think is a progressive view. He seeks, he says, to advance a "broader vision of what America should be," and that is what judges should do. I am not in agreement with that. I don't think judges have that responsibility. They have never been given that responsibility. Their responsibility is to objectively decide discrete cases before them.

Some have complained that Justice Roberts somehow was an automaton by declaring that a judge should be a neutral umpire—just call the balls and strikes; that he can't take sides in the game. I think that is a very wonderful metaphor for what a judge should be—a neutral umpire.

Judges cannot take sides in the game. That is not what they are paid to do. That is not what they are empowered to do, not in the American legal system. Maybe somewhere else but not in our system. The American people understand that clearly. They are not happy with judges who legislate from the bench, who think they know better, who consult some European somewhere, with very little accompanying scientific data, to say the world has advanced and evolved and the Constitution has grown and is alive and read new words into it that were not in there before, and we can find those words and we can have a broader vision for what America should be.

I do not think that is law. It is not law, and I do not think the American people want that kind of judge.

I do not believe in this nominee's slight differences of gradations in judicial philosophy. I do not think it is just a little bit more activist and it is a little bit more advanced law philosophy, and somebody else does not and there is not much difference. I think there is a very serious difference, and it is a question of where the American people allow power to reside—power over themselves.

They can vote us out of office. I suspect people will be voted out of office this November. People are not happy with us, I can tell you that. Polling numbers show Congress is at the bottom of popularity more than it has ever been—11 percent or something. The question is, Who is that 11 percent who is happy with this crowd? Where are they? I have not met any.

I would say the American people are not enamored with the idea that somehow, when a person puts on that robe they have been anointed with greater wisdom than if they had to run for office and answer to them. If you want to be a politician, run as a politician. Don't go for it on the bench.

I think the President has an incorrect view of that, frankly, a very seriously defective view of that. In a speech in the Senate just a few years ago when he was a young new Senator, he opposed now Chief Justice John Roberts, one of the finest nominees ever to come before this Senate. What a fabulous person he was. How magnificently did he testify and what a good background he had. He was recognized as a premier appellate lawyer in America and argued 50 cases, I believe, before the Supreme Court—more than almost anybody, certainly more than anybody his age—and demonstrated the kind of skill you look for in someone who would sit on our Nation's Highest Court.

President Obama voted against him. He said he thought that in truly difficult cases Judge John Roberts would rely on precedent and try to follow the law. He said that you can't rely on precedent or ''rules of statutory or constitutional construction.'' Instead, he argued that judges must base their rulings on ''one's deepest values, one's core concerns, one's broader perspectives on how the world works and the depth and breadth of one's empathy.'' That is what President Obama said a judge should do.

I would assert that is contrary to the American heritage of law. That is not law. If you make decisions based on your deepest values—you mean the judge's deepest values? His core concerns? One's broader perspectives on how the world works and the depth and breadth of one's empathy? That is what a judge should do? Not in the U.S. order of jurisprudence, not the way I understand it, and I do not think it is the way the American people understand it either.

In a speech to Planned Parenthood, President Obama said he hoped judges would reach decisions on ''their broader vision of what America should be.''

His nomination of Ms. Kagan indicates that he believes she fits that bill. If we look at her record and speeches and background, I think it is fair to conclude she does. In a Law Review article she once declared that the Court primarily exists to look out for ''the despised and the disadvantaged.''

I think the Court is required to do justice. The oath a judge takes says a judge should do equal justice to the poor and the rich.

In another Law Review article, Ms. Kagan said, dealing with confirmation—actually the title of it was ''Confirmation Messes, Old and New.'' She quoted Stephen Carter's book, ''The Confirmation Mess'' with approval, writing:

> In every exercise of interpretive judgment there comes a crucial moment when the judge's own experience and values become the most important data.

Well, I don't think so. What do you mean the judge's own values become the most important data? You mean we are ceding to the judge their personal values instead of faithfully following the law and the facts as written?

In her Oxford thesis she wrote:

> Judges will often try to mold and steer the law in order to promote certain ethical values and achieve certain social ends. Such activity is not necessarily wrong or invalid. The law, after all, is a human instrument, an instrument designed to meet men's needs.

The law is a set of commands from the government that have to be consistent with our Constitution. If they are, they should be followed, if they have been duly enacted by Congress. The American people can elect a new Congress and change those laws if they desire, but until they do so they remain the law and I do not think judges are supposed to be steering the law to promote certain ethical values.

Let me ask you, whose values are they? Whose ethical values are they? The judge's? Is that what we put them on the bench for, to be able to steer the law to promote their ethical values?

Some people wrongly say the Constitution is defined by the nine Justices on the Supreme Court. Not so, really. If we want to be cynical about it, if they are not faithful to the law, five Justices can redefine the Constitution.

Recently, four Justices voted to basically eviscerate the second amendment, saying the constitutional right to keep and bear arms was not a personal right and that the Constitution did not apply to the States and counties and cities; and in effect a city, Chicago, could have basically eliminated all guns in their city, and it would not have violated the constitutional guarantee of the right to keep and bear arms.

They just wrote it out of the Constitution, I guess—and they cited foreign law about it.

We know other cultures are not as accepting of people having guns as in the American culture. It is just different. What does foreign culture have to do with ours? This is the kind of thing we are talking about. It played out in real cases and creates a real abuse.

She goes on to say that judges will often try to mold and achieve ''certain social ends.'' Such activity, she says, ''is not necessarily wrong or invalid.''

I think it is wrong or invalid.

Am I being unfair to the nominee, Ms. Kagan? I don't think so. When asked about Ms. Kagan's record, a person in a very good position to know, Gregg Craig, former counsel to President Obama in the first year or two of the administration, who knows Ms. Kagan and who reviewed her when she was considered, apparently, for the first Sotomayor appointment, said:

> She is largely a progressive in the mold of Obama himself.

I have come to believe that is exactly right. I mean, I just believe that is right. I think the President looked around the country to pick somebody young, who would serve a long time. She is 50 years old. If she serves as long as Justice Stevens whom she is replacing, she will serve 38 years. It is a lifetime appointment. It could be longer. So Mr. GREGG Craig said ''she is largely a progressive in the mold of Obama himself.''

The President was a community activist and a lawyer. He has taught some constitutional law—I am sure he is a good teacher. But if he is teaching this kind of philosophy I think it is not good, sound, judicial philosophy, and his approach I don't think is good.

I believe he looked for somebody who shared his views. As 59 Democratic Senators, he expects them to, lemming-like, go down the line and vote for whomever he puts up there, so he has put up somebody he thinks follows his views.

A second person who has been in a good position to know Ms. Kagan is Vice President BIDEN's chief of staff, Ron Klain, who worked in the Clinton White House closely with Ms. Kagan when she spent 5 years in the White House doing mostly policy work, as she said. This is what Mr. Klain, an experienced lawyer who has been around Washington a long time, said about her:

> Elena is clearly a legal progressive. I think Elena is someone who comes from the progressive side of the spectrum. She clerked for Judge Mikva, clerked for Justice Marshall, worked in the Clinton administration, worked in the Obama administration. I don't think there is any mystery to the fact that she is, as I said, more of the progressive mold than not.

Let's just take a note there, when she graduated from law school she clerked for Judge Mikva. She is a very smart individual, a very liberal individual. I believe she clearly would be considered a judge of the activist variety. Then she clerked for Justice Marshall, a great, famous Justice on the U.S. Supreme Court but probably considered the most activist member ever to sit on the Supreme Court of the United States. That is whom she worked for.

She took a leave, I think it was a leave from her teaching position, to come to the Senate to work on the Judiciary Committee to help confirm to the Supreme Court of the United States the chief counsel for the American Civil Liberties Union, Ruth Bader Ginsburg. That is the kind of judge she has admired and worked for.

She made a speech in which she called Justice Barak of Israel, who has

been called the most activist judge in the world, her judicial hero.

I think the American people know the role of a judge. They know a judge is not empowered to legislate. They know a judge is not empowered to set policy. They know a judge is not empowered to redefine the meaning of words in the Constitution or some statute to make it say what they would like it to say in a given case that is before them. They know that is an abuse of power.

It is a violation of oath, and the American people care about it. When I talk to people, when I am in townhall meetings, people invariably ask about activist judges who are legislating from the bench. They know it is against the American view of law because these judges are unaccountable to the public. They have a lifetime appointment. They cannot be removed if you disagree with their approach. So for them to advance an ideological, philosophical social agenda from the bench frustrates democracy in a very real way, and the American people understand it.

I do not think the American people are going to hold harmless those who vote to impose a legal progressive activist legislator from the bench upon them. So I am asking my colleagues to look at this nomination carefully. Do not be a rubberstamp for the President. I am talking primarily to my Democratic colleagues now. It is your vote. It is your responsibility to make sure your constituents do not wake next year, next year, next year, and find some judge redefining the Constitution to make it say something it was never intended to say.

So do not be a lemming. Review this nomination. Be careful about it because I am afraid we have a dangerous, progressive, political-type nominee who is going to be before us. So I would call on my Democratic leadership in the Senate, let's be sure we have a good time for debate, let's not curtail it. I call on all my colleagues to come to the floor and express their views, but, most important, to ask themselves, is this nominee the kind of nominee you who will serve on the Federal bench for the next 30, 40 years who will subordinate herself and serve ''under the Constitution and laws of the United States'' as that oath says or will she feel she is just a little bit above it, and has a right to advance a social agenda or some other broader vision for what America should be that somehow Congress did not see fit to enact, the people's branch did not see fit to enact, so she should just do it anyway because Congress did not act. We should act. That is not a justification for judicial activism.

When Congress does not act, it does not act. That is a decision not to act. Courts are not empowered to set about to fix all that if they are not happy with it.

We are heading into an important period for the Congress, for the Senate. We will be looking at this nomination. The nominee was a skillful and articulate one and had a good sense of humor and handled herself in many ways well. But I think, as you hear from a number of people who studied her testimony, that it had a bit too much spin and not enough law, not enough clarity, not enough intellectual honesty to meet the high standards we should look for in a Supreme Court nominee.

We ought to be looking for the best of the best, a lawyer's lawyer, not a political lawyer, a lawyer's lawyer or a proven judge. The fact that she is not a judge is not disqualifying. But I would expect, if you are not a judge, you ought to be proven as a lawyer in the real world of law practice. This nominee simply is not. She is a political lawyer, and I do not believe she should be elevated to the Supreme Court of the United States.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Madam President, I rise in strong support of the amendment offered by my good friend from Colorado, Senator MARK UDALL. Credit unions across the country are currently restricted in the amount of lending they can provide to their members for business purposes. The Udall amendment, which I proudly cosponsor, will raise that limit. Congress should be focused like a laser on bringing unemployment down and getting the economy humming on all cylinders again. The bill before us today is part of that ongoing effort. It is a much needed, targeted bill that will help small business expand and hire.

There are many worthy ideas and important programs in the bill, from bonus depreciation to increasing the loan limits on SBA's flagship programs to providing grants to help States expand innovative small business initiatives. But a core mission of this bill was always to jump-start lending.

When I travel around New York and talk to business owners about creating jobs, the No. 1 thing they bring up is their inability to get access to credit. I believe the small business lending fund, which I vociferously supported and which the Senate approved last week, will prove to be a shot in the arm for small business, greatly increasing access to credit. I thank my colleague from Louisiana, Senator LANDRIEU, and my colleague from Florida, Senator LEMIEUX, my colleague from Washington State, Senator CANTWELL, and others, Senator SHAHEEN, for their efforts to reinstate this important fund. But we can't stop there.

Credit unions are an important source of credit for small businesses from coast to coast. They should not be neglected as we seek to improve the economy. When this idea was originally proposed, some concerns were raised about the safety and soundness of credit unions, their members, and the credit unions' insurance deposit fund.

My office worked with Senator UDALL and the Treasury Department to come up with a plan that would address those concerns. First, the cap is only raised for credit unions that meet strict eligibility criteria. To qualify, credit unions must be well capitalized, demonstrate sound underwriting and servicing based on historical performance, have strong management and policies to manage increased lending, and be approved by their regulator for the higher cap.

They must also be at or above 80 percent of their current cap, with 5 or more years of experience lending to member businesses. This means only credit unions with significant experience lending to small businesses will have their cap raised, and it is targeted at those credit unions most likely to expand their lending because they are at or near the existing cap.

I commend Mr. UDALL, the Senator from Colorado, for taking the lead on this novel approach. His amendment is a sensible compromise that successfully addresses the concerns that were raised.

Based on conservative estimates, this amendment will lead directly to over $10 billion in new lending and will create over 120,000 jobs. In my home State of New York, it will create over $750 million in new lending and create over 8,000 jobs. It does it all with no cost to the taxpayer. I repeat, the amendment does not add a dime to the deficit and will have a positive impact on GDP.

Certainly, this amendment is not a cure-all for our economy. But with small businesses starved for credit, it seems obvious to me we should be trying everything we can to increase lending to small businesses. Simply put, this amendment is a no-brainer. I urge my colleagues to support the amendment offered by my friend from Colorado.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. KLOBUCHAR. Mr. President, I come to the floor today in support of the small business jobs bill, which is moving through the Senate.

I first would like to say how much I appreciate Senator LANDRIEU of Louisiana and her leadership on this bill, as well as the members of the Small Business Committee, who have worked

incredibly hard to bring this bill to the point it is ready to get voted on.

When we first began discussing how we could help our small businesses deal with the issues they face in this difficult economy, I spent a lot of time going around my State and actually talking to those who run small businesses, who work in small businesses, to get some ideas of what would really work. That is when I heard time and time again about how they desperately need capital.

In fact, according to the National Federation of Independent Business, 45 percent of small businesses in America say adequate access to capital is their No. 1 problem. I think this is summed up well in a letter I got from a constituent of mine. He founded his first real estate company over 20 years ago, and when the market went south, he did not just tighten the hatches, he actually invested his savings in a new home staging business to help people get their homes ready to be put on the market.

Wile his new business is profitable, he still cannot get credit. In the letter to me he said:

> I have approached over 10 banks and guaranteed a loan using my building with a free and clear title, and have been turned down by every bank. The answer to growing the economy and creating jobs is getting the banks to lend to low risk entrepreneurs like me.

The great thing is, our community banks agree.

Last week on the Senate floor, I read a letter I received from Harry Wahlquist of Star Bank in Bertha, MN. As you can imagine, Bertha is not exactly a majority metropolis. Bertha, MN, is not New York City. I just want to read it again because I think it drives home the point that there is broad consensus that this bill is what we need. In this letter, the banker from Bertha said this:

> I am a banker and need capital to continue serving my nine Minnesota towns. Please pass the small business lending bill now. You gave money to Wall Street. How about Main Street in Minnesota?

That is what this bill will do. It will help Main Street. It does it with more than a number of provisions to expand access to credit. It provides for a 100-percent exclusion on capital gains taxes on small business investments made in 2009 and 2010. It increases the maximum deduction for business start-up expenses to help entrepreneurs get their businesses off the ground. It allows businesses of all sizes to write off more of their investments in property and equipment to help them grow.

Provisions like these are why this bill has such broad support. Whether it is the Chamber of Commerce or the Independent Community Bankers of America, they want us to work together to pass this bill.

We have gotten this economy off the cliff. We worked with our banks and our financial institutions 2 years ago. We also worked with the stimulus bill, with the Recovery Act. But we know the answer cannot just be government jobs. We know that. What we are looking at is how do we work with small businesses that create 65 percent of the jobs in this country? How do we work with the private sector to create jobs?

Another reason we need this bill is that it helps small businesses increase demand for their products and services. At a time of sluggish consumer spending, we need to be sure all American businesses—both big and small—have a chance to reach new customers abroad because when our companies are able to unlock new markets, they are also able to create new jobs.

Currently, the United States derives the smallest percentage of our GDP from exports compared to other major economies—the smallest percentage when we look at other economies across the world. As people in China, in India, and other countries gain more purchasing power, there is great potential for exports in this country because the people in these countries, in China and India, as they are gaining purchasing power, will become our potential customers.

More exports will mean more business, more jobs, and more growth for the American economy. So you can finally go in the store, look at the best good for the best price, and you can turn it over and it says ''Made in the USA.'' You can see that good on the shelves in China, and you can see it in India.

First and most obviously, exports allow a company to increase its sales and grow its business. Second, a diversified base of customers helps a business weather the economic ups and downs.

Currently, less than 1 percent of all American businesses export overseas. Of those that do, nearly 60 percent sell their products to only one foreign country, typically Canada or Mexico.

With 95 percent of potential customers outside our borders, and with the purchasing power they have increasing, it is clear the opportunities that lay in exporting for our businesses, large and small, are there.

But for many businesses, especially the small and medium-sized ones, the world looks like one of those ancient maps that contains only the outlines of the continent and a few coastline features, but the rest of it is a blank space of vast, unknown, and unexplored territory.

But do you know what. Thirty percent of our small and medium-sized businesses say they would like to export if they knew how, if they had the connections. In many situations, our small and medium-sized businesses have the products. They have the services. They simply cannot deal with the complexity of the international markets.

The overwhelming majority of businesses, even those that want to export, do not know about the export promotion services offered by our Federal agencies, and they do not know where to begin in order to make use of these services.

To help blunt the learning curve for these businesses, Senator LEMIEUX and I introduced legislation, which is included in this small business bill, to make sure companies have the capital and tools not only to continue exporting but to expand their reach to those 95 percent of customers who are located outside the borders of the United States.

If we really want to get out of this economic slump, we have to look outside our borders. We have to look at the customers across the world.

First of all, this bill increases the activities and staffing of the Department of Commerce U.S. and Foreign Commercial Service Officers in carrying out their mission.

Secondly, it expands the Rural Export Initiative, which helps rural businesses develop international opportunities. Every $1 invested creates $213 in rural exports. That is a return on investment. It does so by helping businesses, to prepare them for profitable growth in global markets. It focuses on locating and targeting new markets, the mechanics of exporting, including shipping, documentation, and financing.

My State is now seventh in the country for Fortune 500 companies. But these companies did not start big. Medtronic started in a garage. 3M started as a sandpaper company in Two Harbors, MN. Target started as a dry goods store in the Nicollet Mall in Minneapolis, and they grew and they grew and they grew and a lot of how they grew was exporting their products, building new stores across the world, sending medical devices to places such as China and India.

Well, do you know what. It is a lot easier for big companies to do it because they have the staff to do it. It is a lot harder for small and medium-sized companies.

I saw success in our State, a little company in southern Minnesota, near Austin, MN, Akkerman Inc., named after Darryl Akkerman, who is there now—the son of the owner. He has been named ''the trenchless digger of the year'' in the United States. He has a product, and it is a big one. He puts big steel piping underground and pushes the piping through to do trenchless digging. Guess what. Countries such as China and India that have a lot of people on the surface of their land, they do not want to dig up big trenches. They want to do trenchless digging. In the middle of a cornfield he has grown from a few dozen employees to 77 employees, all because of exports.

Mattracks, the moose capital of Minnesota, Karlstad, MN, has grown from 5 employees to 50 employees simply by driving to Fargo, ND, and meeting with a woman named Heather who is with the Foreign Commercial Service Department, and finding out what potential customers they had from Turkey to Kazakhstan.

That is what we are talking about, exports. I am so proud the small business bill includes some major provisions, the bill Senator LEMIEUX and I introduced in Commerce. We got it through the committee, and it is now on the small business bill. It is going to make a world of difference so small businesses can access a world of opportunity.

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

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

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. MENENDEZ. Mr. President, I come to the floor to strongly support the legislation before the Senate on behalf of small businesses in this country. They are the greatest generators of jobs in the country. We hear that so often from our colleagues on the other side of the aisle. This is something on which we agree. They are the greatest generators of jobs in the country. So when we are trying to get people back to work, let's help them help us collectively in putting more Americans back to work. That is what this legislation is all about.

We have talked a lot about protecting Main Street, and now this bill gives us the opportunity to do exactly that. It gives communities the guarantees they need to get lending started again, to put money into our engines of job growth, and all without any pay-go implications. That is a good bill.

I wish to thank our distinguished colleague from Louisiana, Senator LANDRIEU, the chair of the Small Business Committee, for her hard work in putting this important legislation together, as well as the ranking member of the committee, Senator SNOWE, for her work on the bill and particularly her past work with me on community development financial institutions or what we commonly call CDFIs. I am very grateful to Senator LANDRIEU, the chair, for including an important CDFI component in the bill before us.

Let me take a moment to talk about how this is an opportunity to have direct and immediate opportunities to help jump-start job growth.

It invests directly in small businesses and local communities by supporting community development financial institutions, or CDFIs, and based on what we know from historic performance—not because we are guessing but from historic performance—the provision I authored will create approximately 40,000 new jobs by authorizing the government to guarantee bonds issued by qualified CDFIs for community and economic development loans. Best of all, again, there are no pay-to implications.

As their name implies, the primary mission of community development financial institutions is to foster economic and community development in underserved areas. They have a proven track record of job creation and are arguably the most effective way to infuse capital in underserved areas for community and economic development.

CDFIs leverage public and private dollars to support economic development projects, such as job training clinics and startup loans for small businesses in areas full of potential but desperate for development.

CDFIs have been hit hard by the recession because they have had to rely on big banks for capital. We know and have seen that capital is neither affordable nor accessible and, to be honest with you, not forthcoming.

I am proud to have had bipartisan support on this provision that is included in the bill. Again, I thank Senator LANDRIEU for including it. I thank Senator SNOWE for cosponsoring it, along with Senators JOHNSON, LEAHY, and SCHUMER.

The idea is simple: If big banks don't care about lending to small businesses and communities in need of capital, then we should empower the very organizations that do care, that make it their mission every day to rebuild Main Street across this country, and that have a proven record of achievement. As I said earlier, all the calculations are based upon their historic performance, and this provision alone, within this bill, could create 40,000 new jobs.

I don't understand how our colleagues on the other side of the aisle can go back home to their States, looking at high unemployment, and rail about the realities that unemployment continues to be high and then be here in Washington stopping the very essence of what could create the jobs to reduce those unemployment levels, put people back to work, and give them the dignity of having a job that can help sustain their families and realize their hopes and dreams and aspirations. I don't get it. But that is where we seem to be. We seem to be where everything has a political equation, which is to ultimately have this President and this Congress fail, and somehow that is the road to electoral victory.

If you were just a political tactician, maybe that would make sense. The problem is, it is not about this President or this Congress failing; it is about failing the country at one of its most critical junctures in history. I hope we can see some support for this legislation.

Finally, I have often heard my colleagues talk about the home building industry. Well, I have an amendment that is out there, and I believe we should be supporting small businesses regardless of what industry they are in. The home building industry has been especially hit hard by this recession, resulting in the loss of hundreds of thousands of the middle-class, blue-collar jobs this country was built on and that communities were built on. Encouraging community banks to fund the construction of housing would not only put many of our unemployed construction workers back on the payroll, it will help revitalize the housing market, which is one of the root causes of this recession in the first place. But it would be nice to have some Republican support, to have that provision included, and to ultimately help us pass the bill, so we can get people back to work.

I hope the Republicans will join in this effort to ensure that all small businesses share in the benefits of this valuable program and this legislation. If we do that, this will be a good downpayment on getting more people back to work.

I don't know, again, how our colleagues seem to be able to go back home and rail about where are the jobs and then be here as the job killers. That is what they seem to be doing all the time—voting no, opposing process, so the creation of jobs is not achieved, so that, in fact, we can find ourselves in a situation in which the American people who are looking to this Senate to help create the circumstances in this country and the economic underpinnings to drive the private sector and create the jobs that they can work in, which will give them gainful employment and help them realize their hopes, dreams and aspirations and, therefore, have money in the economy to spend for the challenges they have and then further enhance the ripple effect of that, which will create more jobs. That is what this is about. It is about the private sector having the opportunities, but the private sector that creates the greatest rates of growth for job opportunities is small business.

I hope our colleagues on the other side of the aisle can find their way to finally come together with us on this specific piece of legislation to create jobs for our families and put America back to work.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Mr. President, I know we are awaiting the arrival of the majority leader on the floor, but I wish to say a few words as in morning business.

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

HEALTH CARE

Mr. WHITEHOUSE. Mr. President, almost every family in America has experienced the pain of a loved one who has been diagnosed with cancer. Today, I want to tell the story of the Grimes family from West Greenwich, RI.

According to the Rhode Island Department of Health, nearly 4 in every 10 Rhode Islanders will develop cancer sometime during their life. In a State as small as ours, this means almost everyone has a friend or a family member who is affected by this disease. For those of us who have been touched by cancer, directly or indirectly, those are memorable emotions. In my family, both my mother and father died of cancer.

Survival rates have greatly increased for many forms of cancer, thanks to new technology. But one form of cancer has not seen the same progress, and that is pancreatic cancer. Janet Grimes recently wrote to me about her mother Muriel who was diagnosed with pancreatic cancer this past April. Currently pancreatic cancer patients have about a 6-percent chance of living more than 5 years and about 75 percent die within the first year. These are dismal numbers.

Janet has watched this cancer deeply affect her mother's quality of life. Janet wrote me that her 82-year-old mother was active, sharp, vivacious, and living in her own home in North Carolina until this disease struck. Since then, Janet has had to move her mother to Rhode Island to care for her, taking a leave of absence from her work. In the past few months, her mother has lost 25 pounds, is frequently nauseated, and needs constant care. Janet is seeing all too clearly how devastating this disease can be. As I speak, it appears our thoughts and prayers need very much to be with the Grimes family.

Janet has authorized me to speak about what is happening in her family because she is concerned about pancreatic cancer research, that it suffers from a lack both of funding and of institutional focus, constituting less than 2 percent of the National Cancer Institute's research funding. According to the American Cancer Society, pancreatic cancer remains the fourth leading cause of cancer death overall. In fact, they estimate that in 2010, more than 43,000 people in the United States will be diagnosed with this disease, and nearly 37,000 will die.

We may not yet be able to cure this terrible disease, but there are important steps we in Congress can take. I have introduced the Pancreatic Cancer Research and Education Act to help address this funding and research gap. It is a bipartisan bill cosponsored by 20 colleagues, including 4 Republicans. It makes vital investments in research into new treatments and represents a strong Federal commitment to fight back against pancreatic cancer.

Specifically, this bill directs the Secretary of Health and Human Services to design and implement an initiative to coordinate and promote pancreatic cancer research and increase physician and public awareness of the disease. It creates an interdisciplinary committee to guide pancreatic research activities, develop an annual strategic plan, and make recommendations regarding the prioritization and award of NIH grants for pancreatic cancer research. Finally, it authorizes an NIH grant program for research institutions to develop innovative compounds or technologies for prevention, early detection, or treatment with cancers with 5-year survival rates of less than 50 percent. And, of course, pancreatic cancer is well less than 50 percent.

It authorizes the Secretary of Health and Human Services to designate two centers of research excellence focusing on pancreatic cancer research.

As I said, our thoughts and prayers this evening need to be with the Grimes family. Their story, however, is just one of many that my office has received calling for this much needed investment.

For these families and for others who will face the same dread diagnosis, we need to keep working toward advancing pancreatic research and awareness. I hope my colleagues will join me in support of this legislation.

Mr. President, I rise to speak about an important provision included in the Small Business Jobs Act that will significantly reduce fraud, abuse and waste of taxpayer dollars in Medicare. I commend the Senator from Florida, Mr. LEMIEUX, who introduced the idea earlier this year. I am a cosponsor of that legislation, and he and I have worked on it together with Senator BAUCUS. I am gratified that my colleagues have voted to include it in this bill.

Neither the public nor private sectors have done enough to detect and prevent health care fraud. The National Health Care Anti-Fraud Association estimates that private insurers and government health care programs lose at least $60 billion annually to fraud. In 2008, HHS estimated a 3.6 percent improper payment rate in Medicare fee for service, totaling $10.4 billion, and 10.6 percent rate in Medicare Advantage, or $6.8 billion. These funds should be used to provide health benefits for seniors but are squandered on criminals instead.

The Departments of Justice and Health and Human Services have taken important steps to attack the problem, creating a joint task force on health care fraud and a specialized unit—the Health Care Fraud Prevention and Enforcement Action Team—to prosecute fraud and abuse. But in a program as large and complex as Medicare, these efforts are too often hindered by technical blind spots. We can only pursue those offenders we can detect, and the volume and speed of Medicare reimbursement data too often overwhelms our ability to catch wrongdoers.

The fraud prevention provisions in this bill represent a paradigm shift in fraud detection and prevention, moving away from the ''pay and chase'' model to an environment in which fraudulent claims can be flagged and investigated before taxpayer funds are spent. The bill requires Medicare to deploy the most advanced technology at our disposal predictive modeling systems currently used in the credit card and banking industries to sift the chaff from the wheat, so to speak.

These systems can analyze significant volumes of data and identify patterns of behavior by certain providers as presenting a high risk of fraud. These claims can then be flagged for further investigation and denied if fraudulent.

In the program's first year, the system will be rolled out in 10 States that have the highest levels of waste, fraud and abuse. Ten more States will be added in the second year. The Department's inspector general will report on the effectiveness of the program at the end of each of these years. If such reports demonstrate to the Secretary's satisfaction that it saves taxpayer funds and operates correctly, the system will be expanded to Medicare claims nationwide.

We must marshal our best technical know-how to defeat the cheats and crooks that swindle the taxpayers and Medicare beneficiaries. This bill starts us down that road, and I applaud my colleagues for including it.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, on Thursday night, we had a successful vote on the small business jobs bill. It was an amendment that had been worked on for more than a week by Senator LANDRIEU and many others, including Members on the other side of the aisle. We were able to get the votes to pass the amendment—60 votes on it. Now we are back on the bill.

I was told by the Republicans who voted with us on that amendment that it was appropriate before we moved to cloture that there be amendments by the Republicans on the legislation. I conferred with Senator LANDRIEU and, because Senator BAUCUS of the Finance Committee had to provide some of the money for some of the things we did, I conferred with him.

We were told that there were three amendments they wanted to have: a Hatch amendment, one by Senator GRASSLEY, and one by the Senator from Nebraska, Mr. JOHANNS. We agreed with those amendments.

As happens around here and has for many years, when someone offers an amendment, it is very traditional to have an amendment opposite that, a so-called side-by-side amendment. I do not know what could be more fair. We have agreed to their amendments, that we would have votes on them. Our amendments are within the same subject matter of their amendments. I cannot understand why we cannot move forward in good faith on this legislation.

Both parties claim they are friends of small business. This bill gives Members of both parties an opportunity to prove that.

This bill expands access to credit for small businesses across our entire

country, cuts taxes for small businesses across our entire country, and expands both domestic and foreign markets for small businesses.

We spent the last several weeks working with Members of both parties to pull this bill together and bring us to the point we are today—on the verge of final passage. My friends on the other side of the aisle said the only thing standing between us and their support for final passage is giving them an opportunity to vote on some of their amendments.

Last week, they requested we give them votes on three amendments. I repeat, a Grassley amendment on a biodiesel tax credit; a Hatch amendment on a research and development tax credit; and a Johanns amendment on repeal of the corporate reporting requirement in the health care bill. I do not know what could be more fair than saying yes.

I am going to propound a unanimous consent request that would give the Republicans votes on all three of their amendments, with a vote on a Democratic alternative on each one of them.

In addition, I will ask for a vote on a Democratic education jobs amendment and, of course, Republicans would have an opportunity to offer an alternative to that amendment. If they truly are friends of small business, if they meant what they said last week, the Republicans should accept this request because we are, in effect, saying yes, and we would then be on a path toward completing this bill.

The only alternative we would have then, which would be disappointing for I think most everyone, is we would have, by virtue of the rules, a cloture vote sometime in the morning. I hope that is not necessary.

Mr. President, I ask unanimous consent that the pending motion to commit be withdrawn; that all pending amendments be withdrawn, except amendment No. 4519; and that the following amendments be the only amendments in order to amendment No. 4519, with no motions to commit or motions to suspend the rules are in order during the pendency of H.R. 5297; that all amendments included in this agreement be subject to an affirmative 60-vote threshold; and that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid on the table; that if it does not achieve that threshold, then it be withdrawn; that any majority side-by-side amendment be voted on first in any sequence of votes; further, that debate on any amendment included in the agreement be limited to 60 minutes each, with all time divided and controlled in the usual form:

Baucus amendment regarding information reporting provisions health care as a side-by-side to Johanns amendment No. 1099 reporting amendment; Johanns amendment No. 1099 which is on reporting; Murray-Harkin amendment regarding education funding; a Republican side-by-side to the Murray-Harkin amendment regarding education funding; Baucus amendment regarding expiring provisions, as a side-by-side to the Hatch R&D amendment; the Hatch amendment regarding R&D; Reid amendment regarding FMAP/Cobell funding; Grassley amendment regarding biodiesel; that upon disposition of the listed amendments, no further amendments be in order; that the substitute amendment, as amended, if amended, be agreed to, the bill, as amended, be read a third time, and without further intervening action or debate, the Senate proceed to vote on passage of the bill; finally, that once this agreement is entered, the cloture motions on the substitute bill be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. This is a bill which, at its core, initially had pretty broad bipartisan support. But, as sometimes happens in the Senate, it got all snarled up with a variety of other matters.

I would like to propound an alternative consent with the following explanation. When you review the record on this bill, you will find that we have had exactly two votes. One was a motion to proceed, and the other was on an amendment offered by the majority. The majority leader has filled the tree on three separate occasions on three different substitutes. In effect, we have been completely shut out on the floor in terms of amendments we wanted to offer. We basically had to ask permission to offer amendments. I don't like that kind of process, but to get things moving, we actually gave the other side copies of our first few amendments almost 2 weeks ago—2 weeks ago. We were told the other side would want alternatives to our amendments, and it took until about an hour ago—an hour ago—before they produced their amendments.

So to be clear, the majority leader moved to proceed to this bill on June 24, and since the time the bill was actually pending, the small business bill was set aside to consider six other legislative matters during that period. And although I supported a number of those other issues, the fact is, we have not had any opportunity to offer amendments.

Having said that, I believe a better way forward is as follows:

I ask unanimous consent that the cloture motions with respect to the small business substitute and bill be vitiated.

I further ask that the following amendments be in order to the Reid substitute: the Johanns 1099 repeal, the Hatch R&D, the Hatch tax hike prevention, the Grassley biodiesel, the Sessions amendment on spending caps, a Hutchison amendment on nuclear loan guarantees, a McCain amendment on border security, and a Kyl amendment on death tax.

I further ask unanimous consent that it be in order for the majority to offer a relevant side-by-side to any of the above-mentioned amendments.

Before the Chair rules, I would tell the majority leader that I will work with each of our sponsors to lock in reasonable time agreements on these amendments.

Therefore, Mr. President, I propound that alternative consent.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I am terribly disappointed, Mr. President. We have tried our utmost to be fair and reasonable, but it is obvious there is no effort here to solve the problem with small business across this country.

The spending caps in the Sessions amendment we voted on five times, at least. Anyway, we have voted on it quite a few times.

Nuclear loan guarantees. This is an amendment that is suggesting there are not enough loan guarantees for constructing nuclear powerplants. And that is probably true, but that has nothing to do with this bill. That is not small business. We are talking about tens of billions of dollars—tens of billions of dollars for one plant, and we are talking about five or six plants. So we are talking about maybe $50 billion. That has nothing to do with small business.

The McCain amendment on border security. We know that is the place they always go—''they'' meaning my friends on the other side of the aisle—is to border security. It is interesting to note that on the supplemental appropriations bill, that was one of the amendments that was on the bill we got from the House, and we agreed to do that. We said: Let's do that. The money is there. Let's do it. There was an objection from the Republicans.

So I feel so disappointed for a lot of reasons, not the least of which is small businesses in America need this help. The Small Business Administration needs what we are doing here, and community banks need what we are doing here.

I also feel badly for another reason. Senator LANDRIEU, the chairman of the Small Business Committee, has worked on this matter tirelessly for a couple of weeks. The Landrieu provision was taken out of the bill in an effort to get enough votes to pass this. She was given the assignment of getting some Republican support, and she did that. That is how we got the votes last Thursday evening, because she worked with them and we picked up two Republican votes. So I feel bad that she is not going to see the fruit of her labors unless something changes. She has done remarkably good work.

This legislation is supported by chambers of commerce and all kinds of

organizations. This is not a Democratic bill; this is one that is bipartisan. If there ever were anything that is bipartisan, it is this bill.

The estate tax? Let's be serious. We all know, Mr. President, that this is an effort to stall and not do this bill. There is no suggestion that we don't need to do something with the estate tax before we end this congressional session, but it has nothing to do with this legislation before us. We were told there were three amendments they wanted, and we agreed to take those.

So regretfully, unless someone can come up with a proposal that is something that has reasonableness in it—I can't imagine what is wrong with what we have suggested. We take their three amendments, we have side-by-sides to those and go to cloture in the morning.

I notice the consent agreement they have given us here has no time limit. I know my friend said he would work on time agreements. And even when we finish this, there is nothing that says we would even go to the bill then. This is the proverbial stall we have had all year—an effort to say no to everything we do. So I regretfully have to object.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the majority leader's request?

Mr. MCCONNELL. Reserving the right to object—and I will object—I would just say to my friend that this bill initially did enjoy bipartisan support. But where we stand today, the Democrats want to offer amendments about health care, about educational funding, about FMAP, and about Cobell funding, so we have both sides sort of piling on here.

I guess I would say to my friend from Louisiana that this is a discussion worth continuing with her counterpart, the Senator from Maine, who is our leader on the Small Business Committee, because somewhere in all of this there is a bipartisan bill, if we can structure the right kind of process that eliminates the feeling—beyond feeling, the reality of the minority getting shut out.

Therefore, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, if the minority leader will yield for a question, I appreciate how the leaders have tried to work together, although we don't seem to be getting to an agreement at this moment, but I wanted to ask the minority leader to clarify something. When he said things got snarled up, I don't know what has been snarled. The only amendment that has been offered on this bill, which was passed with 60 votes, was an amendment offered by Senator LEMIEUX from Florida, who is a Republican. It wasn't mine. I was a cosponsor, but he was the lead sponsor. It was a Republican amendment that was offered on the floor and received 60 votes. Is that what he was referring to that got snarled or was it something else?

Mr. MCCONNELL. I would just say there is now substantial opposition to the bill. I sense a significant lack of enthusiasm on the part of our ranking member. She can speak for herself, but my advice to my friend from Louisiana is that this is worth continuing to discuss to see if there isn't some way to get this bill passed in a form that is acceptable to most of the Senate.

Ms. LANDRIEU. May I ask another question? I appreciate what the Senator has said, but the ranking member has made it clear for many months now that she doesn't support—and I have great respect for her—the Small Business Lending Fund. So we actually did what we were supposed to do. We had a debate for 12 hours on the floor, and everybody got to speak. She spoke, I spoke, everyone spoke. And do you know what happened? The minority leader may remember. We got 60 votes, so we won.

Mr. MCCONNELL. If the Senator will yield for a suggestion.

Ms. LANDRIEU. Hold on. I just want to say, if that is not the process, I don't know what is. We didn't cut that deal in the back room. We told everybody what we were going to do. I stood out here for 12 hours. We voted in public. Everyone knew about it. So if that is the definition of snarled, we have a real problem.

But go ahead. Yes, I will yield for a question.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. I was going to say that those points are ones better addressed to the Senator from Maine, and she is not on the floor at the moment. I am sure, if you can discuss it—you know a great deal about it as you have worked on it together. I think you ought to continue to discuss it.

Ms. LANDRIEU. Well, I appreciate that because I do have the greatest respect for the Senator from Maine. But she has not been excited about this program. She voted no, but we got 60 votes for the program. So I think perhaps we might find a way forward.

I am going to yield in just a minute, but the minority leader said he wanted eight amendments; our side wants three. Maybe we can figure out some way to agree on five on each side and get the small businesses in America the help they need.

I don't know if the Senator from Illinois has an idea, but the Republicans want eight; we want three; let's get five.

Mr. DURBIN. If the Senator from Louisiana will yield for a question, the majority leader just said we are going to continue to work on this, but I remember yesterday, during the debate on the DISCLOSE Act, the Republican leader came to the floor and was critical of the fact that we had left the small business bill. He said: Why don't we stay on the small business bill? It is very important.

Today, we couldn't work out an agreement when we accepted the three amendments which the Republicans said they wanted to offer. We said: Fine, you may offer those three, we will offer three, and let the Senate decide.

Now the Senate minority leader, the Republican leader, comes to the floor and objects again. He can't have it both ways. He can't complain that we are killing time here on the floor instead of taking up small business and then, when we return to it, object to finishing the bill.

Right now, if I am not mistaken, we are facing a cloture vote. That will happen automatically in the morning, if I am not mistaken, on this bill, and I am hoping we can either get a unanimous consent agreement by then or some agreement by some Republicans to stand up for small business.

Ms. LANDRIEU. Yes. And I thank the Senator.

Mr. DURBIN. Is that not true? I am supposed to form a question.

Ms. LANDRIEU. I think the Senator has assessed it correctly. But we have worked in a bipartisan fashion through both the Finance Committee—and I see the Senator from Montana, the leader of that committee, is here—and through the Small Business Committee. There were a few issues that couldn't be worked out in those committees, so the idea is to bring them to the floor and get a vote. We brought the lending provision to the floor, we had a vote, and we got 60 votes.

So let's just continue to move on. If someone wants to offer an amendment to strike it and take it out—I don't think they will get that but, fine, and let's move on. It is a very strong bill.

I just want to say that the only amendment that has been adopted to this bill has been a Republican amendment—with my cosponsorship—by Senator LEMIEUX from Florida because he says he has a State full of small businesses that desperately need this help. So we are not that far apart. They want eight amendments; we want three. Maybe we can figure out five amendments that could be offered because I think the small businesses of America deserve our best efforts.

I thank the Senator from Illinois.

MORNING BUSINESS

Mr. REID. Mr. President, it appears we have reached an impasse here. I ask unanimous consent that we go into a period of morning business now, with Senators permitted to speak for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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