Increased deductions for startups: Temporary increase in maximum deduction for business startup in 2010–11. This would increase the limits to $10,000. It is bipartisan: Merkley-Alexander.

Extension of section 179: Extends small business expensing. This is supported by Senator SNOWE; it is her provision. It extends section 179 expensing provisions.

Tax equity for self-employed: Allows self-employed taxpayers to deduct health care costs for payroll tax purposes on their 2010 tax returns. Bipartisan: Bingaman-Hatch-Landrieu.

Extension of ARRA: That is the stimulus bill bonus depreciation. Bipartisan: Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez.

Small business penalty relief: Makes a penalty for failing to disclose listed transactions proportionate to the tax savings. This is bipartisan: Baucus-Grassley-Crapo.

Remove cell phones from listed property: Delists cell phones and other telecommunications devices from the category of ''listed property'' for tax purposes. Bipartisan: Kerry-Ensign.

S corporation holding period: Reduces the asset holding period for converted S corporation from 10 to 5 years: Snowe.

General business credits not subject to AMT limits: Allows small business to use all types of general business tax credits to offset the AMT liability: Grassley.

Carryback up to 5 years: Allows sole proprietorships, partnerships and nonpublic trading corporations with less than $50 million in average gross annual receipts for the prior 3 years to carry back unused credits for 5 years: Grassley.

Small business lending fund: Bipartisan: LeMieux-Landrieu. This is the one that has created all the interest all over the country, a program level of $30 billion, which by conservative estimates would lead to $300 billion in small business lending. It is not related to TARP. There are no TARP-like restrictions.

Utilizing predictive modeling to fight health care fraud: That is bipartisan: LeMieux-Landrieu.

Export promotion: Klobuchar-LeMieux, LeMieux-Landrieu. Very well accepted in the business community.

We have agriculture disaster relief. Bipartisan: Lincoln-Chambliss.

State small business credit initiative, bipartisan—developed with the support of 28 Republican Governors.

That is the bill. How could we have anything more bipartisan? That is why 80 different organizations support this legislation, including many Governors. The majority of the Governors support this legislation. Those who don't are maybe not familiar with it. But there are so many organizations that support this legislation.

Naming just a few, there are some 80 of them: Marine Retailers Association, people who sell boats; National Restaurant Association; Community Bankers for a number of States; National Small Business Association; Small Business Majority, and 76 other organizations. This is about as fair as it can be.

My friends on the other side of the aisle have indicated they want to offer some amendments. We say go ahead and do that. They can't take yes for an answer. I hope those Republicans who voted with the Landrieu-LeMieux amendment on Thursday would do so again on cloture. This is a bill that will help businesses all over America.

This bill is literally on the verge of final passage. My friends on the other side of the aisle have said the only thing standing between us and their support for final passage is giving them the opportunity to vote on their amendments. Here are the amendments they said they wanted: Grassley amendment on biodiesel; Hatch amendment on research and development; Johanns amendment on corporate reporting requirements. We said: Fine, go ahead and offer those. We will have our alternatives to those, as we do here. That is how it works. I propounded a consent that gave the Republicans votes on all three of these amendments along with the Democratic alternative.

So I wish to close by expressing my appreciation—I think I can say this without any reservation—the appreciation of the country, small businesses in America. We would not be where we are but for the work of Senator LANDRIEU and Senator LEMIEUX. Others have joined in. I had phone calls late last night with one of the most deliberate Senators. She has impressed me for so long. I got a call from Senator LANDRIEU. At her home was Senator CANTWELL, who is a truly good legislator, and the two of them worked late into the night trying to come up with support for this legislation. But it wasn't only last night. Senator LANDRIEU, as chairman of the Small Business Committee, has been tireless. I had a conversation with her today. I have been so proud of her work on the floor—great speeches that she has gotten people to give in support of this legislation.

I can remember when she was a brandnew Senator and she was working on a military issue, and the headline in a Louisiana newspaper had ''Military Mary'' because she was fighting so hard for the troops. She hasn't stopped fighting for the beleaguered State of Louisiana, which has had so many problems. But for her aggressive work on behalf of her State, that State would not be where it is today. It was doing so well when the oilspill came. But who has been out in front on the oilspill? MARY LANDRIEU.

So I am proud of her being in the Senate. She has great lineage. I have such fond feelings for her father who was a legend in his own time, but that legend has been caught by his daughter, MARY LANDRIEU. So Moon is very happy, I am sure, with her legislative skills, as he should be, and as her mom is.

So anyway, thank you very much. I see my friend, the chairman of the Small Business Committee, is here. I would ask that the Record be pretty clear that there be an hour from now until the cloture vote. So I ask unanimous consent that be the case.

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

RESERVATION OF LEADER TIME

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

SMALL BUSINESS LENDING FUND ACT OF 2010

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

The bill 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 ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour for debate prior to the cloture vote on amendment No. 4519, with the time equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each, with the final 10 minutes reserved for the two leaders or their designees, with the majority controlling the final 5 minutes.

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I wish to begin by thanking Leader REID for his very kind comments regarding the work that is going into this bill. It has been my pleasure and honor to help lead a team, actually, which the Presiding Officer has been a part of, as well as Ms. CANTWELL, the Senator from Washington; Senator MURRAY;

Senator LEMIEUX from Florida; and many others. Senator CARDIN, who I know is on the floor, is an outstanding member of the Small Business Committee and a long-time advocate of small business, serving many years in the House of Representatives, and now brings his expertise to the floor of the Senate. I like having bulldogs on my committee and he is one of them and I greatly appreciate his support.

Let me be very clear that in 1 hour, we will come to the end of a very long, important public and open debate on the best way we can help Main Street.

This bill is not about Wall Street. We have had enough of those. This bill is not about big corporations; they take up 80 percent of the agenda in this place on any given day. This bill is about the 27 million small businesses that need the Members of the Senate to stand up for them today. If we can stand up for small businesses today, they will stand up for us and lift this country out of the worst recession since the Great Depression. I want to repeat that. It will not be the big banks that do this. It will not be the big international firms that do this. As it always has been since the beginning of America, since the first small business, the first enterprise, it will be small businesses that create jobs.

For 1½ years, this debate has been going on—not 1½ weeks, not last month, but for 1½ years we have been debating, as we should as Senators, about the best way to do that. There have been differences of opinion. There have been two primary committees focused on building this package, including the Finance Committee, which has put forward in a completely bipartisan fashion a $12 billion tax cut package for small business. The leader just spoke about some of those provisions this morning. The chairman of that committee, MAX BAUCUS, has been to the floor on several occasions to explain the extraordinarily significant tax cuts I will mention. I will mention only one.

For a decade, Members on both sides of the aisle have been trying to get the self-employed in America to have parity with other businesses when it comes to health care. Madam President, the Chair knows that her State of New York is full of self-employed people. Do they get the same tax break as General Electric? No. Do they get the same tax break as General Motors? No. These individuals who are self-employed pay more for their health care than big corporations. Is that right? No. We tried to help them in the health care bill, and we could not. We didn't give up the fight. They are in this bill—a $2 billion tax cut for the self-employed. That is just one of the good tax provisions.

Senator REID read off the list, and I will share it with you because I know there are going to be critics coming to the floor, and unfortunately some people will vote against cloture. I hope most people are smart enough not to. If some of them do, I want them to know we have widely distributed this red line document to every news outlet in the country. We have distributed it to many, many organizations. There are over 70 organizations supporting this. This is what we call our red line document. So there is no confusion, the most wonderful thing about this document is that it is just four pages. It is very easy to read. There are not 40 pages. It is not 4,000 pages. There are no special deals. It is all here, and it is all bipartisan.

I am going to read some of the names associated with the bill: Kerry-Snowe-Menendez; Snowe; Merkley-Alexander; Snowe; Bingaman-Hatch-Landrieu; Grassley; Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez; Baucus-Grassley-Crapo; Kerry-Ensign and 72 bipartisan cosponsors equally divided between Democrats and Republicans; Snowe; Grassley; Grassley.

If somebody comes to the floor and says this bill doesn't have bipartisan support, they might want to answer why their names are here: Landrieu-Snowe; Snowe; Snowe-Landrieu; Snowe-Merkley; Landrieu-Snowe; Landrieu-Crapo-Risch; Snowe; Landrieu-Nelson; Snowe-Pryor; Snowe.

I don't know how many more items a Senator can have in a bill. Senator SNOWE wrote lots of pieces of this bill. LeMieux-Landrieu; LeMieux; LeMieux-Landrieu; Klobuchar-LeMieux; LeMieux-Landrieu; Cantwell-Boxer-Murray. That lists just a few.

So we bring a bipartisan bill to the floor, and then we have a 12-hour debate on one amendment, the first amendment, which is a Republican amendment by Senator LEMIEUX and myself—it is LeMieux-Landrieu-Nelson. Both Senators from Florida have been extraordinary in their advocacy for this. We had a public, open vote, and we got 60 votes. So now the small business lending provision is in this bill, which makes it even better, even greater, and equally bipartisan. If some people aren't happy with that—I don't write the rules of the Senate. I showed up, and that is what the rules were. If you got 60 votes, you got your amendment on the bill.

There are other Members who are coming to speak. I want to just say this has been a very vital debate. This is the time for us to say yes to Main Street. There are literally millions of business owners who not only want this package to pass, they need it to pass. If it passes now, they might be able to hold on. They might be able to create the jobs that are necessary. It is now our chance to deliver a bipartisan bill that will help 27 million small businesses on Main Street.

In conclusion, we have spent a lot of time helping big auto manufacturers from Detroit. Today, we can help that repair shop in our neighborhood. This is about corner stores. This is about small banks. Are we going to vote for them or are we going to leave them high and dry?

I see the chairman from the Finance Committee, who I think is scheduled to speak. I also see the Senator from Maryland. I will soon yield to the Senator from Maryland, a member of the Small Business Committee, to say a word, and then we have the time under our control. I am sorry, the Senator from Washington is here. I didn't see the Senator. I was blocked. I apologize. I see the Senator from Washington and the Senator from Montana and the Senator from Maryland.

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

Mr. HATCH. Madam President, I believe I was next.

Ms. LANDRIEU. I thought we had the first half hour and the Senator's side had the second, but I understand now that it is back and forth.

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

Mr. HATCH. Madam President, I rise to express my frustration and disappointment with the decision of the majority leader yesterday that seems to have effectively precluded Republicans from offering amendments to the small business lending bill that is before us today.

Let's understand one thing. Since the health care bill, we have not marked up one bill in the Finance Committee. That is just not right. These bills have been brought to the floor through a rule XIV parliamentary procedure without the impetus and agreement of all of us who are on the Finance Committee. I am not going to blame anybody for that other than to say I don't think that is the proper way to do things. Then we get here on the Senate floor and the majority leader fills up the amendment tree so that neither Republicans nor Democrats have a chance to amend this bill.

Having said that, let me say that the majority leader has put forward this small business lending bill in an ostensible effort to help the economy create more jobs. Of course, this is what every Senator on both sides of the aisle wants to see happen. This is what every American wants to see happen. Yet once again we are faced with an ''it is my way or the highway'' attitude in dealing with this legislation.

Let me be clear. The small business lending bill before us includes many positive provisions. I commend those who have put them in there. It has a number of tax provisions that I fully support and that Republicans and Democrats alike believe would be helpful to small business growth.

Yet, I do not believe that any Member in this Chamber truly believes that this bill would do enough to solve our job creation problem. This is because it ignores the main problems that are afflicting the economy and preventing the kind of job creation that we need right now.

This is exactly why Republicans want to improve this bill. Many parts

of the bill are fine as far as they go. But, again, they do not go nearly far enough.

One of the amendments the Republican leader was trying to get permission to offer to this bill is a motion I would like to make to commit this bill to the Finance Committee with instructions to report it back to the Senate with an amendment to address the biggest problem facing small businesses at this time. And that problem is the threat of the largest tax increase in history that is due to hit this country like a monster tsunami in just 155 days.

In just over 5 months from now, on January 1, a good share of America's most prolific potential job creators—small businesses that generally employ between 20 and 500 workers—are going to face large tax increases unless Congress acts to stop them. The problem is that President Obama and many of his allies in Congress have already made it clear that they have no intention of stopping these increases.

The President called on the Senate yesterday to pass this legislation to help small businesses so they can create jobs. But, ironically, he and his supporters just cannot seem to see that their support for allowing these massive tax increases to hit these fastest growing small businesses will do far more harm than the good that could come from this bill as it now stands.

The bill before us, while well intentioned, misses the boat.

The real problem that this bill does not address is that the threat of these tax increases, combined with the other business unfriendly changes this Congress has recently passed, have created such an atmosphere of uncertainty in this country, that no one wants to take the jump and risk their capital on new business ventures or expansions. These other changes include the recently enacted financial regulation bill, the tragically misguided health care bill from earlier this year, and the menace of a monstrous climate bill that still hangs over our heads.

Let us briefly review what it takes to create a private sector job in our economy. First, we need an entrepreneur—a risk taker. Second, we need an idea. Third, we need some capital. Finally, we need some certainty so that the risk the entrepreneur is facing is manageable.

We have plenty of entrepreneurs in our economy. America has always had these, and they are a big part of what has made this country great. We also have lots of good ideas for new businesses. This is another area in which our Nation has never lacked.

We also have lots of capital in our economy. Studies indicate that banks are flush with money and corporations have more cash on their balance sheets that at any time in the past 50 years. Investors have money too and are just waiting for the last ingredient.

And that last ingredient is what is missing. A degree of certainty that the business climate will begin to improve, or at least not get any worse. This means stable tax rates, a manageable level of regulation, and customers who are not worried about the future.

But if we have a situation, as we have now, where the investors and entrepreneurs cannot see any real stability, risk taking freezes up. Everyone decides to stand on the sidelines and wait it out and see how things look in a few months, or next year.

The result of this inaction is that the new expansion to the manufacturing plant is put on hold, the bank loan is not extended, and the new equipment is not ordered. The result, of course, is that the new job is not created, and everyone stands and waits.

Many of my friends on the other side of the aisle and in the administration seem to be puzzled as to why the economy has not yet started to create the jobs we so desperately need. After all, the huge stimulus bill that they pushed through last year was supposed to solve these problems.

A very big part of the reason for this lack of jobs is this terrible uncertainty, which has a corrosive effect on the economy. We need to add the lubricating oil of lower taxes, fewer regulations, and certainty to the engine of economic growth.

Instead, we have been adding the acid of uncertainty to the engine—uncertainty about higher taxes, uncertainty about a worse regulatory climate, and uncertainty of what might come next. It is small wonder that the engine is not working as it should.

What little certainty that might have existed in the recent past has surely been evaporating because of the President's broken pledge to not raise taxes on those making less than $200,000 per year and the Democratic leadership's obvious willingness to allow these huge tax increases to go into effect for millions of Americans.

This attitude is often excused by the misguided belief that the ''rich'' are not paying their fair share of taxes and need to contribute much more to the Treasury.

Many of our colleagues forget that a high percentage of new and small businesses, where most of the new jobs are created in a recession, pay their taxes as individuals. This means that attempts to make the so-called rich pay more will backfire and harm the very people our liberal colleagues are trying to help—those who desperately need employment.

This is not so much a question of fairness as it is of economic reality. If we raise the top rates on individuals, we raise tax rates on small and growing businesses and stifle them from fulfilling their job-creation potential.

According to the Joint Committee on Taxation, tax increases on those making more than the limits the President has pledged to protect will attack one-half of all small business income. Owners of these small businesses, as well as those who want to invest and start new enterprises, are frozen on the sidelines. They are not going to take the risk as long as these tax increases are hovering on the horizon. As long as they do not act, they will not create those jobs.

Let us look at the calendar. We simply do not have the time to pass small Band-Aid bills when the patient—our underperforming economy—needs a blood transfusion. We need to address the real problems facing our economy, not play around at the edges. Our first job should be to reduce the uncertainty that is throwing sand into the cylinders of the job creation engine of small businesses, and the first step of this is to remove the threat of these huge tax hikes.

Let us assure investors, entrepreneurs, lenders, and other players in the job creation machine that we will not raise taxes in 5 months. Let us dispel these clouds of uncertainty and let the private sector do what it does best—innovate and create and put America to work.

Having said all that, it is important for me to add to this discussion a few other points.

Dr. Christina Romer, Chair of the President's Council of Economic Advisers, in last month's issue of the ''American Economic Review'' said this:

> . . . tax increases appear to have a very large, sustained, and highly negative impact on output.
>
> . . . [T]he more intuitive way to express this result is that tax cuts have very large and persistent positive output effects.

Senator KENT CONRAD, our great Budget Committee chairman—and he is also on the Finance Committee—had this to say:

> As a general rule, you don't want to be cutting spending or raising taxes in the midst of a downturn.

That was in the Wall Street Journal on the 23rd of this month.

He also said:

> In a perfect world, I would not be cutting spending or raising taxes for the next 18 months to 2 years. This downturn is still very much with us, unfortunately.

He said that on CNN on the 26th of this month.

Senator BEN NELSON from Nebraska ''supports extending the expiring tax cuts at least until the economy is clearly recovering and supports addressing them before the fall elections.''

Senator EVAN BAYH had this to say:

> And so raising taxes right now—

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. HATCH. Madam President, I ask unanimous consent that I be given 1 more minute.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAUCUS. I object unless—it is off his time. Fine. I do not object.

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

Mr. HATCH. Senator EVAN BAYH said:

And so raising taxes right now would be the wrong thing to do because it would dampen consumer demand and lessen business investment.

''We're not creating jobs, and raising taxes now would not be a great idea,' Rep. Michael McMahon, a New York Democrat, said this week.''

This is a quote from the Wall Street Journal on July 21:

Martin Vaughan and John McKinnon: ''Bush Tax Cuts Split Democrats.''

''Rep. Bobby Bright, a Democrat facing a tough reelection race in Alabama, said tax increases, even if limited to the wealthiest families, could imperil the recovery.''

This is a quote from The Hill newspaper on July 22:

Alexander Bolton: ''Democrats may stop Bush-era tax cuts for wealthy from expiring.''

''I think the recovery is sufficiently fragile that we ought to leave tax rates where they are,' said Rep. Gerry Connolly, a freshman Democrat from Virginia. Connolly said Democrats should not allow the 2001 Bush tax cuts to expire for anybody.''

Again, a quote from The Hill newspaper on July 22:

Alexander Bolton: ''Democrats may stop Bush-era tax cuts for wealthy from expiring.''

The leader of the Federal Reserve, Dr. Ben Bernanke, said: ''In the short term I would believe that we ought to maintain a reasonable degree of fiscal support, stimulus for the economy . . . There are many ways to do that. This is one way.''

I do not blame the distinguished chairman of the committee because we have not marked up these bills. I blame the leadership here for not realizing that is why we have a Finance Committee, to mark up these bills and let both sides have a chance to make them better if they can.

We all have an interest in spurring small businesses and getting the economy going. Bringing these important bills right to the floor and bypassing the Finance Committee, and then doing what has been done on every bill since the health care bill and even before—locking up the parliamentary tree so we cannot have a reasonable shot at even putting up some amendments—is not the way to do business. It is not what creates the bipartisanship we need right now in our Senate.

I wanted to make that point and hope we can change our ways so the Senate will be what it ought to be—the greatest deliberative body in the world.

I thank my colleague from Montana for granting me additional time. I appreciate him as leader of the Finance Committee. I enjoy working with him, and I enjoy working with my colleagues on the other side. But my gosh, let's stop this business of locking up the tree on everything and not debating the way we should, not giving people half a reasonable shot of bringing up their amendments, and, above all, let's start marking up these very important bills in the Finance Committee.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, I know other Senators have risen before me, so I will be very brief. I will take a minute. The Senator from Washington is next. I thank her for her indulgence in letting me take 1 minute.

This is very clear: The American people want us in Congress to do their work. They want us to do something that is reasonable and makes sense. Most Americans are not way off on the left side, and they are not way off on the right side. They are basically in the middle and do a good job.

Most Americans would want us to help small businesses in a good way, in a solid way—maybe not in the exact way each American would want but in a good, solid way. This bill clearly does that. It does what the American people want.

Small businesses generate jobs. They are the small engine of growth. We need to help small businesses. This bill does that. It cuts taxes for small businesses. It gives lending authority for small businesses. There are many other provisions I do not have time to explain that help small businesses.

This is not some small Band-Aid bill. This is a bill that makes sense for small businesses. It provides certainty to small businesses. It helps them. We cannot solve all the world's problems in one bill, but we can certainly help small businesses in this bill.

I can say—and I am pleading, frankly, with a few Republican Senators who have not quite decided how they are going to vote on this cloture vote—this is a good bill, a solid bill, a start in the right direction. Let's pass it. Let's not get hung up on who said what to whom, caught up on debating points, and come across like kids in a sandbox. Let's pass this bill. It is a good bill. It is good for America.

We can deal with other issues, such as the expiring tax cuts, another time in the future. But right now this is small business. It is solid. It is getting done. It is going to help people. That is what people want us to do. They want us to do the right job. I urge us to pass this bill.

I yield 5 minutes to my good friend from Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, on Tuesday, I came to the floor to voice my support for this bill by telling the stories of small business owners in every corner of my State who have struggled so hard to get credit since this recession began.

I talked about people who were driven by their passions, who want to grow their businesses, who want to hire, but who have been stymied by the lack of credit flowing from our banks.

I talked about the drivers of our economy and job creation. But if small businesses are the driver of our economic recovery, then our community banks are the engine. Right now we all know that engine is in neutral. That is because for far too long, our community banks have been ignored in our economic recovery.

Since this recession began, we have seen banks fail one after another, lending dry up to our small businesses, and job growth suffer. While Wall Street institutions, such as AIG and Goldman Sachs, were deemed ''too big to fail,'' the collapse of our community banks has apparently been ''too small to notice.''

Last year, I introduced the Main Street Lending Restoration Act which would have directed $30 billion to help jump-start small business lending. That is why I have spoken with Secretary Geithner and President Obama about this directly and why I have been pushing so hard to make small business lending a priority.

I have felt very strongly that we have to focus more on our community banks if we want to make progress and bring true recovery to our Main Street businesses. It is why I am so proud to stand here today and support this bill. I thank Senator LANDRIEU and others for working with us in creating the Small Business Lending Fund and the State Small Business Credit Initiative.

This Small Business Lending Fund takes the most powerful idea from my Main Street Lending Restoration Act and sets aside $30 billion to help our local community banks—those that are under $10 billion in assets—to help them get the capital they need to begin lending to our small businesses again. It is going to reward the banks that are helping our small businesses grow by reducing the interest rates on capital that they get under this program, and it will help our small support business initiatives run by our States across the country that are struggling because of local budget cutbacks. And, as Senator LANDRIEU has told us, it will save taxpayers an estimated $1 billion.

It is a bill that should have broad support and, in fact, it does from small business groups of all stripes, community bankers, and so many others across this country who have found common cause with this bill.

Once again we are finding ourselves faced with opposition from the other side. Once again a commonsense bill that will save taxpayers money is being held hostage by political calculation. I think an editorial in yesterday's Seattle Times on this bill summed up some of the frustration in living rooms and communities across the country very well on the obstruction we see every day.

The editorial first noted the importance of this bill we are considering by saying:

Economic recovery is all about jobs. And American consumers, who help power the economy, are spending less in the shadow of a shaky employment market. Small banks lending to small businesses puts people to

work. Access to credit is key. Helping Main Street rekindles hiring, boosts consumer confidence in overall economic conditions, and fuels the recovery.

That is how the editorial started. It went on to say this is ''part of a larger package of legislation for small business and Main Street America that has attracted scant Republican interest or support.''

Then the editorial briefly, but very accurately, summarized what I think so many in our country are thinking when they return home from pounding the pavement, looking for work only to turn on their TV to see that a bill such as this is blocked from consideration. It said:

Nothing should be more nonpartisan than putting people back to work.

It is a line that speaks volumes in this Chamber because it is a line that truly represents how so many of our constituents feel. This is a nonpartisan bill. This is a bill that puts credit back into the hands of our small business owners. It puts people back to work. And nothing should be more nonpartisan than putting people back to work.

I urge all of our colleagues to listen to the voices of their constituents and small business owners. Support this cloture motion. Let's get this sent to the President.

Quickly, I do want to say that I worked very hard to include funding in this bill to help save over 130,000 teacher jobs. Again that effort has been blocked by Republican obstruction.

I remind all of us, every day we see more reports about the continuing wave of layoffs affecting our school districts. This is not just about school districts. It is about losing teachers, and it may be the only teacher who touches a child in their classroom. It is about kids in every one of our States. We need to be sure we do not lose focus of this issue.

I am going to continue to fight to ensure that our teachers return to the classrooms and our kids have the best instructors in September.

Again I thank Senator LANDRIEU for her tremendous work on this bill.

Ms. LANDRIEU. Madam President, how much time is remaining on our side?

The ACTING PRESIDENT pro tempore. There is 8 minutes 36 seconds remaining.

Ms. LANDRIEU. The Senator from Maryland has been on the floor for almost an hour. May he have the next 3 minutes? I see the Senator from Maine who could then speak after him.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Madam President, I thank Senator LANDRIEU for her incredible leadership and work in regard to the Small Business Jobs and Credit Act of 2010. This is the work of the Small Business and Entrepreneurship Committee and the Finance Committee.

As Senator LANDRIEU pointed out, it has been the work of Democrats and Republicans working together on many important provisions to help the small business community. It truly is a bipartisan bill. It is a critically important bill. I, quite frankly, do not understand why there are those who want to oppose us getting this done.

It contains many provisions that have been brought to us by the small business community that we need to get done. We all profess and understand that the growth engine of America is in small business. That is where new jobs are created. Sixty-four percent of the net nonfarm new jobs are created by small businesses.

Innovation is the way for America to stay on the cutting edge. More patents and more copyrights are created through small businesses per employee than a larger company.

This bill is about creating jobs for Americans who desperately need them. This legislation combines many bills reported out of the Small Business Committee. I say congratulations to Senator LANDRIEU and Senator SNOWE. These are bills that both of them worked on together that are important for us to get done.

Let me just summarize some of the important bills that came out of our committee that are included.

We helped small businesses with international trade, leveraging $1 billion of export capital. This alone will affect 40,000 to 50,000 jobs. We deal with government contracting. We have had hearings—I had a hearing in the State of Maryland on behalf of the Small Business Committee—where small business companies pointed out how difficult it is for them to access the government procurement system. So our committee went to work.

Thank you, Senator LANDRIEU; thank you, Senator SNOWE. We went to work and reported out a bill that is incorporated that deals with the abuses of bundling. Bundling is when the agency puts together a lot of small contracts into a large contract where a small company can't compete for it. We have taken action to correct that in this bill so that small companies can access government procurement in an easier way.

We started to attack what is known as prime contract abuse, where prime contractors don't pay their small contractors on time or abuse their small contractors, which are more likely to be small businesses. That is dealt with in this legislation.

We deal with gender equity by investing in the Women's Business Center. As Senator LANDRIEU has pointed out, working with the Finance Committee, we deal with tax equity. Business owners can deduct the cost of health care for their families in calculating the self-employment tax. This is a matter of fairness for small business owners to be treated equally with larger companies; to be able to increase the amount of startup costs that can be deducted from $5,000 to $10,000.

These are all important issues. If you are a small business owner struggling to make payroll or to keep your doors open, this help could be the difference between hiring another employee or not.

Lastly, Madam President, it deals with credit. It extends credit to small businesses. We all talk about that.

The ACTING PRESIDENT pro tempore. The Senator has consumed 3 minutes.

Mr. CARDIN. I ask unanimous consent for 1 additional minute.

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

Mr. CARDIN. The credit provisions are critically important. We make permanent the SBA guarantee programs—90 percent guarantees, the cost reductions, the 7(a) limits from $2 million to $5 million, the 504 limits from $1.5 million to $5.5 million, the microloans. We boost lending, by that alone, in the first year by $5 billion. Then, as our chairman has talked about, the State programs are funded as well as the community bank programs.

I want to mention one additional point, if I might. I am disappointed the surety bond extension is not in this bill. I will work with the chairman of the Small Business Committee and the Finance Committee to make sure we find a way to include that in the American Recovery Act. We increase that from $2 million to $5 million. It deals with small construction companies.

It is very important because for State and Federal contract projects over $100,000, you need to have a surety bond. If you are a small business owner, what you need to pledge in order to get that surety bond can deny you credit in the market. We have to extend that to the $5 million that was included in the Recovery Act, and I feel confident, after talking to the chairman, that we will find a way to get that done.

The bottom line is this is a critically important, well-balanced bill that will help small businesses. This is our opportunity to vote for it. In half an hour, we will have a chance to decide whose side we are on. Are we on the side of small business owners, to help this economy recover, or are we just going to continue this partisan division in the Senate? I hope my colleagues will vote on the side of small businesses.

With that, Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. SNOWE. Madam President, all I can think of, in listening to the Senator from Maryland, is if we could have limited this legislation before the Senate to the provisions we agreed to on a bipartisan basis—in fact, many of which passed unanimously in the Senate Small Business Committee—clearly, we would be in a far better position than we are today. That is the regrettable dimension to the situation we are facing procedurally in the Senate.

I know from the majority side there is not an inclination to accommodate

the rights of the minority, but that is the tradition in the Senate. The majority rules, but you accommodate the rights of the minority. That is the essence of what the institution of the Senate is all about.

I regret we are where we are today in the Senate on this issue that I have been championing since January of this year. It seems to me we are all worried about the legislative train running out of the station. If we are all concerned about the limited time we have available to address the issues of small business and job creation, which are the foremost issues in the United States of America, I would have suggested—and I did and I asked and I pleaded—that we should have addressed this issue in January, at the outset of the legislative session, not, at the end of July, when we are about to recess for August.

So everybody is worried about the recess. We only have 1 week left. Well, that is right. What do we know today that we didn't know earlier? Jobs and the economy are the foremost issues facing the country, facing Americans. If it took several months to address those issues, then we should have taken several months to address those issues. But now we are faced with a procedural impasse because we are being denied the opportunity to offer some amendments to this legislation.

Now, you would think we ran out of time. We didn't run out of time. We didn't run out of time. We had 81 days this year—81 days—in which we did not have rollcall votes; 81 days excluding weekends and Federal holidays, all through yesterday, when we didn't have any recorded votes. We could have addressed this issue long before now, given it the attention it deserved, rather than treating it as a mere afterthought in the legislative process that we have to ram through here and deny the minority the opportunity to offer a few amendments. That is all we are asking.

Now, you think we just dropped this bill on the floor of the Senate yesterday? This bill was on the floor more than 3 weeks ago. How many amendments have we been able to offer on this bill on our side? Zero. I will give them the lending facility that was offered by Senator LEMIEUX. But, obviously, that was an amendment the majority wanted. I recognize the Chair here, and that was one of her major issues, an area in which I disagreed in creating a $30 billion lending facility. But we have not been able to offer any amendments.

We have had this bill on the Senate floor for 3 weeks. We have had three substitutes—three substitutes. No amendments. No amendments. Then yesterday, no votes on anything. We could have been finished with this bill by now, if you had given the minority the right to offer a few amendments. We are shutting down this process, Madam President, denying the opportunity to debate the foremost issue facing America—creating jobs. We have a 9.5-percent unemployment rate. We need to create jobs in America.

As illustrated last month, only 83,000 jobs were created in the private sector, and we are saying we don't have time to address this issue? It is not only frustration, Madam President, it does a disservice to the American people. They know better. We have had plenty of time to address this issue. This bill has been on the floor of the Senate for 3 weeks and we have had three substitutes and 81 days that we have had no rollcall votes. We had no rollcall votes yesterday. Then, suddenly, what appeared last night was that we have a substitute and we have side-by-sides, or alternatives, to Republican amendments. No opportunity to review them, no opportunity to have a discussion or to reach a true unanimous consent.

The majority has said we have a unanimous consent agreement, but actually it is an ultimatum to the minority—take it or leave it. So we had no opportunity to review these alternatives because they were just filed. Actually, the amendments were not even filed. The majority leader posed them in his unanimous consent agreement that we either had to accept or reject. There was no opportunity to have a discussion yesterday. How could we reach an agreement, maybe on several amendments that would be important to this legislation, Madam President?

So we had four amendments that were filed on the majority side, and now we are faced with a cloture vote today at 10:40. Why are we rushing to a cloture vote? Why don't we spend more time talking to each other to get the policy right? Is it something that we are not familiar with anymore—how to sit down and talk to one another, to discuss the issues?

What are the alternatives the majority provided in the unanimous consent agreement that wasn't a consent agreement because nobody talked to anybody about it? Well, it is adding issues that were in the supplemental. It is basically taking the supplemental, the tax extenders bill, fiscal assistance to the States, education funding, and agricultural appropriations disaster funding that is actually in the new substitute that was filed. Those are the alternatives that have been offered to this bill.

So this has become a mega bill. It is a mega supplemental, it is a mega tax extender bill, it is now an agricultural disaster bill on the small business bill. So if we were to take the issues that we agreed to on a unanimous and bipartisan basis in the Senate Small Business Committee, we could have had 75 to 80 votes. But that wasn't sufficient for the majority. It wasn't sufficient.

So here we are today with a cloture motion—take it or leave it—because we only have 1 week left. Well, why do we have 1 week left? Why don't we take as long as it requires to do what is right, to try to get the best policy to create jobs in America instead of facing this figurative legislative brick wall that is artificially contrived? It is all political theater. It is not about legislating anymore. It is all political theater. It is scoring political points. It is all for the next election, which is coming very shortly. It is not about getting the right policy for America—for small businesses that are suffering, for the 8 million who have lost their jobs, the nearly 15 million who are a part of that, with the underemployed who are desperate and who need certainty.

The House is adjourning tomorrow. So where is this legislation going? This was supposed to be a jobs agenda legislative session. That is what we were told by the majority. That is what we were told by the President of the United States. I said back in January—I sent letters to the President, to the Small Business Administrator, to the majority—saying let's do it now. I had a major initiative that I filed in early March, and I was asked by the majority leader to defer because he said we were going to be addressing this on the floor of the Senate before the April recess.

Well, according to my calendar, we are at the end of July, and here we are. We are not even going to get done before the August recess because the House is adjourning tomorrow. So we have to get this done. So we are going to ram it and jam it and take it or leave it, but we are not going to be able to offer any amendments on this side. We are not going to be allowed to offer any amendments because the majority is going to dictate the will of the minority on a few amendments.

Madam President, this is unacceptable. I regret this. I deeply regret this, as one who has worked across the political aisle. I wish more would do it on both sides—look at the policy and see what is right and what works. Now we are talking about these side-by-sides offered by the majority last night—the night before a cloture vote. We filed a cloture vote on the third substitute that has disallowed any amendments to be offered by the majority; the third substitute in the third or fourth week this bill has been pending. The third substitute was filed on Tuesday and we are having a cloture vote at 10:40 this morning, Madam President, with no amendments because the majority is going to tell us what amendments we can offer. But they are going to offer plenty of amendments that aren't even related to the small business bill.

Enough is enough. This has been anything but a jobs agenda. The American people are suffering. I suspect we will all go home and talk to our constituents. What do you think is happening on Main Street? Yet here we are, all for jobs. Oh, but by the way, we are going to offer the supplemental that we dropped last week.

Last week, before we voted on the lending facility amendment, I deferred my remarks on the lending facility out

of deference to one of our colleagues on the other side. I never made my final arguments because we went to the supplemental. They stripped everything and sent it to the House. Now they are taking all the rest of it and putting it in this package on top of tax extenders, the fiscal assistance and education funding? They are talking billions and billions. $40 billion here, $20 million there, all that added to the small business bill.

For what purpose? Is that the way we legislate? Well, the American people know. They know it. They can see through this masquerade. They see it all the time. They know it. That is why they have lost confidence. That is why we are at a historic low, Madam President, in terms of public approval. It is a disgrace for this institution. It is a disgrace and a shame, and I am speaking as one who has worked mightily across the political aisle for more than 30 years, in both the House and the Senate. My career and my legislative record is replete with examples of bipartisanship. I think this is nothing but a disgrace and a shame and I regret that—more than anything else, for the people who are suffering in America in every one of our communities. We all know better.

We had no votes yesterday. It was possible to sit down and talk and see what unanimous consent request could be agreed to between the minority leader and the majority leader. But, no, we decided we are going to forgo all that. We are going to play a political game. Isn't this nice, offer these side-by-sides so the American people should know there are so-called alternatives to whatever the majority would allow us to offer. It is a sad commentary because two-thirds of the American people disagree with the direction we are going.

But more than anything else, they need jobs to support their families. I supported the unemployment benefit extension, much to the consternation of the minority leader and others on this side, because they wanted to pay for it and I would have preferred to also, but I knew that would not be acceptable on that side. But I was willing to do it because I didn't want to put people in the terrible position of making a choice in their lives about how they are going to put food on their table. I have talked to people in Maine. I talk to my constituents and I listen, so that is why I supported it, because I thought it was important to do it for the American people, and I hope there could be some reciprocity here, to do what is right for America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. The Senator from California.

Mrs. BOXER. Madam President, what the American people want from us is for us to work together. They don't want partisan political attacks. Here is what is so strange about this particular partisan attack we have just heard. The Senator from Maine said she wants a chance for her side to have ''just a few amendments.''

I ask unanimous consent to have printed in the RECORD the offer made by the majority leader to allow that. Any of the amendments they wanted, the other side wanted, matched by amendments we wanted. I ask unanimous consent to have that printed in the RECORD.

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

Leader: Mr. President, I ask unanimous consent that the pending motion to commit be withdrawn, and all pending amendments be withdrawn except #4519, and that the following amendments be the only amendments in order to amendment #4519, with no motions to commit or motions to suspend the rules 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 upon the table; that if it does not achieve that threshold, then it be withdrawn; that any majority side-by-side amendment be voted first in any sequence of votes; further that debate on any amendment included in this agreement be limited to 60 minutes each; with all time equally divided and controlled in the usual form:

Baucus amendment re: information reporting provisions health care as a side-by-side to the Johanns 1099 reporting amendment; Johanns amendment 1099 reporting; Murray/Harkin amendment re: education funding; Republican side-by-side amendment re: education funding; Hatch amendment re: R&D; Reid amendment re: FMAP/Cobell funding Grassley amendment re: 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 and bill be withdrawn.

Mrs. BOXER. Madam President, I also work across the political aisle. I worked with Senator SNOWE on the Passenger Bill of Rights. I worked with the former Senator Smith on guns in the cockpit. I worked with Senator ENSIGN on afterschool, I worked with Senator INHOFE on highway bills, on WRDA bills. We all work across the aisle and I too compliment the Senator from Maine for standing with us on some very tough votes. But I have to say—she is asking for a bipartisan bill?

Let me read the sections of this bill and I ask unanimous consent to have this printed in the RECORD.S

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

H.R. 5297 – Small Business Jobs Act of 2010: SBC Provisions		
Proposal	**Description**	**Underlying Provisions**
Small Business Access to Credit	• Increases limits on SBA 7(a) loans from $2 - $5 million, 504 loans from $1.5 - $5.5 million, and microloans from $35,000 - $50,000; allows 504 loans to be used to refinance short-term commercial real estate debt into long-term, fixed rate loans; extends SBA-ARRA provisions to provide a 90 percent guarantees on 7(a) loans and fee waivers for borrowers on 7(a) and 504 loans until 12/31/10. • SBA estimates the loan limit adjustments will **increase lending to small businesses by $5 billion** within the 1st year of enactment.	**Bipartisan:** Landrieu-Snowe (S. 2869) Snowe (S. 3103) *S. 2869 Passed SBC 17-1*
Small Business Trade & Export Promotion	• Improves the SBA's trade and export finance programs, elevates the Office of International Trade, expands the export finance specialist counseling program, establishes a State Export Promotion Grant Program (STEP), and strengthens coordination between federal/state export agencies and SBA resource partners. • Leverages more than $1 billion in export capital for small businesses, creating/saving as many as **40,000 - 50,000 jobs in the U.S.** in 2010.	**Bipartisan:** Snowe-Landrieu (S. 2862) Snowe (S. 3103) *S. 2862 Passed SBC 18-0*
Small Business Contracting	• Establishes stricter federal contract bundling requirements, ensures prompt payment of subcontractors, requires an aggressive review of SBA size standards every five years, and allows small businesses to team to compete for large federal contracts. Also places all federal restricted competition contracting programs on equal footing and clarifies that no program has priority over any other, and establishes a Mentor Protégé Program for the HUBZone program. • Increasing contracts to small businesses by 1 percent could create **more than 100,000 jobs.**	**Bipartisan:** Snowe-Merkley (S. 1489) Landrieu-Snowe (S. 2989) Landrieu-Crapo-Risch (S. 3190) *S. 2989 Passed SBC 18-0*
Small Business Management & Counseling	• Allows SBA to waive or reduce the non-federal share of a WBC's or Microloan Intermediary's funding requirement for a period of up to 1 year, through FY12. • SBA estimates that the microloan program **will create or save more than 10,000 jobs** in FY11.	**Bipartisan:** Snowe (S. 3103) Landrieu-Snowe (S. 3165)
Small Business Disaster Loan Improvements	• Allows small aquaculture businesses to receive SBA Economic Injury Disaster Loans (EIDL) if no other Federal disaster assistance is available.	**Democrat:** Landrieu-Nelson (S. 2731)
Small Business Regulatory Relief	• Requires Federal agencies to officially respond to regulatory comments filed by the Chief Counsel of the SBA's Office of Advocacy and also establishes the Office of Advocacy as a line item in the SBA's annual budget.	**Bipartisan:** Snowe-Pryor (S. 3024) Snowe (S. 3103)

H.R. 5297 – Small Business Jobs Act of 2010: Tax Provisions

Proposal	Description	Underlying Provisions
100% Exclusion of Capital Gains Tax	• Allows investors in small businesses to take a 100% exclusion from capital gains taxes on small business investments made in 2010. **Cost: $517 million.**	**Bipartisan:** Kerry-Snowe-Menendez (S. 78) Snowe (S. 3103)
Increase Deduction for Start-Up Expenditures	• Temporarily increases the maximum deduction for business start-up expenditures in 2010 and 2011 from $5,000 to $10,000, subject to a $60K threshold. **Cost: $230 million.**	**Bipartisan:** Merkley-Alexander (S. 1402)
Extension of Sec. 179 Enhanced Small Business Expensing	• Extends the Sec. 179 expensing provision that allows small businesses to immediately expense up to $500,000 (up from $250K) for tangible personal property and up to $250K for improvements to leasehold property and retail property. **Cost: $2.2 billion.**	**Republican:** Snowe (S. 3103)
Tax Equity for the Self-Employed	• Allows self-employed taxpayers to deduct health care costs for payroll tax purposes on their 2010 tax returns. **Cost: $1.96 billion.**	**Bipartisan:** Bingaman-Hatch-Landrieu (S. 725) Grassley (H.R. 5297)
Extension of ARRA Bonus Depreciation	• Extends ARRA provisions that allow businesses to immediately write-off 50% of the cost of capital expenditures for 1 additional year for qualifying property purchased and placed into service in 2010. • Extends ARRA bonus depreciation provisions that include a modification allowing long-term contractors that use the percentage-of-completion method of accounting (PCM) to elect bonus deprecation on property whose depreciation term is less than seven years. **Cost: $5.5 billion.**	**Bipartisan:** Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez (S. 3515)
Small Business Penalty Relief	• Would make the penalty for failing to disclose"listed transactions" proportionate to the tax savings for the transaction. **Cost: $176 million.**	**Bipartisan:** Baucus-Grassley-Crapo (S. 2771)
Removes Cell Phones from Listed Property	• Delists cell phones and other telecommunications devices from the category of "listed property" for tax purposes. **Cost: $411 million.**	**Bipartisan:** Kerry-Ensign (S. 144) *72 bipartisan cosponsors*
S-Corp Holding Period	• Temporarily reduces the asset holding period for converted S-Corporations from 10 years to 5 years. **Cost: $70 million.**	**Republican:** Snowe (H.R. 5297)
General Business Credits Not Subject to AMT Limits	• Allows small businesses to use all types of general business tax credits to offset AMT liability. **Cost: $1 billion.**	**Republican:** Grassley (H.R. 5297)
Carryback Up to 5 Years 2010 General Business Credits	• Allows sole proprietorships, partnerships and non-publicly traded corporations with less than $50M in average gross annual receipts for the prior 3 years, to carryback unused credits for 5 years. **Cost: $107 million.**	**Republican:** Grassley (H.R. 5297)

H.R. 5297 – Small Business Jobs Act of 2010: LeMieux-Landrieu Amendment		
Proposal	**Description**	**Underlying Provisions**
Small Business Lending Fund	• Establishes a voluntary capital purchase program under which Treasury purchases equity in small banks under $10 billion. • Banks repay at a dividend rate that decreases as their small business lending increases; the decreased dividend rate can be as low as 1%. • Not at all related to TARP, and there are no TARP-like restrictions. • Program level is $30 billion which by conservative estimates, will lead to $300 billion in small business lending.	**Bipartisan:** LeMieux-Landrieu (H.R. 5297)
Utilizing Predictive Modeling to Fight Health Care Fraud	• Utilizes similar technology that the credit card industry uses to prevent fraud from taking place. • Credit card companies often call customers after a purchase that appears out of the ordinary. This is done to prevent payment of a fraudulent transaction from taking place. • The same process would be implemented in fighting Medicare and Medicaid fraud.	**Bipartisan:** LeMieux (S. 2128) *15 Bipartisan cosponsors* LeMieux-Landrieu (H.R. 5297)
Export Promotion	• Small Business Export promotion bill that enhances export assistance programs operated by the Department of Commerce. • Adds 80 U.S. and Foreign Commercial Service Officers. • Temporarily increases funding for the Rural Export Initiative (REI), ExportTech program, Market Development Cooperator Program (MDCP). • Requires that small businesses be receive priority consideration for awards made through the Manufacturing Extension Partnership (MEP) & Technology Innovation Program (TIP). • Encourages collaboration between the Department of Commerce and state export assistance agencies. • Requires a report on tariff and non-tariff barriers for small businesses seeking export opportunities in Colombia, Panama and Korea.	**Bipartisan:** Klobuchar-LeMieux (S. 3084) LeMieux-Landrieu (H.R. 5297)

H.R. 5297 – Small Business Jobs Act of 2010: Other Provisons

Proposal	Description	Underlying Provisions
Agriculture Disaster Relief	• Provides assistance for any agricultural losses on crops that occurred in 2009, including specialty crops, livestock, sugar, aquaculture, cottonseed, and poultry. • Would distribute $1 billion in supplemental direct payments to producers with minimum 5-percent losses in production, including: $42M in cottonseed assistance; $25M in aquaculture assistance; $21M to a Hawaiian sugar cane cooperative; $75M to poultry producers; $50M for livestock producers; and $300M for specialty crop producers. • Any state that has a county that was declared a primary disaster county in 2009 is eligible.	**Bipartisan:** Lincoln-Chambliss

State Small Business Credit Initiative	• Provides $1.5 billion in grants to States to support small business lending programs. States apply for the funds to be used for approved programs that leverage private lenders to extend up to $15 billion in credit to small businesses and manufacturers.
	• Allows States to build upon successful models for state small business programs, including capital access, loan participation, collateral support, State-run venture capital, and credit guarantee programs:
	  • **Capital Access Programs (CAPs):** CAPs, which are already up and running in over 20 states, are loan portfolio insurance programs, where states provide a matching contribution to bank loan loss reserves when lenders extend credit to qualified small businesses. These reserve enhancements allow lenders to take slightly more risk in expanding credit to new borrowers.
	  • **Collateral Support Programs:** Help businesses struggling to get credit because the value of the collateral they hold has fallen. These programs, which set aside funds to augment collateral the borrower already holds – provide banks greater confidence in extending credit to these borrowers.
	• Funds are allocated to the States using formulas based on certain State employment and unemployment rate data.
	• States have nine months to apply for the program and if a state does not apply, the largest municipalities of a state can apply.
		Bipartisan:
		Developed with the support of 28 Republican and Democratic Governors
		Warner-Levin

Mrs. BOXER. The first amendment written by Landrieu-Snowe; the second, Snowe-Landrieu; the third one, Snowe-Merkley; the fourth one, Snowe-Landrieu; the next one, Landrieu-Nelson; the next one, Snowe-Pryor—and on and on.

The next section: Merkley-Alexander. We all know Senator HATCH worked with Senator BINGAMAN on many of these. Senator GRASSLEY is involved in this, Senator BROWNBACK is involved.

I have to say, of all the bills we have taken up, this is the most bipartisan. I think that to make a process argument now is a shame.

Let me read some of the groups that support this bill, even though the Senator from Maine doesn't like it. Let me tell you where you are. The U.S. Chamber of Commerce: Pass this bill; National Federation of Independent Businesses: Pass this bill; the U.S. Hispanic Chamber of Commerce: Pass this bill; the Black Chamber of Commerce: Pass this bill; the National Association for the Self-Employed; the Small Business Majority—and on and on.

I ask unanimous consent to have the entire list printed in the RECORD.

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

SUPPORTERS OF THE SMALL BUSINESS LENDING FUND (SBLF)

American Apparel and Footwear Association; American Bankers Association; American International Automobile Dealers Association; Arkansas Community Bankers; Associated Builders & Contractors; California Independent Bankers; Community Bankers Association of Alabama; Community Bankers Association of Georgia; Community Bankers Association of Illinois; Community Bankers Association of Kansas; Community Bankers Association of Ohio; Community Bankers of Iowa; Community Bankers of Washington; Community Bankers of West Virginia; Community Bankers of Wisconsin; Conference of State Bank Supervisors; Fashion Accessories Shippers Association; Financial Services Roundtable; Florida Bankers Association; Governors of Michigan, Ohio, Colorado, Connecticut, Illinois, Massachusetts, Pennsylvania, New Mexico, New York, North Carolina, Oregon, Washington, West Virginia.

Heating, Air conditioning & Refrigeration Distributors International; Independent Bankers Association of Texas; Independent Bankers of Colorado; Independent Community Bankers Association of New Mexico; Independent Community Bankers of America; Independent Community Bankers of Minnesota; Independent Community Bankers of South Dakota; Indiana Bankers Association; International Franchise Association; Louisiana Bankers Association; Maine Association of Community Banks; Marine Retailers Association of America; Maryland Bankers Association; Massachusetts Bankers Association; Michigan Association of Community Bankers; Missouri Independent Bankers Association; National Association for the Self-Employed; National Association of Government Guaranteed Lenders; National Association of Manufacturers; National Automobile Dealers Association.

National Bankers Association; National Council of Textile Organizations; National Marine Manufacturers Association; National Restaurant Association; National RV Retailers Association; National Small Business Association; Nebraska Independent Community Bankers; Pennsylvania Association of Community Bankers; Printing Industries of America; Small Business California; Small Business Majority; Tennessee Bankers Association; Travel Goods Association; Virginia Association of Community Banks; Women Impacting Public Policy.

Mrs. BOXER. Madam President, the Senator from Maine is right when she says we have to move to help this economy, and this bill is one of the answers. That is why it has such broad support. Republicans and Democrats across the country support this, Independent voters support this, small businesses support this. The only group that is filibustering this bill happens to be the Republicans in the Senate. I am telling you, if they say no again, they are hurting this economy.

I yield the floor.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Ms. LANDRIEU. I understand the leadership has 5 minutes each, equally divided.

The ACTING PRESIDENT pro tempore. The time remaining currently belongs to the Republican leader. There is 5 minutes, followed by the majority leader.

Ms. LANDRIEU. That is fine. Thank you. I would like the minority leader to go ahead. It is his 5 minutes, and I will reserve the last 5.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, I had the opportunity to hear the distinguished Senator from Maine, a few moments ago, speak on the measure before us and how it has seemed to become completely enmeshed in the political agenda of the other side. I commend her for her efforts to get this bill right. Senator LEMIEUX was on the floor earlier, another one of our colleagues on the Republican side who worked long and hard to get this bill across the finish line.

But I must say, it takes a lot of effort to make a partisan issue out of a bill that should have broad bipartisan support. You have to go out of your way, as Senator SNOWE pointed out, to make a small business bill controversial, but our friends on the other side have managed to pull it off.

They have outdone themselves. We got this bill in late June. This is July 29. Since then, the Democrats have set it aside six separate times to move on to something else. So, from the beginning, this bill clearly was not a priority to them until they realized they didn't have anything to talk about when they go home in August. I think one Democratic Senator put it best when he suggested this week that a midterm campaign that revolves around his party's agenda and that of the White House is a losing proposition for the majority.

He was summing up their strategy on this bill. They knew they could not run on a record of job-killing taxes, burdensome new regulations, massive government intrusions and record deficits and debt. So what do they do? What do they do? They create an issue where there is none. That is what this debate is all about.

It was clear from the beginning there was a path for this bill to pass with a very broad bipartisan majority. Instead, we are standing here this morning looking at a third version of a bill and we have yet to engage in any substantive amendment process. They have been adding either controversial or completely unrelated matters to the bill—all to avoid any real debate and to avoid voting on Republican amendments.

This bill now has over $1 billion in agricultural spending in it. It has $1 billion in agricultural spending in a small business bill, in the core bill—the most recent version of the core bill. As I said, we have been on this since June 29.

Republicans have asked for a total of eight amendments. That is about two votes a week if we had been on this bill. That is not too much to ask.

It is obvious what is going on. They wanted to make this an issue so they have something to talk about other than their failed economic policies. The President made that clear 2 weeks ago when he accused Republicans of blocking this bill, a statement every single fact checker in town has shown to be false. So they can try to deflect attention all they want, they can manufacture a legislative impasse—and that is what has happened here, a manufactured legislative impasse—but the American people know what is going on. Nearly every major piece of legislation this Congress has considered has had painful consequences for small business. Nearly every major piece of legislation this Congress has considered has had painful consequences for small business. Attempting to create a controversy is not going to hide that from anyone.

Hopefully, if cloture is not invoked, we can return to the original intent of this bill, strip it of its controversial add-ons and pass a small business bill that attracts broad bipartisan support and helps American small business owners. Given the legislative record of this Congress, they could certainly use the help.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. We have 5 minutes left; is that right?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I yield 4 minutes to my friend from Louisiana.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I would like to respond directly to the minority leader because I wish to make clear that there are no extraneous provisions in this bill other than disaster relief for farmers. The last time I checked, they were small business owners, many of them. They are running a

different kind of business. It is not a hardware store, it is not a restaurant—they go out and actually get their food out of the ground. The last time I checked or thought about it, they were small businesses.

If the minority leader is suggesting there is not bipartisan support for agricultural disaster relief, I urge him, at his next available opportunity, to file an amendment to repeal it because I think his side would have strong objection to that. That was put in at the request of Senator LINCOLN and Senator CHAMBLISS from Georgia, and he very well knows that—through the Chair to the minority leader.

There were only two arguments made this morning against this bill because it was just a political advertisement that the minority leader outlined, so I will not even respond to him, to the Senator from Kentucky, but I will respond, in closing, to Senator SNOWE and Senator HATCH.

Mr. HATCH came to the floor, the Senator from Utah, and said we couldn't possibly pass a $12 billion tax cut for small business today unless we could, as a Senate, in the next few hours, make final decisions on whether to extend the entire tax package passed by George Bush when he was President 8 years ago. I think that is a big lift for the Small Business Committee. We want to give $12 billion of tax cuts today. I hope people will vote for them.

Second and finally, Senator SNOWE does deserve the last reference on this because she is an outstanding Senator, one of the finest I have ever worked with, but this issue is a public debate between those of us who support the Small Business Lending Fund and those who do not. She does not support it. She has made excellent arguments. Her arguments are given merit. We voted on it, but we got 60 votes.

Senator REID, I know, has the last minute and he has been outstanding in this, but, please, there are only two legitimate arguments. We cannot solve extension of all the tax cuts in the next 2 hours. Our small businesses have picked up enough weight. They cannot handle that weight. If we don't give them some help now, today, many of them are not going to be here, I want the Senator from Kentucky to know, when we show up in September.

I yield the last minute to the leader.

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

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam 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. REID. Madam President, let me bring all of the Senators up to date as to where we are.

A member of the minority indicated that that Senator would vote for cloture if we took out a provision we put in, the agricultural disaster relief. So after having conferred with a number of Senators on both sides of the aisle, I have agreed we will take that out. With that provision not in the bill it got 60 votes on Thursday night, that same provision. But even to show good faith, which I am not sure it is necessary, but to show we are going to go the extra mile, I will not only agree to take out that extra provision but also have the same amendments we asked for yesterday; that is, the three amendments the Republicans wanted, which are the Johanns, Hatch, and Grassley amendments. I will be more specific on the legislative language in a minute. So we would take the agricultural disaster relief out and have the same amendments we had yesterday and offer the same amendment we had.

I don't know how we could be more fair. In fact, a number of my Members think we should go ahead with this, but we are willing to do that.

Madam President, I ask unanimous consent that Title 4, part 3, under substitute B, be stricken; and that the pending motion to commit be withdrawn, and all pending amendments be withdrawn except No. 4519, as amended, 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 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 upon the table; that if it does not achieve that threshold, then it be withdrawn; that any majority side-by-side amendment be voted first in any sequence of votes; further, that debate on any amendment included in this agreement be limited to 60 minutes each, with all time equally divided and controlled in the usual form:

Baucus amendment regarding information reporting provisions health care as a side-by-side to the Johanns 1099 reporting amendment; Johanns amendment 1099 reporting; Murray/Harkin amendment regarding education funding; Republican side-by-side amendment regarding education funding; 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 and bill be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. Madam President, reserving the right to object, let me first compliment my friend the majority leader. I think we are beginning to make some real progress here toward making a bill that was initially bipartisan bipartisan again. This doesn't quite get back to where I had hoped we could get, but I think we are making progress.

Therefore, I would encourage my Members to oppose cloture on the vote, but we are going to continue the discussion. This is only 11:30 on Thursday. I think we are getting closer to getting where we may be able to do some business and get this bill out of here, but there will have to be some amendments on our side. Actually, I think our friends on the other side knew it would have to be more than three. I appreciate the movement in the direction with the three, but that would not be enough, at least for this juncture right now, to be satisfactory. Therefore, I object.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. My frustration is pretty high. I cannot possibly understand how my friends on the other side of the aisle could vote against cloture. We have agreed to take out the provision dealing with agricultural disaster—take it out. We have agreed to have the amendments they have indicated they have wanted for days. We have agreed to do that. It is unreasonable.

Some people said, Well, why don't you talk to Senator MCCONNELL. I have talked to Senator MCCONNELL. It is obvious that no one on the other side of the aisle wants this bill to pass. I am so disappointed.

We are going to have this cloture vote in a minute. I hope Senators on the other side of the aisle understand the good faith we have engaged in. This is not a victory for Democrats or a defeat for Republicans; it is an effort to help small business. It is an effort to help small business. I went over line by line what this does for small business. It is miraculous. Hundreds of thousands of jobs—not tens of thousands—will be created with this legislation.

I appreciate the chairman of the Small Business Committee leading this effort. I understand that I said Lincoln-LeMieux; of course I meant Landrieu-LeMieux when I spoke earlier. I am not going to mention Republicans by name, but there are some Republicans who have stepped forward, and I appreciate it very much. Again, it is not for my appreciation, it is for the appreciation of the American people. Look what this message will send. We have at least 80 groups, entities, which support this legislation. Major small business conglomerates support this legislation. This is all they have. We shouldn't leave here and not complete this legislation. It would be too bad. This should not be partisan.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Madam President, we turned to this bill initially on June 24. We have left it six times over the

last month. There is widespread agreement on a bipartisan basis that we should pass a small business bill. We are finally making some progress. It has become less a political instrument and more the initial bill, as Senator SNOWE has been asking us to do for quite some time. I think we should continue to discuss it after the vote.

It is only 11:30 on Thursday. I think there is a chance we may be able to make some significant progress very soon. In the meantime, we should go ahead and have the vote. The majority leader and I can continue to try to unsnarl this problem and see if we can move forward.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. There is nothing to unsnarl. We have agreed to take out the offending provision that Senators on the other side of the aisle said they wanted out. I took it out. They wanted to offer amendments. I have agreed to let them offer amendments. There is nothing snarled. There is only an effort to stop passage of this bill.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Madam President, the majority leader is graciously giving us three amendments. What I am saying is three amendments is not enough, and he knows that. So we are not expecting to have an unlimited number of amendments, but three amendments will not suffice.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, could I ask the minority leader a question, please. Will he yield?

Would the minority leader be willing to say how many amendments might be enough? The Senator from Maine, the ranking member, said a few. The Senator from Florida—if I could finish—the Senator from Florida, Mr. LEMIEUX, said he thought it would be fair if there were four or five. We have offered three. Is there any sort of possibility—because that would help us get even further.

Mr. MCCONNELL. Is that a question?

Ms. LANDRIEU. Yes.

Mr. MCCONNELL. I will tell my friend from Louisiana that is the sort of thing the majority leader and I work on every day, is to try to determine the number of amendments, and we ought to continue to try to do that.

Ms. LANDRIEU. Madam President, let me press for a minute on this question, because with all due respect to the minority leader, until we can finally agree on that number, it is going to be hard to figure out a path forward. So my question to the minority leader is, so we can do this in a more public way——

The ACTING PRESIDENT pro tempore. The Senate has a cloture vote at this time.

Mr. MCCONNELL. Regular order.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Reid-Baucus substitute amendment No. 4519 to H.R. 5297, the Small Business Lending Fund Act of 2010:

Harry Reid, Max Baucus, Edward E. Kaufman, Amy Klobuchar, Mark R. Warner, Jeff Merkley, Jack Reed, Jon Tester, John D. Rockefeller IV, Dianne Feinstein, Daniel K. Akaka, Sherrod Brown, Barbara A. Mikulski, Patty Murray, Jeff Bingaman, Debbie Stabenow, Bill Nelson, Carl Levin.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 4519, offered by the Senator from Nevada, Mr. REID, to H.R. 5297, the Small Business Lending Fund Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 58, nays 42, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—58

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

NAYS—42

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brown (MA)	Graham	Reid
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Wicker

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Madam President, I ask unanimous consent that the cloture motion on H.R. 5297 be withdrawn.

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

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, we have had a very enlightening debate this morning on the floor that started at 9:30. It has been continuing until now. The good news about this debate is that although we did not win on this vote—cloture was not invoked—Main Street is still winning and we are alive. We are still standing. Earlier this morning, the two leaders came to the floor and said—basically agreed—that if we can have a few more amendments, what I heard the minority leader say, the Senator from Kentucky—the minority leader said a few more amendments, we could then bring some help to Main Street.

Main Street has been waiting for a year and a half. We have had bill after bill, amendment after amendment. What I heard this morning from the minority leader was very positive. He said: All we need is just a few more amendments. I asked what ''a few'' was. Was that two or three or four or five? That answer never came. I am assuming that ''a few'' is a few, and if we work hard over the next few hours and come up with a few, Main Street could win because this bill is about Main Street and businesses on Main Street. It is not about Wall Street. It is not about big banks. It is about small community banks and the small businesses in our country that are desperate for help.

This bill has $12 billion in tax cuts for small business, not big business. This bill has a $30 billion lending program that is voluntary, with no restrictions for small banks, not big banks. This bill is supported by over 70 organizations. I would like my colleagues on the other side to know that the chamber of commerce and the National Federation of Independent Business are supporting this bill. Chambers and community bankers all over America are supporting this bill. And we are two votes from passage.

Mrs. BOXER. Madam President, will the Senator yield for one question?

Ms. LANDRIEU. I very much would like to yield to the Senator from California for a question.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I am just asking a question through the Chair. This is the time of the Senator from Louisiana.

I have watched the Senator from Louisiana make a case for this bipartisan bill day after day, and I have heard her lay out why we should come together, Republicans and Democrats, to do something right for small businesses that create 62 percent of all jobs. It is astounding to me that we could not get even one Republican to join with us today. But I do have hope. As we speak, we see the majority leader and the minority leader discussing amendments.

I want to ask my friend two questions. The Senator from Maine gave a very impassioned speech saying that the Democrats were the ones who were stopping this legislation. She said all we needed to do was offer ''a few'' amendments to the Republicans.

My first question: Is it not true, I say to my friend who is managing this bill, that, in fact, the majority leader, HARRY REID, did offer the other side a few amendments—clearly did before this cloture vote? And the second question is whether my friend would be willing to share with our colleagues and the people who are engaged in this debate how this bill is perhaps the most bipartisan bill ever to come out of any committee. I know my friend gave me that information—title after title after title containing the names of Republicans and Democratic Senators.

So if she would answer those two questions, No. 1, when the Senator from Maine says that our leader did not offer a few amendments to the other side; isn't she incorrect? And, No. 2, isn't this one of the most bipartisan efforts to come out of any committee?

Ms. LANDRIEU. I would like to answer the Senator from California by saying the record will speak for itself because that vote we just took, there were 59 Senators, all on this side of the aisle, who pushed a green light, and there were 41 on the other side who pushed a red light. So it is very clear who is trying to move forward and who is trying to stop this bill. It is very clear.

I don't think there is anyone, even in the press, confused about that because this debate, amazingly, has been so open. So much of it has gone on on the Senate floor that they can actually follow it. These deals are not being done in back rooms; they are being done right here on the Senate floor, and they are following it. They know there are 70 organizations, and they know this bill is bipartisan.

I am just going to read the names, not the provisions, that the Senator was asking about: Landrieu-Snowe, Snowe-Landrieu, Snowe-Merkley-Landrieu-Crapo-Risch, Snowe-Landrieu, Landrieu-Nelson, Snowe-Pryor.

And let's continue: Kerry-Snowe-Menendez, Merkley-Alexander, Snowe, Bingaman-Hatch-Landrieu-Grassley, Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez, Baucus-Grassley-Crapo, Kerry-Ensign—there are 72 cosponsors that Senators KERRY and ENSIGN put on this bill—SNOWE, GRASSLEY.

For the ranking member to come and suggest that there are not enough bipartisan amendments, let me continue. There are more: There is LeMieux-Landrieu, NELSON is on this one, LeMieux-Landrieu-Nelson-Klobuchar.

This bill came out of the Finance Committee and the Small Business Committee with bipartisan support. One of the things we couldn't agree on was the Small Business Lending Fund. I understand the rules; I have been around here 14 years. So we had a vote on it. You know what. It got 60 votes. The Small Business Lending Program got 60 votes on the floor of the Senate after it passed the House of Representatives.

When I was in school, I learned that once a bill was passed, it comes to the Senate, they pass it, and it goes to the President for signature. Maybe there are some people who don't want that provision to go to the President for signature. I understand that. But we got 60 votes on the bill, as the Senator from California knows.

So here we are. The other side is very good about hiding behind pages. They bring out these big pages of bills and they say: We don't know what is in it, and we can't tell. So I sent the four pages in my hand to all the press organizations today. It is just four pages. Anyone can read this. They are on my Web site and lots of other Web sites. There are just four pages. That is all that is in the bill—all small business items.

There was an agricultural provision that was in the bill that I actually support. Senator LINCOLN put it in the bill, along with Senator CHAMBLISS. But you heard the minority leader say this morning that he didn't think farmers were small businesspeople. I will let him explain that to the farmers in Kentucky. But he said he did not think the provision for the farmers had anything to do with small business. Maybe he hasn't been in a seed store lately, or maybe he hasn't been where people purchase hay and supplies. Maybe he hasn't been to a John Deere dealership, but they sure are all over Louisiana and Arkansas.

Mrs. BOXER. Would the Senator yield?

Ms. LANDRIEU. I yield for a question.

Mrs. BOXER. Of course. I just have one more question for my friend.

We hear every Senator—Democratic, Republican, Independent—say the biggest issue before us, the biggest one is jobs—jobs, jobs, jobs. When my friend goes home, I know she has to deal with the oil disaster and still rebuilding after Katrina. In California, we have our series of deep problems in tough, tough times. But she knows that whatever we do here we have to push forward with policies that create jobs, and we have to keep our eye on the deficit.

So my friend has brought forth a bill, along with Senator BAUCUS and many Republicans—because she just went through the many bipartisan provisions—that will leverage $30 billion into $300 billion from the private sector. If we turn that into jobs, we are talking thousands and thousands of jobs created by the innovators, the small businesspeople who have gotten no help. That is why my friend has the sign ''Main Street.'' We have to help Main Street.

So I want to ask in the form of question, and then I will leave the floor at that point: Isn't this a bill that is desperately needed by our small businesses? Aren't our small businesses the creators of jobs? Is this bill not paid for? And won't this bill deliver the kind of policy that will allow for job growth through growth of small businesses that are solid, with community banks that are solid? Isn't this bill just what we need to do before we leave to go home and be with our constituents in August?

Ms. LANDRIEU. Absolutely, the Senator is correct. I am glad I have this chart to answer her question because she has been representing the State of California beautifully for so many years. She knows this without me showing it, but 81 percent of the jobs lost in America are from small business.

So when the other side complains and complains and just flaps and flaps and flaps all day long about it is a jobless recovery, we have a bill on the floor to create jobs from small business and they say no. That vote today was a ''no'' vote to give help to small business. They can color it, paint it any way they want. That is what it was.

We know this recovery is having a hard time with jobs. I am going to yield in a minute because there are eight other Senators on the floor who want to speak on different subjects, so I will conclude with this. This isn't MARY LANDRIEU information. This comes from the monthly national employment reports from 2008 to 2010—the job losses with small business.

That crew over there on the other side of that aisle can't run fast enough to help big business, to help Wall Street. But when it comes to voting to help small businesses that are bleeding jobs, they want to run and hide off the floor.

The minority leader said a few amendments. I would like to know how many is a few? Is it three, is it four, is it five, is it six? Let's get a deal done today. I would just as soon do it here, out in the open, but I guess that is not the way things are done here.

So I will yield the floor and let other Senators speak about judges and other things that have to be done because there are other problems in the world. This isn't the only one. This is a big one, but it is not the only one.

I will end with this sign because this is what this debate is about. It is about Main Street. You are either for it or you are against it. It is about as simple as that.

When I became chair of this committee, I said: We are going to fight hard for small business, and I asked the chamber the other day: How many of your members are small businesses? They said: Senator, you would be surprised. It is 96 percent of the members of the chamber.

I asked: Are you all standing up for this bill? They said: Yes, we are. So I thank the chamber and I thank the NFIB. I feel like I am Alice in Wonderland. Most of the time they are on that

side, but this time they are on our side, and we can't get the Republicans to vote.

Finally, the Senator from Utah came to give a feeble argument this morning. He said he could not vote for it because we haven't debated the entire extent of the Bush tax cuts. That is a big debate that we need to have, but we don't have to have it on this bill. These people can't take any more waiting. They have had enough. We can handle that debate on another day, on another bill, but not on this one. So I would suggest to the Senator from Utah that he has quite a few amendments on this bill, and of the few amendments we might have, he may have two.

Mr. DURBIN. Will the Senator yield for a question.

Ms. LANDRIEU. I will yield.

Mr. DURBIN. I see the Senator from Florida is here, but I wanted to ask a question through the Chair.

Is it my understanding that we have been debating this small business bill, which has come out of the committee the Senator from Louisiana chairs, for quite some time now? Isn't this the second week, or maybe even longer? Is it true the other side objected to a provision in the bill because it related to agricultural disaster assistance in a few States?

Ms. LANDRIEU. Yes.

Mr. DURBIN. The Senator from Louisiana argued that farmers are small businesspeople too. So it is not unreasonable to include it. But we decided, in an effort to get a bipartisan agreement on the bill, that we would remove the section they objected to. Then they came in with a list of three amendments and said they wanted to offer these three amendments, which have maybe a loose connection with small business but not much more of a connection, and we said: Fine, you can offer those three amendments, and we will offer three amendments, and let's go and get this done. Then they came back and objected again.

So isn't it correct that right now we are trying to get to a point where we are providing credit to small businesses all across the United States through good sound banks, and that credit will help these small businesses survive and hire more employees, and we are being stopped by the Republicans in our effort to help small business? Is that what is happening?

Ms. LANDRIEU. That is exactly what it looks like. The Senator from Illinois has described it accurately. If anybody believes he has not described it accurately, let them come to the floor because he has described the truth. He has said the truth.

So I am going to yield right now because others wish to talk, but I thank the Senator from Illinois. This battle is going on, and we intend to win it for Main Street. I hope the other side will get their short list of a few amendments together pretty quickly.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, before the Senator from Louisiana leaves the floor, I just want to say that this issue is very simply characterized as Main Street versus Wall Street. It is a question of whether we are serious about reviving this economy and getting money into the hands of small business through community banks. Anybody voting no on a motion to invoke cloture to go to a bill that is ready to be embraced is inexcusable.

This legislation is critical to getting small businesses back on their feet. That is certainly the case in my State of Florida. It gets the credit flowing again on Main Street through the community banks.

The statistics about small business and jobs is all too familiar. Small businesses create most of the jobs in this country. In the last 15 years, they have created 12 million jobs or two-thirds of the American jobs that have been created. When the economy falters, guess who takes it on the chin the hardest? Small business does. Over the past couple of years, small firms have accounted for between 64 and 80 percent of net job losses. So it is time for us to step up and help them.

For example, in Florida, small businesses play an even bigger role in the local economy. According to the Small Business Administration, small business employers account for 99 percent of the State's employers and provides for nearly half of the State's private sector jobs. Just when it looked as though things could not get worse for small businesses—and especially so in our State—along came the tragic explosion of the Deepwater Horizon platform, and our seasonally adjusted unemployment was 12 percent, representing in our State 1.1 million people out of work in a labor force of 9 million.

We have not yet gauged the full impact of that oil spill on Florida's economy, but there is ample evidence that it is the small businesses that are the ones that have been hurt the worst and the ones who have had to lay off the jobs as a result of that oil spill.

There was a study done by Dun & Bradstreet that found that the impact of the spill on Florida tourism, boating, and fishing industries—these businesses located along the gulf coast—is going to affect 46,000 businesses, with almost 300,000 employees and $14 billion in sales volume. One of the key features of this legislation and another main reason why we need to pass it is that Small Business Lending Fund. It sets up the voluntary capital investment program, under which the Treasury Department can purchase up to $30 billion in equity from small banks, those whose total assets fall under $10 billion. Although the fund is set at $30 billion, conservative estimates indicate it will lead to $300 billion in new small business lending. This is the economic shot in the arm that so many States need, including ours. I cosponsored the amendment that was added to this overall small business bill that put the lending facility back in the bill.

It is an overlooked feature of the legislation that it actually provides $56 billion in tax relief for small businesses over the next couple years. Upfront tax relief comes in the form of early tax writeoffs for investments in new equipment, new machinery, and new construction. That is all a part of this small business bill. Together with the tax breaks, the targeted tax incentives, and the lending fund, we have a package that is exactly the type of relief small businesses need today. We need to jump-start them and that is what this bill accomplishes.

Obviously, as the Senator from Louisiana has already said, this bill has very wide support. I underscore the Independent Community Bankers of America, and 29 State community banking associations have urged approval of this plan. So does the American Bankers Association, the National Small Business Association, the National Association for the Self-Employed, the Small Business Majority, the National Bankers Association, and the Conference of State Bank Supervisors.

I have heard from many constituents—including small business owners, bankers, chambers, entrepreneurs—who believe this legislation is needed. I am proud to cosponsor it.

I ask unanimous consent to join as a cosponsor of the Baucus-Landrieu substitute amendment because I think it is the right thing to do and the right thing for our State.

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

Mr. NELSON of Florida. It is my hope we can pass this substitute amendment without further opposition as we are continuing to see.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Madam President, it has been my privilege to work on the measure that is before the Senate, the small business bill that has been championed by my friend from Louisiana, Senator LANDRIEU, that Ms. CANTWELL, the Senator from Washington, has been so instrumental working on, as well as my friend, Senator KLOBUCHAR, with whom I worked on the export portion of this bill.

To the American people at home watching this, this must be a rather confusing process. Why is it that there is a piece of legislation, a Small Business Promotion Act, that has bipartisan support—why is it not being voted on today? Frankly, there are a lot of things around here we cannot agree on—the majority of things, it seems. But this is something we can agree on. It is going to be good for America. I was pleased to sponsor the amendment along with my friend from Louisiana, the LeMieux-Landrieu amendment, which is the lending facility. It is a provision that will bring

money to local community banks to loan money to the people on Main Street—not Wall Street bankers but the bankers you see at Rotary or Kiwanis or at church or synagogue who loan to the auto mechanic, to the dentist, to the hair stylist, to the people working in your local communities.

In my home State of Florida, that is the vast majority of our businesses—nearly 2 million small businesses in Florida, small businesses that are struggling in the worst economy anyone can remember, the worst economy in Florida since the Great Depression.

Today I saw a report out of Florida Trend, one of our leading business magazines, saying that for the first half of the year, Florida now leads the country in home foreclosures. We are No. 1 behind on payments on our mortgages. Our unemployment rate is 11.4 percent, but that does not truly capture how bad the situation is because that unemployment rate is a moving average over time, and after a certain period of time when you have been out of work, you are no longer counted as unemployed because those who make these statistics believe you are not actively in the job market anymore. The truth of it is, if you walk down the street in my home State of Florida, you have a 1-in-5 chance, if you see an able-bodied adult, that they are unemployed or underemployed. Twenty percent is the real number of people who don't have a job or don't have enough of a job.

The people in my State are hurting. This is a bipartisan bill and it should pass. I am hopeful our leaders, Leader REID and Leader MCCONNELL, who are meeting right now, are going to come to an agreement on amendments.

Let me break this down for the American people so they can understand what is going on. Our friends on the other side of the aisle, the Democrats, are in the majority. They have 59 votes. They can control the agenda. We, here on the Republican side, want to offer amendments to bills, but we can only offer amendments by agreement. The majority that is in charge only lets us offer amendments if they agree to it, so we have little bargaining power. But we believe we should have the opportunity to make bills better.

So we are going to have some amendments to this bill, and we should have some amendments to this bill. You know what. If they are good ideas, the power of our ideas will prevail and the other side will agree to them and if they are not, they will not. If the American people, later on, think we have better ideas, maybe they will send more of us here and if they don't, maybe they will send more of them. But we should have the opportunity to offer our amendments.

On the other side, they are going to have some amendments, too, and that is fine, but they should be relevant to this bill. They should not be leftover appropriations on issues that have nothing to do with small business just because this is the train leaving the station and some Members of this body want to see their stuff put on it. I understand why they want to get things done, but this small business bill should pass, it should pass with relevant amendments from both sides, and we should do it today. We should do it today and pass it and send it over to the House so the House can pass it and send it to the President and he could sign it.

I say that as a Republican because, before I am a Republican, I am a Floridian and I am an American, and this bill is good for our country and it is especially good for my State.

I was pleased that the leader, Leader REID, came down and made some changes in his proposal. I am heartened he is meeting with Leader MCCONNELL right now. I hope they can work this out, because if they cannot work this out, shame on us. Shame on us if we cannot get this done when there is bipartisan support for this bill, a bill that will cut taxes for small businesses providing much needed credit and lending for local community banks to lend to small businesses without increasing taxes and without increasing the debt or deficit. When do we get to do that around here? Not too often—we do not.

I have tried to work in good faith with my friends on the other side to facilitate the negotiations today to get us to a place where we can have reasonable amendments, where the rights of the minority will be protected and in the same vein we can still get this bill passed and I hope we can do so because we have good people on the other side of the aisle who I know want to get this done.

I remain hopeful. I thank Senator LANDRIEU and Senator CANTWELL. I see my friend from Rhode Island, whom I also thank for his good work on this bill, and I hope today we will get this done with a reasonable accommodation so we can help the American people.

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

Mr. LEMIEUX. I am pleased to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Through the Chair, if I can inquire of the junior Senator from Florida, is it not true that if one Member of his caucus, just one, had voted with us just a few moments ago on this vote, we would actually be on this bill and we could begin to move to amendments and consider the bill; is that not correct?

Mr. LEMIEUX. That reminds me, my friend, if I may, reminds me of the saying that half the truth is no truth at all. Yes, that part is true. But the rest of the story, as Paul Harvey would say, is if this bill were not loaded with all these appropriations bills that have nothing to do with small business, we would be on this bill right now and it would be passed.

The keys to the kingdom lie with the majority. This deal could be done right now and we could get to this bill.

The PRESIDING OFFICER. The Senator from Colorado.

JUDICIAL NOMINATIONS

Mr. UDALL of Colorado. Madam President, I rise on an important matter that affects all of us, Senators and citizens of our States alike, and that is the shortfall in the process of confirming nominations to the Federal bench. In particular, I wish to talk about one outstanding nominee from my home State of Colorado, William Martinez. Bill has an inspirational story. I will tell you more about it in a minute, but first I wish to explain why there is such an urgency to confirm this fine nominee.

The situation in the Colorado District Court is dire—and I do not use that word easily or casually. There are currently five judges on our court and two vacancies, both of which are rated as judicial emergencies by the Administrative Office of the U.S. Courts. These five judges have been handling the work of seven judges for nearly 2 years, and it has been over 3 years since our court had a full roster of judges.

But there is more to the story. In 2008, based on the significant caseload in Colorado, the Judicial Conference of the United States recommended that an eighth judgeship be created. So you could argue we are actually three judges down from what we should have.

I ask unanimous consent to have printed in the RECORD a letter from Chief Judge Wiley Daniel to Leaders REID and MCCONNELL, explaining the profound impact this vacancy is having on the courts of the District of Colorado.

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

UNITED STATES DISTRICT COURT,
DISTRICT OF COLORADO,
Denver, CO, May 6, 2010.

Hon. HARRY REID,
Hart Senate Office Building,
Washington, DC.
Hon. MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS REID AND MCCONNELL, I write this letter in my capacity as Chief Judge for the District of Colorado. As more fully detailed in this letter, our court has suffered multiple judicial vacancies for years. Presently, we are down two district court judges. It is important that you understand that these vacancies have caused a profound impact on the court's ability to discharge its important obligations to the citizens within the State and District of Colorado in a timely and efficient manner.

As you are aware, President Obama nominated William Martinez to be a judge on the court several months ago. Within the past several weeks, he was voted out of the Senate Judiciary Committee and is presently on the Senate floor awaiting a vote. I urgently ask the two of you, in your capacities as Senate Majority and Senate Minority Leaders, to reach a ''Time Agreement'' so that a Senate vote on Mr. Martinez's nomination can occur. As I am sure you understand, this is a critical resource issue for me as it is my responsibility to ensure the adequacy of judicial resources to handle the business of the court.

The court is presently authorized seven judgeships. At this time, the court has five

active judges and the assistance of five senior judges with each senior judge having various levels of a partial workload.

A history of vacant judgeships continues to impede the public service of the court to the citizens of Colorado and to those outside of the state who depend on the court for timely judicial rulings. For more than three years, the court has not had a full complement of authorized judges.

In March, 2007, Judge Phillip S. Figa underwent medical treatment necessitating extended periods of absence from the court. Following nine months of intermittent service, Judge Figa, unfortunately, passed away on January 5, 2008. During the time of Judge Figa's illness, the majority of his caseload responsibilities were covered by other judges. Following his untimely death, his cases were permanently reassigned to other judges resulting in an average ten percent increase in per judge workload, and the number of active judges went from seven full-time active judges down to six full-time active judges.

Shortly thereafter on March 31, 2008, Judge Walker D. Miller elected to take senior status, and on April 4, 2008, Judge Lewis T. Babcock took senior status. As senior judges, each exercised their discretion to assume reduced caseloads. With the unfortunate death of Judge Figa, and the taking of senior status by two active judges, the number of full-time active judges was reduced to four full-time active judges, a judge vacancy rate of 42.8%.

In July, 2008, the Judicial Conference of the United States conducted a scheduled biennial judgeship need survey. The survey reviews the caseloads of all district courts throughout the nation applying a workload formula to determine the need for additional judges. The survey indicated, and the Judicial Conference subsequently approved, the need for an eighth authorized Article III judge for the District of Colorado. At the time of the survey, the court was attempting to address a workload requiring eight judges with only four full-time active judges.

In October, 2008, two of the three vacant judgeships were filled with the appointments of Judge Philip A. Brimmer and Judge Christine M. Arguello. As a result, the court's judgeship vacancy numbers were reduced from three to one. The court was now staffed with six full-time active judges; however, the overall workload numbers continued to justify a need for eight judges.

On October 29, 2008, Judge Edward W. Nottingham elected to resign from the court. The court was again down by two judges, with five full-time active judges and two vacancies. Over 200 civil and criminal cases formerly assigned to Judge Nottingham were reassigned drastically increasing per judge caseload assignments. From that date to the present, the vacancies have contributed to a growing case backlog within the court.

Before leaving his senatorial office, Secretary of Interior Ken Salazar worked with a local committee of legal experts to identify possible nominees for the vacant two judgeships. In a January 16, 2009 press release it was reported that then Senator Salazar was asking Senator Mark Udall and Senator-Designee Michael Bennet to continue to urge the early appointment of qualified judicial candidates to fill the two vacant positions. In a reported letter to Senator Udall and Mr. Bennet, Senator Salazar wrote ''Over the last thirty years, the U. S. District Court has often been plagued with vacancies that have prevented the court from functioning at its full capacity.''

Though the court has the continued assistance of well qualified senior judges, and has also been relying on visiting judges from other courts to assist with heavy workloads, having a fully staffed cadre of authorized judges is the most effective method by which the court can address the needs of those depending on its vital services.

In that the U. S. District Court for the District of Colorado has been subject to lengthy periods of judicial vacancy, I believe it is in the best interest of the court, and the public it 2 serves, that the judicial nomination and appointment process proceed at a responsible pace designed to yield qualified judges within a reasonable period of time. Reasonableness to me means that the two of you agree, without further delay, to set a date certain for a vote on Mr. Martinez's pending nomination.

As the work of the court continues to grow, the court needs judicial officer resources sufficient to conduct the business of the court in a timely and efficient manner. The overall integrity of the federal judicial process can best be maintained by having a sufficient number of judges to address the disputes of our citizenry without unnecessary delay or expense.

In closing, I appreciate your consideration of my viewpoint as to the judgeships urgently needed by the court. Until the two judicial vacancies are filled, it is impossible for the court to possess the judicial resources that are necessary to effectively discharge the business of the court. Scheduling a vote on Mr. Martinez's nomination is the next critical step in this important process. I await your response to this letter including your indication of the date on which the Senate will vote on Mr. Martinez.

Sincerely,

WILEY Y. DANIEL,
Chief Judge.

Mr. UDALL of Colorado. Judicial understaffing in Colorado and in the home State of the Presiding Officer and all the Senators has a real effect on residents and businesses. As the caseload increases for each judge, more and more time must be devoted to criminal cases. That is because the Constitution guarantees a speedy trial. But as time and energy shifts to the criminal docket, the civil docket in turn suffers. It continues to become increasingly difficult to schedule a trial as these backups grow longer and longer.

This increased caseload I am referencing also has a huge impact on our rural and tribal communities around the State as well. Our Federal District judges are all located in Denver, but they often have to travel to other parts of the State for hearings or trials. The geography in Colorado makes travel a little more complicated than in some other States. We have a big State with the Rocky Mountains running right through the middle of our State, and I can tell you from my own experience getting around the mountainous areas of Colorado during the snowy winter months is not easy. As a result, all over the State, residents on the Western Slope and down in the valleys, my tribal constituents, they have a more difficult time accessing the Federal judicial system—as plaintiffs, defendants, even as witnesses.

As pressing as this situation is in Colorado, I know it is not unique. Of the nearly 100 current judicial vacancies, 42 are considered judicial emergencies—almost half. I understand our Senate has confirmed only 24 nominees so far this year and 36 total since President Obama was elected. That is a historic low.

I don't wish to turn my comments on these nominations to a partisan affair, but the Senate has not kept up with the pace of past Presidents' judicial nominees.

In fact, last year the Senate confirmed the fewest judges in 50 years—50 years.

Bill Martinez, the man whom I spoke of when I began my remarks, was nominated in February of this year, had a hearing in March, and was referred favorably by the Judiciary Committee in April. Today, his nomination has been sitting on the Senate Executive Calendar—on that calendar—for 105 days. Here is the question: Can we set aside our partisanship and support the people who need our system of justice and those who work in our system of justice? The people of Colorado want us to vote on Bill Martinez and help us reduce the workload on the Federal District Court of Colorado.

Senator BENNET has joined me, and I know he is going to speak in a few minutes.

Last year, we convened a bipartisan advisory committee so that we could have the best candidates put forward. It was ably chaired by Denver lawyer Hal Haddon, a well-known figure, and former Colorado Supreme Court Justice Rebecca Kourlis. The committee interviewed numerous candidates, and based on his life experience, his record of legal service, and his impressive abilities, we both recommended, on the advice of the committee, Bill Martinez for a Federal judgeship.

I know I was very impressed with Bill. In addition to being an accomplished attorney and a true role model in his community, Bill has a personal story which captures what is great about America and highlights what can be accomplished when you have focus, discipline, and you work hard.

Bill was born in Mexico City and lawfully immigrated to the United States as a child. He worked his way through school and college and toward a career in the law. He received undergraduate degrees in environmental engineering and political science from the University of Illinois and earned a law degree from the University of Chicago. As a lawyer, he is an expert in employment and civil rights law. He currently practices in those areas. He previously served as the regional attorney for the U.S. Equal Opportunity Commission in Denver.

I believe—as we all do, I think—in strong, well-balanced courts that serve the needs of our citizens. Bill Martinez brings that sense of balance because of his broad legal background, professionalism, and outstanding intellect. I am pleased to have been able to recommend Bill, and I am certain that once he is confirmed, he will make an outstanding judge.

I was going to ask for unanimous consent that we move to consider Mr.

Martinez's nomination. I am going to hold back on that request for the time being, but I want those who watch the Chamber to know that a group of us who are going to speak to this backlog are going to ask, at the appropriate time, for that to be considered.

Whatever happens today in these unanimous consent requests—and I would hope they would be granted—I am not going to give up. I am going to continue to work with people on both sides of the aisle, as well as any Senator who might have reason to block Bill Martinez's nomination, to find a reasonable solution so we can fully stock our courts and we can deliver justice and services to our citizens, who deserve courts that are up and running fully.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Madam President, I also rise today in support of Bill Martinez's nomination to serve on the Federal district court in Colorado.

Before I talk about that, I wish to take a moment to address this small business bill that is before the Senate because people are watching this in my State, and they are saying to themselves: We have spent 18 months with credit frozen—longer than that for small businesses—and Washington cannot seem to do anything for us.

Today is the day Washington could do something for small businesses in my State and across the country. And it is not a case of Democrat against Republican; this feels to me like a case of Washington politics against the rest of the country. So I lend my voice to the Senator from Florida and say that I hope the leadership can get it together.

I wish to add my push today for the unanimous consent request of the senior Senator from Colorado to consider this nomination of Bill Martinez. We need him confirmed so he can begin serving our State.

Bill appeared before the Judiciary Committee in March, where I had the privilege of introducing him. His nomination passed the committee with votes to spare in April. The Martinez nomination, like so many others, has gotten stuck because of the obstructionist tactics of a few.

So this man with a breadth of public and private sector legal experience that makes him more than qualified to serve on the Federal bench is being held up month after month.

Like my senior Senator, I am frustrated with the secret delays in this body. The purposeless shelving of nominations such as this one and even of important legislation affects real lives and poisons the atmosphere in the Senate.

There are 99 vacancies in the Federal court right now. To date, the President has nominated 39 individuals to fill these vacancies. For the sake of judicial efficiency and ensuring fair access for all of our people to our courts, I think it is time to move ahead on outstanding nominees who have cleared the Judiciary Committee easily. For the nominees, careers and families are being put on hold. If a nominee is unqualified or unfit for office, then let's have those concerns registered for public consumption.

Like far too many Coloradans, I am so frustrated with our broken politics. Instead of making sure qualified candidates are confirmed to key government posts, the Senate has secret holds and stall tactics. It is painful to watch, and it is painful to the American people to live through.

Bill Martinez, for one, has earned better treatment through a lifetime of professional achievement. He has a stellar reputation and credentials in Denver and possesses rare intangibles too. His career spans the legal profession and represents a true immigrant success story on which this country is founded. Bill was the first in his family to attend college. His experience is an inspiration to all Coloradans.

Is there any reason this attorney with an expertise in employment law and civil rights, coupled with years of courtroom experience, should not receive an up-or-down vote? I, for one, would like to know, as would the people of Colorado. I ask my colleagues to end the delay of consideration of Bill Martinez. Let's have an up-or-down vote on Bill Martinez and then move forward and go through other remaining nominees being needlessly upheld.

HEALTHY, HUNGER-FREE KIDS ACT

With the indulgence of my colleague from Minnesota, I wanted to mention one last thing. While I am here, I would also like to call attention to another priority that languishes as the Senate wastes time wrangling over nominees and partisan politics: the Healthy, Hunger-Free Kids Act, a fully paid for, bipartisan bill that unanimously passed out of committee last March. This bill will make a tangible difference in the lives of millions of children.

It is high time the Senate begin doing the people's business again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I rise today to address the need to move quickly and to confirm several qualified judicial nominees—I would say many qualified judicial nominees. You are going to hear about a number of them today. I am going to talk specifically about the highly qualified nominee for the District of Minnesota who was unanimously voted out of our Judiciary Committee more than a month ago.

Our failure to confirm Susan Richard Nelson quickly has consequences for my State. The judge she has been nominated to replace took senior status as of last October and is stepping down from the Federal bench altogether in a couple of weeks. That means a smaller number of judges will be doing the same heavy workload until she is confirmed, which is not fair to my State or many of the States you will hear from today.

This nomination is important to our district. Our district's caseload has increased significantly in recent years. In fact, as of June 2008, our district had the second highest number of case filings per judgeship in the entire country—the second highest in 2008 in the entire country. Yet, if she is not confirmed after coming through our committee unanimously, we will be down a judge even though we have this high caseload. Even as of December 2009, we were still in the top 10 most overloaded districts in the country. From 2008 to 2009, the district saw a 54-percent jump in the number of civil cases filed. That is over 5,000 civil cases currently pending and only 6 judges on a full-time status to deal with these cases, not to mention the docket of criminal cases on top of that. The district needs Judge Nelson to be confirmed quickly. Delay is not an option.

It is worth noting that by this time in President Bush's administration, we had confirmed 61 judicial nominees. By contrast, we have only confirmed 36 of President Obama's.

When a vacancy arose on the Federal district court in Minnesota, I convened a judicial selection committee to consider mainly highly qualified candidates. From this fine pool of applicants, I recommended Susan Richard Nelson to the President. President Obama formally nominated her for this position, and I appreciate the work of Senator LEAHY and Senator SESSIONS, who is also here, in making sure she had a speedy nomination hearing. However—this is a familiar story for several nominees—after Susan Richard Nelson received a unanimous vote in the committee, her nomination stalled on the Senate floor.

There is no reason to hold up this nomination. Susan Richard Nelson is exactly the kind of person you would like to see sitting in a judge's seat. She has been a magistrate judge for the District of Minnesota for the last 8 years, where she has earned the respect of litigants, lawyers, and judicial colleagues alike. She has the judicial temperament, personal integrity, and keen legal mind that are absolute prerequisites for this job. Throughout her tenure, she has gained a reputation as a fair but stern magistrate judge, one who is thorough and prepared. She has been described as a judge ''who favors neither plaintiff nor defendant, who listens carefully to both sides of every matter she hears, and who can be relied upon to give articulate, well-reasoned explanations for her decisions.'' The ABA Standing Committee on the Federal Judiciary unanimously gave Judge Nelson their highest rating.

I believe she will make a fine Federal judge, and that is why I rise to speak today. But this is not just a Minnesota issue; this is a national issue. As a

former prosecutor, I know what happens when you have an overloaded judiciary, when you do not have the players in place, either the prosecutor, the public defender, or the judges. When you do not have judges available to hear cases, judges whose time is spread too thin, cases do not get heard, victims do not get justice, and litigants do not get their problems solved. In other words, it slows down the wheels of justice when you do not have the people in place to actually hear the cases.

It is my hope again that we can end this waiting game and confirm these nominees. I truly appreciate the bipartisanship work on our committee to get these judges through to the floor. But now is the time to get the work done.

I know we will be asking for unanimous consent for a group of the judges whom we are addressing. I know Susan Richard Nelson's name will be included at that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Madam President, I rise to today in support of Louis Butler's nomination to be District Court Judge for the Western District of Wisconsin. Justice Butler is an accomplished lawyer whose career has been distinguished across the board as an advocate, trial court judge, Wisconsin Supreme Court justice, and professor. He is supported throughout Wisconsin and I am confident that he will be an excellent Federal judge.

For 30 years, Justice Butler has dedicated himself to public service. He began his career fighting for the rights of indigent defendants as a public defender. He was the first public defender in Wisconsin history to argue a case before the U.S. Supreme Court.

As a trial court judge, he earned a reputation for being a tough but fair jurist and was recognized as a top Milwaukee judge. For more than 10 years, Justice Butler has shared his expertise and knowledge by training judges as a faculty member of the National Judicial College.

Justice Butler served with distinction on the Wisconsin Supreme Court for 4 years. There, he participated in hundreds of cases, many of, which were decided by a unanimous or near-unanimous court. During his 4 years on the bench, he proved himself to be a hard-working, thoughtful and consensus building jurist.

Throughout his career, Justice Butler has been a judge who upholds the rule of law in an impartial and deeply respectful manner. He possesses all the best qualities that we look for in a judge: intelligence, diligence, humility, and integrity. In addition to Justice Butler's impressive legal background and solid record as a judge, he is a fine man. He is deeply committed to his family, to his community, and to public service.

Justice Butler's nomination proves once again that the process we use in Wisconsin to choose federal judges and U.S. attorneys ensures excellence. The Wisconsin Federal Nominating Commission has been used to select Federal judges and U.S. attorneys in Wisconsin for 30 years, through Republican and Democratic administrations and the tenure of Senators from both parties. Through a great deal of cooperation and careful consideration, and by keeping politics to a minimum, we always find highly qualified candidates like Justice Butler.

I along with Senator FEINGOLD are confident that the people of Wisconsin will be enormously proud of him and that he will serve them well.

So, it is clear that this upstanding and well-qualified nominee should be promptly considered by the Senate. Justice Butler has been pending for far too long and a vote on his confirmation is overdue. Someone like this deserves an up or down vote. I understand that some of my colleagues may oppose his nomination, and I accept that, but let us take an up or down vote as soon as possible.

Mr. FEINGOLD. Madam President, I am pleased to support the efforts of my colleagues to call attention to the refusal of Republicans in the Senate to allow confirmation votes on judicial nominees. We have all heard the numbers only 9 circuit and 27 district judges confirmed so far in this Congress, 7 circuit and 14 district judges now awaiting floor action, with 15 of those nominees having been reported by the Judiciary Committee before the end of May. This is an inexcusable blockade of justice in America for wholly political reasons, and it needs to stop.

I am pleased also to join the senior Senator from my State, Mr. KOHL, in specifically seeking consent to debate and vote on Justice Louis Butler's nomination to be a U.S. District Judge for the Western District of Wisconsin. Justice Butler, who was the first African American to serve on Wisconsin's Supreme Court, was first reported by the Judiciary Committee on December 3, 2009. He has essentially been waiting for the full Senate to take up his nomination for more than 7 months.

Justice Butler is the product of a system for picking Federal judges and U.S. attorneys in our State that has been used since the late 1970s. A nominating commission interviews and considers applicants and presents a slate of candidates to the Senators. We then send our recommendations to the President drawn solely from the commission-approved slate. This process has yielded highly qualified nominees under both Republican and Democratic presidents, and the nominees have had the support of both Republican and Democratic Senators.

Justice Butler clearly has the experience and the qualifications needed to serve with distinction as a U.S. District Court judge. First, he has experience as a judge on both the trial court and appellate court levels in Wisconsin. He understands the difference between following precedent and making precedent. Handling criminal trials is probably the biggest job of a Federal trial judge, and Justice Butler has a great deal of criminal experience both as a judge and as a public defender in his early days as a practicing lawyer. He is well versed in Wisconsin law, which as we know is often applied in diversity jurisdiction cases in the Federal courts.

Justice Butler is widely admired for his intellect and his judicial temperament. In 1997, Milwaukee Magazine named him the top municipal judge in the city. He has been a law professor. In short, he has a depth of experience that is unusual for a nominee to the district court.

Justice Butler has been a trailblazer in our State. As I mentioned, he was the first African American to serve on the Wisconsin Supreme Court, and he would be the first African American to be a judge on the Western District. He is a man of great distinction and achievement.

Justice Butler is a thoughtful and conscientious judge. I know I will not agree with every decision he makes, just as I do not necessarily agree with everything he has said or done thus far. But I know he will be conscious of the judicial role, and that he will make his decisions based on the facts and the law and do his very best to carry out his responsibilities with dignity and care, as he has done throughout his career.

Now I understand that Justice Butler's nomination is opposed by some Members of the Senate and a number of outside organizations. The Republicans on the Judiciary Committee voted against the nomination. They have every right to do so, and I respect their positions. I believe the arguments against him are misguided and unfair. But I am prepared to have that debate on the Senate floor and live with the result, if only the Republicans will allow the debate to take place.

It is time for the delay of Justice Butler's nomination and the other nominations that have been pending for months to end. Let's have a debate and a vote. I thank Mr. KOHL and my other colleagues for shining a spotlight on this issue, and I hope we can look forward to debating and voting on the pending judicial nominations soon. Such delay, particularly for a district court nominee, is unprecedented. I urge my colleagues to consider Justice Butler's nomination forthwith.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise to join Rhode Island's senior Senator JACK REED and other colleagues to call attention to the recurring Republican roadblock of qualified nominees to circuit and district courts. On the circuit courts, I spoke some time ago about Albert Diaz and James Wynn to sit on the fourth circuit in North Carolina. I know the Presiding Officer has a

keen interest in those two. These two were reported out of the Judiciary Committee on January 28, 2010, 6 months ago yesterday. Albert Diaz was voted out 19 to 0. James Wynn was voted out 18 to 1. That means a combined score of 37 to 1 for these two candidates whom the two Senators from North Carolina had agreed on, a Republican Senator and a Democratic Senator. I came to the floor 3 months ago, given that background, on April 20 to ask unanimous consent for their confirmation. Senator KYL, who voted for both of these nominees in committee, objected on behalf of his colleagues. That is the environment we are in.

Unfortunately, that environment has filtered down to district judges. Consider the four district court nominees currently on the Executive Calendar, voted out of committee by a party-line vote, who are ahead of our Rhode Island nominee and who have to be cleared before we get to our Rhode Island judge. Lewis Butler is a former Wisconsin Supreme Court justice. Ed Chen and Benita Pearson are long-serving and well-respected Federal magistrate judges in San Francisco and Akron, OH. Bill Martinez is a well-known and well-respected attorney in Colorado. Each nominee had the full support of both of their home State Senators. Each nominee would bring proper expertise, judicial temperament, and great diversity to the bench. Each nominee would be confirmed, if we could simply get them voted on by the Senate. The way these nominees have been treated stands in stark contrast to the way district court nominees were treated in the Bush administration. In 8 years, only one district court nominee during the Bush administration was reported by the Judiciary Committee on a party-line vote. That nominee got a vote and was confirmed on this floor 51 to 46.

Why is it that nominees of President Obama are being held to a different, new standard than applied to the nominees of President Bush? Why have we departed from the longstanding tradition of respect to the views of home State Senators who know the nominees best and who best understand their home districts? Is disregard for the views of home State Senators the standard Republicans want to live by during the next Republican Presidency? Is that the new precedent we wish to set here in the Senate? I ask this because we have a highly qualified nominee in Rhode Island, Jack McConnell, who was reported by the Judiciary Committee on June 17. It was a bipartisan vote, 13 to 6, with the support of Senator LINDSEY GRAHAM. Jack McConnell is a pillar of the legal community in Rhode Island. He is a pillar of the community generally in Rhode Island, serving with great generosity and distinction on numerous boards that help communities in Rhode Island. The Providence Chamber of Commerce has praised Jack McConnell as a well-respected member of the local community. Political figures from across our political spectrum have called for his confirmation, one of them being my predecessor as Rhode Island attorney general, Republican Jeffrey Pine. The Providence Journal, our hometown paper, has endorsed his nomination by saying that Jack McConnell, in his legal work and community leadership, has shown that he has the legal intelligence, character, compassion, and independence to be a distinguished jurist.

Notwithstanding the support of Senator REED and myself, the two Senators from Rhode Island, notwithstanding that this is a district court nomination, notwithstanding the powerful support across Rhode Island from those who know Jack McConnell best, special interests from outside the State have interfered in his nomination. The U.S. Chamber of Commerce, not the Rhode Island chapter, the U.S. Chamber of Commerce has attacked Jack for having the temerity to stand up to big business, to the asbestos industry, to the lead paint industry, to the tobacco industry, and to have devoted his career to representing the rights of the powerless. In doing so, the U.S. Chamber has created a cartoon image of Jack McConnell that bears no relation to the man Senator REED and I know as a great lawyer, as a great Rhode Islander, and somebody who will be a great judge.

I ask my colleagues—I see the distinguished ranking member of the Judiciary Committee here on the floor with us today, the distinguished Senator from Alabama—do we want to let powerful out-of-State interests trump the better informed views of home State Senators about district court nominees? That is not the tradition of this body. I again ask my colleagues: Is this the tradition they want to set? If they open the door to out-of-State special interests trumping the considered judgment of home State Senators on district court nominees, will they ever get that door closed again? I submit it is a mistake for this body to go that road. I urge colleagues on the other side to reconsider what I think is a terrible mistake, which is to allow out-of-State special interests to prevail over the considered judgment of home State Senators when they agree on the best qualified nominee for district court in their home State.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Rhode Island.

Mr. REED. Mr. President, I join my colleague from Rhode Island who, with eloquence and passion, has clearly highlighted a disturbing phenomenon taking place in this Chamber. Well-qualified individuals who have received the support of the Judiciary Committee—in many cases, unanimous support—are being denied a final confirmation vote by the full Chamber. This is a break from our history. At the end of the first Congress, during President Reagan's first term, 88 Circuit and District Court nominees were confirmed. At the end of the first Congress during President George H.W. Bush's term, 72 Circuit and District Court nominees were confirmed. At the end of the first Congress under President Clinton, 126 Circuit and District Court nominees were confirmed. At the end of the first Congress during President George W. Bush's first term, 100 Circuit and District Court nominees were confirmed. As of now, if nothing else is done, President Obama, at the end of this Congress, will have only 36 Circuit and District Court nominees confirmed by the Senate, in contrast to 88 for President Reagan, 72 for President George H.W. Bush, 126 for President Clinton, and 100 for George W. Bush.

Something is going on here. What is going on is a deliberate attempt by the minority to frustrate the traditions and precedents of the Senate where, as Senator WHITEHOUSE suggested, there is a long-held view that Senators have more insight into the skills, ability, and integrity of nominees from the Senators' home State than national special interest groups, whose major goal seems to be the generation of controversy for the purposes of contributions.

We in Rhode Island have an extraordinarily competent and capable individual. As Senator WHITEHOUSE indicated, Jack McConnell is an accomplished attorney. He is a plaintiff's lawyer. He takes cases of individual Americans, who have been harmed, and he fights the good fight for them. He has been very successful doing it. He has received the bipartisan support of members of the bar, judges of both political parties, and the Providence Journal, our major Statewide newspaper, which has a reputation of being very sensitive to the legitimate concerns and needs of our business community. He is supported because he is an outstanding attorney and because he is an outstanding individual. He is someone who knows the law and knows the court. I am always kind of interested when someone who has spent a long time as a corporate counsel for a big corporation is suddenly—and in most cases—very quickly confirmed as a District Court Judge, even though that individual may or may not have had a lot of experience in a trial court. Here, we have an individual who actually has spent his life in trial court, both Federal and State courts.

Jack McConnell is a fair and good man, and he understands that a judge must hear the facts, apply the law, and indicate clearly to all plaintiffs and defendants who come before the court that there is no bias and that the case will be decided fairly on the merits within the bounds of the law. That is something all of my colleagues in Rhode Island, Republicans and Democrats alike, recognize that Jack McConnell will do.

There is something else about this individual. He is an extraordinarily decent person. That counts for something too. There is no one in our State who is more generous, not only with his money, but with his time. There is no one in our State who is more committed to helping people, not to gain notoriety, but because it is the right thing to do. Those qualities are important. Ultimately, I believe one of the major criteria that should be met by a Judge is that when someone goes before the court, whether it is a big corporation or a person who has been harmed, they know they will be treated fairly. Frankly, Jack McConnell passed that test with flying colors. As Senator WHITEHOUSE pointed out, he passed the Judiciary Committee on a bipartisan vote. I thank Senator LINDSEY GRAHAM, who has used his experience as a lawyer fighting for individuals as well as corporations. He was able to recognize these talents, these skills, and these qualities in Jack McConnell and support him. I appreciate that. But we are here now in a situation where not only Jack McConnell, but 21 other nominees are pending. We have to do more. We have to get them to a vote here in the Senate, and I will insist upon that vote as best I can.

Again, the numbers don't lie. They suggest there is something going on here, something that was not at work during the Reagan administration, the George H.W. Bush administration, the Clinton administration, and the George W. Bush administration, regardless of which party was in the majority or the minority. Particularly, when it came to District Court Judges, if they had cleared the Judiciary Committee, if they had the support of the two Senators from the home State, there would be at least an opportunity, an obligation, to bring their nomination to a vote and let the Senate, as a whole, decide.

I urge that we return to what has been a dependable practice, one the Senate has embraced for good reasons, that we let these gentlemen and ladies come to the floor for a vote, and that we vote.

That is all we ask. I think if that is agreed to, it will provide for not only the disposition of these nominations, but it will continue a tradition of thoughtful, appropriate practice by this Senate.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I join my colleagues who are expressing our frustration on the inability of the Senate to take up for confirmation judges who have been approved by the Judiciary Committee. You have heard our colleagues from Colorado, Minnesota and Rhode Island and there are many others who have come down and given similar circumstances about their judges being held up from a final vote.

I know next week we will be considering the nomination of Elena Kagan to the Supreme Court of the United States and that will get a lot of attention and rightly so. It should get a lot of attention.

Let me point out the facts. The Supreme Court will issue less than 100 opinions in a given year; whereas, our circuit courts of appeals will issue many more opinions that will have a direct impact on the lives of the people of this Nation. Most Americans who have contact with a court are going to have contact with the district court and the circuit court, where the cases are heard, where the juries are convened in trials. So there is a great interest in making sure we have confirmed judges for our intermediate appellate courts and our district courts.

Here is the problem. The vacancies in these judgeships today are about 11 percent of the court. More than 1 out of every 10 judicial spots is vacant currently in the United States. My colleagues have told you about the backlog. So let me try to put it in, I hope, terms that those listening to this debate will understand as to why we are so frustrated by the obstructionist tactics being taken by our Republican colleagues.

Most nominees for judicial vacancies, once they have cleared the Judiciary Committee, are brought forward under unanimous consent; that is, if they have the support of their home State Senators, if there has not been controversy in their nomination, if the Judiciary Committee has approved them by a bipartisan vote, they will come to the floor of the Senate by unanimous consent and will be handled that way.

Well, we are not able to do that because Republican Senators are objecting to that process. So we go to the next level. We say: OK, if we need to have debate on the floor, how much debate time do you need—1 hour, 2 hours, 4 hours? Well, we cannot get consent to the number of hours in order to debate the nominee and then vote on the nominee in an up-or-down vote. The majority leader said we could have that time, but they will not allow us to bring the nomination to the floor.

So then the only course the majority leader has will be to file a cloture motion. A cloture motion takes several days, and we have 100 vacancies on our district and appellate courts. Obviously, we do not have enough time.

So let me give you an example on the Fourth Circuit: Judge Barbara Keenan. I chaired her confirmation hearing. I chaired that confirmation hearing on October 3 of last year. The Judiciary Committee reported her out by a voice vote on October 29. That was October 29 of last year. It took us until March of this year to be able to get her nomination to the floor, and then it was not by unanimous consent. It was not by a consent as to the amount of time necessary to consider this nominee on the floor and then a vote afterwards. It came to the floor through a cloture motion the majority leader had to file—a cloture motion—because we could not get consent to bring up her nomination almost 5 months after the committee acted on her nomination.

What happened with the cloture motion? It was approved 99 to 0 on the floor of the Senate, and she was ultimately approved as an appellate court judge by a 99-to-0 vote.

My point is simple: These were dilatory actions in order to slow down the process of the confirmation of judges which my friends on the Republican side have used. That is why we had these huge numbers. As my colleague from Rhode Island pointed out, the numbers tell the facts. There were twice as many judges confirmed by this time when a Republican controlled the White House than there are today. In other words, we are working at less than one-half the pace than when the tables were turned. That is wrong.

My friend from Rhode Island, Senator WHITEHOUSE, talked about two vacancies we want to fill in the Fourth Circuit. The Fourth Circuit includes the State of Maryland. The two vacancies we want to fill are the North Carolinian spots, in which the two Senators—one a Democrat, one a Republican—have recommended their confirmation: James Wynn and Albert Diaz.

Well, we held that confirmation hearing—and I chaired that also—in December of last year. The committee reported them out in January of 2010. In Mr. Wynn's case, the vote was 18 to 1; and in Mr. Diaz's case, it was 19 to 0. Both of these judicial candidates were considered ''well qualified''—the highest rating by the American Bar Association—and they would add greatly to the diversity on the Fourth Circuit, a circuit that is not known for its diversity. James Wynn would be the third African American to serve on the Fourth Circuit and Albert Diaz would be the first Latino.

It is time—well past time—for these nominees to be confirmed by the Senate. I do not think anyone doubts, once this issue is taken up, both these individuals will be confirmed. Look at the votes in committee.

For noncontroversial judicial nominations, it has taken, on average, 2 months, after the Judiciary Committee has acted, for a district court nominee to be considered by the full Senate; and over 4 months for a circuit court of appeals nominee. That is not doing the work the Senate should do. There have been dilatory actions in order to slow down the process, and that is not what we should be doing as Members of the Senate.

So I urge my colleagues, as my friends who have taken the floor today have done, let's get on with the process of confirming these noncontroversial judicial nominees. Let's give the people what they deserve; that is, a full complement of their judges. We should do better than we have done in the past. I urge us to put aside our partisan differences. This is not a tactic that should be used. It is time we move forward on the confirmation process.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I thank the Senator from Colorado, Mr. UDALL, and his staff for arranging this opportunity for us to speak on what is a far more important issue than I would have imagined, oh, 20 years ago.

Before I came to the Senate, in 2001, I was privileged to serve as Governor of my State for 8 years. I ran for that position in 1992, and my opponent was a very good man named B. Gary Scott. During the course of our campaign for the Governorship of Delaware, we had something like 30 or more joint appearances. All kinds of questions were raised by the audience members at those joint appearances, and we would respond to the questions that were raised.

I do not recall one question in any of those joint appearances related to what kind of criteria we would use to consider nominees for the judgeships in the State of Delaware. As it turns out, some of the judgeships in Delaware, some of the courts in Delaware, have national importance, national prominence—the Court of Chancery, the Delaware State Supreme Court. That was an issue that never came up.

When I was fortunate enough to win, in 1993, I ended up, for the next 8 years, actually spending a lot of time thinking about the qualities we should look for in the candidates for judgeships I would nominate to all our courts and ask the Delaware State senate to confirm. I am grateful to the State they confirmed them all.

I came to the Senate in 2001. I ran against a wonderful man, Bill Roth, who had been our Senator for a long time. During our campaign, no one ever raised with us, to my recollection: What kind of qualities would you look for if you were in a position, as senior Senator, to recommend judges to the President of the United States for our courts, either for our district court or for the Third Circuit Court in which we are a part?

But I had thought for years about the qualities I would look for, and the qualities look something like this: I concluded that my job in nominating people as Governor and in recommending people to this President or other Presidents is that we ought to look for somebody who is bright, smart, who knows the law, somebody who also embraces what I call the Golden Rule, treats other people the way he or she wants to be treated; that when they come before the court, the judge will treat all sides the same; that they will not go into a hearing or a proceeding having made up their mind; that they will show no favoritism to either side.

I think it is important to nominate folks who have a strong work ethic and who will work hard to find the right decision, that they will have the ability to make a decision. Sometimes folks have a hard time making decisions. They should not be judges. We need judges who can make a decision and often the right decision.

That is sort of the criteria I used in my last job, and it is the criteria I have used in my current position as I have suggested people—now twice—to this President to consider for filling vacancies on the U.S. district court in my State.

We have four district court judges in our State at most times; we have that many judgeships. For several years, we have been down to three. As of tomorrow, we will be down to two, with the retirement of Judge Joe Farnan, who will step down for his well-earned retirement.

But last year, I was pleased to provide to our President the names of three highly qualified Delawareans for him to consider for nomination to the U.S. District Court in Delaware. I said at the time—and I say here today—the talent pool from which I selected those three names was the strongest pool I have seen in my 8 years as Governor and during the time I have been here as a Senator. At least a half dozen of the people who applied for that judgeship to be a Federal judge would make us all proud. I could only select three and I selected three terrific candidates and submitted those to the administration last year.

After careful deliberation, in March of this year, the President selected one name, and he sent to the Senate the nomination of U.S. magistrate Len Stark for a seat on the Delaware District Court.

Following his nomination in March, I was honored to introduce Len at his confirmation hearing before the Senate Judiciary Committee in April. Ironically, the hearing was chaired by committee member Ted Kaufman from Delaware. Judge Stark was well received by the committee at that hearing and was unanimously approved by the committee in May of this year.

So far so good. But since that time, for the last almost 3 months now, that nomination has basically been held up. We have not had an opportunity to debate it. We have not had an opportunity to vote on it, through no fault of Judge Stark.

I think the lack of a U.S. district court judge in almost any State, large or small, is a problem. When you happen to have a court with four judgeships, and you are down to three, the workload does not go away. The workload is the same. The judges have to work harder. That is fine for a while. We go out and we literally borrow district court judges from other States to come in and sit with our court in Delaware to try to deal with the workload. That works for a while, but it is sort of robbing Peter to pay Paul. They have work to do in their own States in their own courts.

When you go from three to two, and you have two judges trying to do the work of four, it does not work. It is not fair, and it means we delay, in too many cases, the justice that is needed. I do not recall who it was who said—I want to say it was William Gladstone, a former British Prime Minister, who once said: Justice delayed is justice denied. My fear is, if we find ourselves, next week, with two judges—with two judges—in our district court, justice will be delayed and justice will be denied.

Not everybody in this Chamber has a real understanding of who Len Stark is and what kind of person he is. I wish to take a few minutes to sort of introduce him to those who do not know him. Len Stark is a fellow University of Delaware graduate. Unlike most people who graduate—they maybe get an undergraduate degree with one major—when he graduated, in 1991, he earned an undergraduate degree in economics and an undergraduate degree in political science and he earned a master's degree in history, all at the same time. He was an extraordinary student at the University of Delaware. As a student there he received a full scholarship as the Eugene du Pont Memorial Distinguished Scholarship. Following graduation, he was twice honored by his fellow students and alumni by serving as their commencement speaker.

Immediately upon graduating from the University of Delaware, Len Stark was elected a Rhodes Scholar. He studied at Oxford University. He has authored numerous academic and scholarly publications, including a book on British politics which he wrote—listen to this—in his spare time during his studies at Oxford. After Oxford, Len then went on to earn his law degree at Yale Law School where he served as senior editor of the Yale Law Journal.

Len launched his legal career as a clerk for one of the most distinguished judges to come out of Delaware in the last century—Walter Stapleton—on the Third Circuit Court of Appeals, and after that he practiced as a corporate litigator for the law firm of Skadden Arps.

Len began his public service as an assistant U.S. attorney for Delaware, where from 2002 until 2007 he handled a wide variety of Federal, criminal, and civil matters. Currently, Len Stark serves the U.S. District Court of Delaware as a magistrate judge. In this position he has already done much of the same work as a district court judge. His docket consists of civil cases that are referred to him by the three active district court judges—at least three active as of today, not after tomorrow. On these referral cases, a great many of which are patent infringement actions, Judge Stark handles all types of pretrial matters, and in certain cases even presides at trial, just as he would if he were confirmed as our new district court judge.

If I were half as accomplished as Len Stark is and half as smart as he is, my colleagues wouldn't want to be in the same room with me. But Len Stark is as humble a person as I know. He is a dedicated public servant. He has a

great family. He is a dedicated husband, father, and person of great integrity and character. In every facet of his life he has performed with distinction, earning the highest praise from his colleagues and many of the most prestigious awards given to legal scholars and public servants.

I can sum this up by simply saying that Len Stark has the heart of a servant. He has a big heart. A little State, Delaware, but we have a guy with a heart as big as Texas. Judge Stark's position as magistrate on the U.S. district court clearly provides him with the skills to be not just an adequate district court judge, he will be an outstanding district court judge.

Len's legal acumen, his tireless work ethic, and his experience as a Federal magistrate judge, as assistant U.S. attorney and litigator, have prepared him well for this seat on the U.S. district court in Delaware.

I will be honest with you. It is hard to think of anybody who would be a better candidate, a better choice to serve in this position. With that having been said, we all know there are a bunch of good candidates like Len Stark—Maybe not just like Len Stark, but people who are equally qualified who should be serving in vacancies around the country, and they ought to be confirmed.

I will close with this, before yielding to Senator KAUFMAN. I wish to close with this: I have just come from a Bible study group. We meet every Thursday for about a half an hour off the Senate floor with our Senate Chaplain. It is sort of like an adult Sunday school class. Democrats, Republicans there, people of different faiths.

One of the things Chaplain Barry Black is always reminding us to do is to treat other people the way we want to be treated. He urges us to live our faith. I don't care what faith we subscribe to, almost every faith, that idea of treating other people the way we want to be treated is a fundamental, basic tenet. It should be a fundamental, basic tenet with the way we behave in the Senate, whether the Democrats are in the majority or the Republicans are in the majority; whether the President is a Democrat or the President is a Republican.

When we have somebody as good as this man is, Len Stark, and we have such a dire need for a district court judge in the district court in Delaware, I would just ask my Republican colleagues to put themselves in our shoes to see if they can't find it in their hearts to give us the opportunity to vote up or down on this nomination.

Thank you very much. I am pleased to yield the floor for my colleague and friend from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. 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. KAUFMAN. Mr. President, I rise to echo the comments of my colleagues and object to the tactics being used by the minority in the Congress to block and delay confirmation votes for President Obama's judicial nominees.

I support this body's—I really do—I support this body's longstanding tradition of respecting the rights of the minority. I think it is one of the most important characteristics of the Senate. I am not one of those who wants to change the filibuster rule. I think it is important that we have a filibuster rule and that political minorities in the Senate are respected and that their rights are respected.

However, I think this practice of indiscriminately blocking nominations serves no legitimate purpose. I don't see the time created by the delay being used to meet with the nominee, to check the nominee's credentials, or to review the nominee's scholarship, speeches, or written opinion. This is delay for delay's sake.

Of the 27 district court nominees confirmed during this Congress, only 1 has received a ''no'' vote so far, and even she was confirmed by a vote of 96 to 1. Not a single member of the minority objected to 26 out of the 27 of these nominees. Yet someone forced them to wait for weeks or months for an up-or-down vote.

The minority may say this is simply the way things are done in the Senate, but that demonstrably is not the case. As this chart shows, during the first Congress of the Bush administration, President Bush's district court nominees waited for an average of 25 days to be confirmed after being favorably reported out of the Judiciary Committee. This pace was set when Democrats were in the majority party for most of the 107th Congress and reflects a willingness to cooperate with President Bush in a bipartisan manner.

In contrast, President Obama's district court nominees have been pending for 74 days, on average, after being favorably reported out of committee. This wait only seems to be getting longer. Sharon Coleman of the Northern District of Illinois, the only judicial nominee to be confirmed so far this month, waited almost 3 months to be confirmed 86 to 0.

This is unacceptable. These nominees are good men and women who have agreed to put their lives on hold and submit to the scrutiny of the Senate in order to serve our Nation. This body owes more to these nominees for their sacrifices than to use them as instruments of delay and obstruction. As long as the minority continues to stall these nominees, then the American people will be deprived of the fair and efficient administration of justice. We now have nearly 100 judicial vacancies and more than 40 of them have been declared judicial emergencies. One of these emergencies is located in the district of Delaware.

After tomorrow, the district will be operating at half capacity with only two out of four district judges confirmed to the bench. With this concern in mind, I join with my senior Senator, TOM CARPER, and urge my colleagues to agree to consider the nomination of Leonard P. Stark to the district court of the district of Delaware without delay.

Judge Stark was nominated on March 17 of this year. He received a nominations hearing on April 22, and the Judiciary Committee reported him out by a unanimous vote on May 14. Ranking Member SESSIONS has called him ''a fine nominee'' whom he would support. As of today, no Senator has raised any public objection to his nomination. So I am confident that Judge Stark will be confirmed by an overwhelming margin, perhaps unanimously, when he receives a final vote. However, he has remained on the Senate Executive Calendar for 2½ months now without justification or explanation.

Judge Stark has all the qualities required to be a successful district judge. Since 2007, he has dutifully served the district of Delaware as a magistrate judge and previously spent 5 years serving in the district as an assistant U.S. attorney. In his career, he has established himself as a talented, dedicated, and humble public servant who possesses a strong work ethic and the highest integrity and intellect.

He also has stellar academic credentials. He is a summa cum laude graduate of the University of Delaware, a Rhodes Scholar, and a graduate of Yale Law School, where he was editor of the Law Journal.

Following law school, he clerked for Judge Walter K. Stapleton of the U.S. Court of Appeals for the Third Circuit. Through his experiences in private practice, as an assistant U.S. Attorney, and as a magistrate judge, Leonard Stark has developed the knowledge, skills, and temperament to be an outstanding district court judge.

Therefore, I support the unanimous consent request about to be made by my colleague from Colorado to move to the consideration of several well-qualified judges whose nominations have been delayed. I know Judge Stark will be on that list.

I yield for the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I believe over the last hour and a half the Senate has heard from almost one-tenth of the body. Nine Senators have come to the floor to talk about a litany of great nominees for district court positions all over our country. The viewers have heard and our colleagues have heard the importance of passing these nominees through the process so we can deliver justice to our

citizens in all the ways that our courts operate. In that spirit, therefore, I have a series of unanimous consent requests that I wish to make at this time.

UNANIMOUS-CONSENT REQUESTS—EXECUTIVE CALENDAR

Mr. President, as in executive session, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to executive session to consider the following nomination on the Executive Calendar: Calendar No. 813, William Martinez, to be a U.S. district court judge for the district of Colorado; that the nomination be debated for up to 3 hours with time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, and I will object, I wish to express a few thoughts before my colleagues who are here and who wish to speak on another subject. I wish to be heard on the nomination process and maybe I can be recognized after I make that objection. Hoping to be so recognized, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, it is disappointing that we can't get unanimous consent for an up-or-down vote on the Martinez vote. I wish to make clear to all the Coloradans who watched the proceedings today that I attempted to bring up this nomination for a vote, along with my colleague, Senator BENNET, but the minority party, as you have heard, has objected. It is a shame. I will not give up. I will continue to work in every way possible with colleagues on both sides of the aisle to confirm this important and impressive list of nominees.

I shared Bill Martinez's story earlier with the full Senate. It is a quintessential American story, and Bill Martinez deserves to serve on our district court in Colorado.

Mr. President, let me move to this unanimous consent request: I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: No. 656, Albert Diaz, U.S. circuit judge for the Fourth Circuit, and No. 657, James Wynn, to be a U.S. circuit judge for the Fourth Circuit; that the nominations be confirmed en bloc, and the motions to reconsider be laid upon the table en bloc; that upon confirmation, the President be immediately notified of the Senate's action, and the Senate then resume legislation.

Before the Chair rules, let me indicate that the Diaz nomination was reported on a 19-to-0 vote. The Wynn nomination was reported with a vote of 18 to 1.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar:

No. 696, Louis Butler, to be a U.S. District Judge for the Western District of Wisconsin; No. 697, Edward Chen, to be a U.S. District Judge for the Northern District of California; No. 703, Benita Pearson, to be a U.S. District Judge for the Northern District of Ohio; No. 948, John J. McConnell, to be a U.S. District Judge for the District of Rhode Island; that the nominations be debated concurrently for a total of 4 hours, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of time, the Senate then proceed to vote on confirmation of the nominations in the order listed; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSION. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I will continue to ask my friend from Alabama to consider joining with me in approving these unanimous consent requests.

I ask unanimous consent that the Senate proceed to executive session and consider en bloc the following nominations on the Executive Calendar:

No. 883, Michelle Childs, to be a U.S. District Judge, South Carolina; No. 884, Richard Gergel, to be a U.S. District Judge, South Carolina; No. 885, Catherine Eagles, to be a U.S. District Judge, Middle District of North Carolina; No. 886, Kimberly Mueller, Eastern District of California; No. 893, Leonard Stark, to be a U.S. District Judge, District of Delaware; No. 917, John Gibney, to be a U.S. District Judge for the Eastern District of Virginia; No. 935, James Bredar, to be a U.S. District Judge, District of Maryland; No. 936, Ellen Hollander, to be a U.S. District Judge, District of Maryland; No. 937, Susan Nelson, to be a U.S. District Judge, District of Minnesota; that the nominations be confirmed en bloc and the motions to reconsider be considered made and laid upon the table en bloc; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

Before the Chair entertains the request, let me indicate that all of the above nominees were reported unanimously or on a voice vote in the Judiciary Committee.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I appreciate my colleague from Colorado raising these issues. The Senate does have a responsibility to treat nominees fairly. I have worked to do that as ranking member of the Judiciary Committee, and they are entitled to be considered on the floor.

But things don't always go as smoothly as you would like. I will make a couple of points that are very important.

President Obama's nominees are moving considerably faster—to both circuit and district courts—than President Bush's nominees, many of whom were subjected to incredibly unjustified actions to obstruct their nominations. My good friend, the Senator from Delaware, says we should use the Golden Rule. I would say that is always a good policy. I am pleased that nominees are moving faster than President Bush's nominees were moved. But if we ask for parity, consistency, and if we ask for fairness, based on what was done to President Bush's nominees, they would be held considerably longer, and a lot of nominees would never even get a hearing, and they would wait for years.

I want to mention a few facts about these matters. President Obama's circuit court nominees have waited for a hearing only 59 days, on average. President Bush's nominees waited, on average, 176 days to even have a hearing in the committee. Actually that was in his first Congress, and the Republicans had a majority at that time. But they had to wait 247 days to get a hearing for his entire Presidency. Whereas, we are now having hearings in the Judiciary Committee in 59 days. We had one yesterday, 14 days after the nomination of a district court nominee. That doesn't sound like a railroad to me. President Obama's district court nominees have waited for hearings only 45 days, on average, while President Bush's district court nominees waited 120 days for hearings in the committee. So they come out of committee at an unprecedented rate. That is all right; we will deal with that. But sometimes we have to ask ourselves, how fast should you move a nominee to the floor? Should you have some time that the nominee lays over?

Let us talk about the time from nomination to confirmation. I guess that is the ultimate test. How long do you wait between the time a person is nominated until the time they are confirmed? President Bush's circuit court

nominees, on average, waited 350 days from nomination to confirmation. By contrast, President Obama's circuit court nominees, on average, are being confirmed almost twice as fast, in 208 days.

Similarly, President Bush's district court nominees, on average—people have said somehow this is unusual, the way President Obama's nominees are being treated—waited 178 days from nomination to confirmation. By contrast, President Obama's district court nominees, on average, are being processed almost 2 months faster, about 130 days.

I think it is important to look at other processes that cause disturbances in the Senate. It should not go unnoted that President Obama bypassed the Senate and recess-appointed Donald Berwick as Administrator of the Centers for Medicare and Medicaid Services less than 3 months after his nomination, and without even a Senate Finance Committee hearing taking place. He was very controversial.

The reasoning offered was that the Republicans are blocking this appointment and that he has to go forward. Without even having a hearing? That is particularly odd, since that position was vacant for 16 months before we even had a nomination and hasn't had a confirmed Administrator since 2006, and now they want to move it through with a recess appointment, bypassing the confirmation process entirely, without even having a hearing in the Finance Committee.

I have to note that the President has been slow to nominate. There are now 100 vacancies in our courts—20 in the circuit courts and 80 in the district courts—but only 48 nominations are before the Senate. So the President has been a bit slow, perhaps, in making his nominations. But he should take care; they don't have to be rushed. The Republic won't collapse if there is a vacancy for a reasonable period of time. But one reason the confirmations are as they are is because nominations are not being submitted in a rapid way.

Look at the fourth circuit. A lot of complaints have been made about the fourth circuit. This is stunning to me. You know the old story about the man who killed his parents and then complained that he was an orphan. One Bush nominee—a highly qualified nominee—for the fourth circuit waited 585 days and never got a hearing. He was rated by the American Bar Association as ''unanimously well qualified.'' He was a presiding judge in the district court on which he served. He had served in the Department of Justice. He had been point guard on the Clemson basketball team in the ACC. I always thought that clearly meant he knew how to make decisions if he could be a point guard at Clemson and dish out the ball. He was also asked—out of the entire United States of America—by Janet Reno to investigate President Clinton. She had so much confidence in him, she picked him. He didn't indict the President. You would think they would be appreciative of that. No, they blocked him. He never got a hearing.

When President Bush left office, there were five vacancies on the fourth circuit. What an outrage. They were systematically blocked by the Senate and the Democrats, who are now complaining so piously, and since that time, two have been filled. Now they are complaining that some other vacancies haven't been filled. Give me a break.

Look, the nominations are moving rapidly out of the Judiciary Committee. They are coming on the floor. When they get here, they get caught up in all kinds of messes. The leaders on both sides have to talk and they have to work out floor time. Some of these nominees are going to have some debate about them. You have heard a number of names mentioned. I point out to my friend from Colorado that Mr. Martinez had a lot of ''no'' votes. He was a top lawyer with the ACLU in Colorado. He doesn't seem to me to be the most mainstream nominee.

The American people are very tired of judges who get on the bench, with lifetime appointments, and start advancing all kinds of agendas and legislate from the bench. They expect this Congress to make sure that whoever gets nominated will show restraint and will follow the law, and follow their oath to serve under the Constitution and not above it. So he is a controversial nomination.

Mr. Butler from Wisconsin—I know he is controversial. Mr. Butler has twice run for the Supreme Court of Wisconsin and twice lost. He ran in 2000 and lost by a 2 to 1 margin. He was appointed to a vacancy on that court in 2004, and then ran for election when term of the vacancy ended. Those kinds of elections are normally won easily. He lost that, because his reputation was that of one of the most pro-plaintiff judges in the United States.

This is a serious concern when we appoint somebody on the bench with a lifetime appointment and he can't be voted out of office. Others have problems. Some of them are due to come up and be voted on for sure. It just takes time. I am not able to make the decisions that the leaders of our two parties make. They try to work out matters here. Some judges come forward and some don't. I have kind of quit worrying about who gets picked and who doesn't. That is above my pay grade.

I will say that, at least with regard to any fair analysis of the numbers, the Obama administration judges are moving faster than the Bush administration judges moved. There is a growing concern about the philosophy that President Obama has about judges. He said that when he looks for a judge, he wants to know if they have empathy. Empathy for who? Which party does he have empathy for? He wants a judge who will be willing to help advance ''a broader vision for what America should be.'' I am not aware that judges need to be promoting visions. Whose vision? My vision, or the judge's vision, or President Obama's vision? Whose vision is the judge going to promote? Who is he going to have empathy for? This party or that party?

The oath a judge takes is that they will do equal justice to the poor and the rich, and they will serve impartially. I believe Chief Justice Roberts' metaphor that a judge should be a neutral umpire is a simple and beautiful way to say what a judge should be. That doesn't mean he takes sides in a lawsuit because he has more empathy for one party than the other.

We have a serious problem. This is the definition of activism. It politicizes the court. These kinds of empathies and other matters are not law; they are politics. We do not need politics in the court.

Some of these nominations are controversial and are going to take some time to move forward. We are not a rubberstamp over here. We do not intend to stand by and have this court packed with nominees who are not absolutely committed to following the law as written whether or not they like it.

The Constitution says in its Preamble: ''We . . . do ordain and establish this Constitution for the United States of America,'' not some constitution a judge who got appointed last week thinks it ought to be but the one that actually was passed. Otherwise, we do not have law in this country.

We have a great heritage of law. We have a responsibility to move nominations. I made a commitment to the President, to Chairman LEAHY, to my colleagues on both sides of the aisle that to the extent I am able to do so, we are going to treat nominees fairly. We are not going to misrepresent their records. Certain nominees are going to be moved forward. I expect I will vote for over 90 percent of the nominees, giving deference to President Obama. Some of them I may be worried about, but I am not certain they are not going to be faithful to the law. I am going to give the President deference, and I am going to vote for them. If I do have objections, I am going to raise those objections. I believe the American people expect this Senate to scrutinize a nominee to make sure they will be faithful to the law and follow it whether or not they like it.

My colleagues know a lot of these nominees. They care about them. It does seem like a long time. Perhaps we ought to get together, I say to Senator UDALL, in a ''do unto others'' situation and see whether we can figure a way to be more effective in moving nominations as a whole and not have it change if Republicans were to elect a President next time.

How we really got into the controversy—and I will conclude with this—was President Clinton had almost 95, 98 percent of his nominees confirmed. When President Bush got elected, Democratic Senators—Senator

UDALL was not here then—met in a retreat. This is according to a New York Times article. Appearing at the retreat were Marcia Greenberger, Laurence Tribe, and Cass Sunstein—three very aggressive, liberal lawyers who believe that judges should be activists to promote the law, advance the law in a certain way. The report was that agreement had been reached to change the ground rules of confirmations.

That is exactly what happened. President Bush nominated eight judges. He nominated Roger Gregory, an African American who had been nominated by President Clinton but was not confirmed before President Clinton left office, as a gesture of good faith. He nominated another Democrat, I think out of his 8 or 10, within a few months. Those were promptly confirmed. The rest of them waited months and years. Some never got confirmed. A filibuster took place that we had never seen before. We even had Justice Sam Alito filibustered by the Senate, one of the most fabulous nominees we have seen and who is doing a great job on the Supreme Court. All of this never happened before. It was quite a change. We are having more difficulties now than we probably should have.

I say to Senator UDALL, I appreciate his commitment to the nominees he knows and respects and would like to see confirmed. I am sorry they have not been brought up as quickly as he would like. When they get out of committee, it basically becomes a leadership matter. They have a lot of issues on the agenda, and frequently good nominees can get tied up in them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I listened intently to my friend from Alabama. I have had the opportunity when I have presided to listen to him share his point of view with the Senate. As always, he is articulate and passionate.

Before I make two unanimous consent requests, I wish to make some brief remarks. I see a number of colleagues on the Senate floor.

I heard the comments about the time in which the Judiciary Committee is considering these nominees. And there are numbers and there are numbers, but the number that stands out to me, as I mentioned earlier, is we have 100 judicial vacancies, which the Senator from Alabama acknowledged. Forty-two of those are considered judicial emergencies by the bodies that oversee and monitor the judiciary. The Senate has confirmed 24 nominees so far this year and 36 total since President Obama was elected. Those are historic lows. That is the fewest number of judges confirmed in 50 years. We may have accelerated the process by which nominees are considered, but we have not accelerated the process by which they are confirmed so they can serve on a circuit court or a district court.

The Senator talked about a nominee who was in limbo for 8 years, and I heard the passion with which he thinks that was a wrong. But two wrongs do not make a right. We need to get our courts fully staffed with jurists who want to serve.

I heard piety mentioned. The eight of my colleagues who came to talk about filling the district and circuit courts—I did not hear a lot of piety; I heard a need and a desire to fill the courts so citizens' rights can be maintained and justice can be delivered, whether it is in criminal or civil settings.

Finally, with all due respect to my friend from Alabama, I will wait until we hopefully have a debate on the floor about Bill Martinez to tell all the 99 Senators what a marvelous candidate he is and what a strong member of the bench he would be. We will set that debate aside until I hope, I say to Senator SESSIONS, we actually can discuss the Bill Martinez confirmation on the floor.

UNANIMOUS CONSENT REQUESTS—EXECUTIVE CALENDAR

In that spirit, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: No. 891, Goodwin Liu, to be a U.S. circuit judge for the Ninth Circuit; and No. 933, Robert Chatigny, to be a U.S. circuit judge for the Second Circuit. I ask unanimous consent that those nominations be debated concurrently for a total of 4 hours, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon use or yielding back of time, the Senate then proceed to vote on the confirmation of the nominations in the order listed; that upon confirmation, the motions to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, I do say to my colleague, perhaps we should, in the spirit of harmony, work together and see if we can get a commitment that will be binding, not just for this Congress but perhaps one in the future, that would do a little better job than we have done in moving nominations. I do think there is room for criticism and we could do better. And I feel a responsibility, I say to Senator UDALL, to work with good people on the other side to try to do that.

With regard to these two nominees, Mr. Chatigny is a controversial nominee. He stayed the execution of a serial murderer, and, among other things he did, he found that sexual sadism was a mitigating factor that would mitigate against him receiving the death penalty after he had been duly convicted and sentenced by a Connecticut jury.

Mr. Liu is probably the most controversial activist nominee before the Senate. He has written that people have a constitutional right to welfare. He would be very controversial.

I say with regard to those two, when they are brought up, Majority Leader REID will have to be sure there is considerable time available so the debate can be effective.

For those reasons, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. The concerns of the Senator from Alabama are his, and they are most likely shared by others. The point I am trying to make is, let's bring nominees to the floor, have that debate, fully consider their records, and then have an up-or-down vote.

Mr. President, moving to my last unanimous consent request, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: No. 892, Raymond Lohier, to be U.S. circuit judge for the Second Circuit of New York; and No. 934, Scott Matheson, to be U.S. circuit judge for the Tenth Circuit; that the nominations be debated concurrently for a total of 4 hours, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of time, the Senate then proceed to vote on confirmation of the nominations in the order listed; that upon confirmation, the motions to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I look forward to working with the Senator from Alabama and the Senator from Vermont to move all of these worthy nominations to the floor. I appreciate the conversation we have had.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The small business bill is pending, H.R. 5297.

Mr. DODD. Mr. President, I ask unanimous consent that I may proceed as in morning business.

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

TRIBUTE TO BEN WEINGROD

Mr. DODD. Mr. President, I wish to make note of the fact that a young man who has worked with me for 3 years in this body and who is present on the floor today will be leaving to go to graduate school.

I thank Ben Weingrod for his tremendous service to the Senate. Maybe this will be his last opportunity to be a

staff member in a floor proceeding. I express my gratitude to him for his service to our country and as a member of our staff over the past 3 years. I thank him very much.

FREE-TRADE AGREEMENTS

I rise today to talk about the importance of our relationship with Latin America and the role that free trade plays in those relationships. In particular, I wish to emphasize the need for action, in my view, by the Congress to implement free-trade agreements signed with the nations of Colombia and Panama. President Obama described the importance of these agreements in his State of the Union Address earlier this year. I know the President and the U.S. Trade Representative are currently working on the remaining details, and it is my hope that the President will soon submit legislation to the Congress to implement these agreements.

While the recession has been a challenge to economies across the globe, it also has given us the opportunity to soberly reevaluate our global relationships and look to build stronger partnerships in places we may have overlooked in the past. The most logical place, in my view, to start that review is Latin America.

For too long, American policy has treated Latin America as our backyard, and our policies toward the region have run the spectrum from shortsighted and unsophisticated to arrogant and paternalistic. The narrative of our relationship has been based on the negative, often ignoring and glossing over the important economic, political, and social advances that have been made in the region. The truth is that Latin America is not our backyard at all but part of our common neighborhood. We share far more than a hemisphere with our neighbors in this region. We share a common history, common goals, common opportunities, and a common future.

From my time as a Peace Corps volunteer in the Dominican Republic to my current chairmanship of the Western Hemisphere Subcommittee in the Senate, I have had the opportunity to watch this region change dramatically over almost the last half century. Thinking back over the past three decades of my service in the Senate, the progress in many ways has been astounding, and it is time our regional policies reflected these changes.

Embracing these free-trade agreements is an important first step to achieve these goals. They will help to cement our regional partnerships and make important strides in shifting the story of the United States and Latin America from conflict to engagement, from division to empowerment.

I had the opportunity to visit almost every one of these countries in the region over the last 6 or 7 months and have seen these changes firsthand. In my conversations with numerous leaders and citizens, I have come to see not just problems and conflicts but, rather, remarkable, positive changes and opportunities.

Panama, for example, has been a critically important strategic and commercial partner of the United States. The United States, in fact, helped Panama gain its independence, and in 1914, the construction of the Panama Canal, as my colleagues will certainly recall, was completed.

Since that time, Panama has developed into an advanced economy based on professional-level services and is currently a destination of $4.4 billion worth of American goods. Despite its small size—3.4 million people, smaller than the population of my State of Connecticut—Panama rates in the top 50 of our trading partners globally.

Panama has also made important strides in building democratic institutions. Over the last 20 years, five civilian governments have been elected. With each new election, its commitment to human rights and respect for the rule of law has grown stronger. Challenges, obviously, still remain, particularly in the areas of human trafficking, violence against women, and increasing transparency in the banking and financial sectors. But Panama has made progress—great progress—and I am confident that the Martinelli government is committed to continuing this trend and to implementing solutions.

Mr. President, Panama is focused on becoming a financial and economic hub in Latin America. Passing the Panama Free Trade Act would give American businesses access to Panamanian markets. Today, tariffs and barriers remain on all goods and services sold in that country. By eliminating those barriers and tariffs on the overwhelming majority of goods and services, we could increase tremendously the job opportunities not only in my State but others around the country, and it would allow us to take advantage of the economic dynamism occurring in that country.

It is estimated upon implementation of a free-trade agreement with Panama, nearly 88 percent of U.S. commercial and industrial exports to Panama would become duty free, and Panama would be required to phase out tariffs on over 60 percent of all U.S. agricultural exports. This would lead to more U.S. exports to Panama and more jobs at home in the United States. This is good news for American workers, for farmers, and for small businesses and consumers alike.

Yet strengthening our partnership with Panama is not the only opportunity for increasing our engagement in Latin America. Our pending agreement with Colombia presents, as well, a chance to move forward in our renewed commitment to engagement and empowerment in Latin America. I believe this will have significant positive benefits over time.

Colombia has weathered a civil war that has lasted longer than most Colombians have been alive. Fueled by narcotrafficking, this war has claimed the lives of thousands of innocent Colombians, from farmers and shopkeepers to judges, elected officials, candidates, and community leaders, and has left countless more homeless in that country.

In fact, there are nearly 3 million internally displaced persons living within the country of Colombia today. Colombia still must improve its human rights protections and strengthen its commitment to the rule of law, but great changes have occurred on the positive side.

I understand why, of course, some may question moving forward with this agreement. I firmly agree we must not ignore these very real challenges in Colombia. But I also recognize that tremendous progress has been made in Colombia. I recently spent time there, as I did in the neighboring Andean countries, and the common belief is that great steps have been made in moving in the right direction. Mechanisms are in place today that will strengthen the rule of law, protect human rights, and Colombia recently held, as we all know, its most free and open election in decades.

In just 1 weeks' time, Colombia will mark a historic, dramatic transition to power from President Uribe to President-elect Santos. This peaceful democratic transition is an important marker in Colombia's history, and the President-elect has committed himself to strengthening Colombia's judicial system and working to reduce violence against labor leaders and others.

The Colombian people have pursued a fresh start, and we must recognize this and be willing to do the same. By passing the Colombia Free Trade Agreement, we have a historic opportunity to do just that.

This agreement, with its strong commitment to labor standards, environmental protections, and human rights will help shape Colombia's course to encourage its move toward a more open and democratic system and to build a relationship based on common values and not common enemies. This is an important opportunity that continues on the heels of the nearly 10 years of U.S. support for Colombia, including billions of dollars in aid through Plan Colombia.

Allowing this agreement to continue to languish now poses a significant roadblock, in my view, to continued reform in Colombia because it calls into question our Nation's commitment to a sincere and ever more important partnership. We need to act now, in my view, to affirm our commitment to the Colombian people, to show them that we recognize the hard work they have done and to signal that the United States will be a strong partner in their continued improvement.

Over the course of my career in the Senate, we have considered a number of trade agreements. I have evaluated each one, as I know my colleagues have, on its merits. Some I have supported strongly, and many others I

have opposed just as strongly, including ones for Latin America. A poor free-trade agreement can undermine very important protections for workers, human rights, and the environment. So I opposed the Central American Free Trade Agreement much to my pain and disappointment. But that was a weak agreement which did not deserve the support of this body.

These two agreements are different because since May 10 we have strengthened those labor protections, environmental protections, and human rights protections. I believe this agreement is deserving of our support. In the case of these two agreements, they are a commitment to our allies, and a signal to our friends that we value our partnerships and will continue to work with them to promote our shared values of democracy, the rule of law, and economic opportunity. As such, what they represent is much more significant than simply the exchange of goods and services between nations.

Trade agreements such as the ones before us represent opportunities to build long-lasting partnerships as well. I believe that is the case with the Panamanian and Colombian agreements before us. With the inclusion of the provisions of the bipartisan May 10 agreement on labor, environmental, and human rights standards, I believe we have addressed some of the most significant concerns about these two trade agreements. I also believe that because these trade deals and agreements have languished for so long, they have turned some opportunities into roadblocks to the success of our bilateral and regional relationships. It simply makes no sense to continue the delay. It is time to pass these two trade agreements in order to help move our economy forward as well.

Passage of these agreements is not just a good foreign policy decision; they also make strong economic sense as well. Currently, goods from Colombia and Panama flow north largely unhindered. Yet American businesses and American workers and the jobs, products, and services we provide are subject to significant duties and tariffs when we export goods to the nations of Panama and Colombia.

For example, while the vast majority of goods from Colombia enter the United States duty free, American goods exported to Colombia face average duties of 12 percent and, in some cases, as high as 20 percent. This is costing America jobs and American business. If we implement this agreement, we would eliminate many—as I mentioned earlier, almost 90 percent—of these duties and tariffs on these services and products nationwide, and U.S. exports to Colombia would increase, we are told, by a projected $1 billion annually.

In 2009, more than $14 billion worth of goods were exported by Connecticut firms to markets all over the world. According to the latest available data from my State—the Department of Economic and Community Development—Connecticut firms exported about $91 million worth of goods to Colombia and roughly $15 million of goods to Panama. Connecticut businesses export a variety of products to these nations, particularly chemical products, manufactured machinery, transportation equipment, computers, electronic products, and paper goods.

Under the Colombia Free Trade Agreement, 80 percent of all consumer and industrial goods, which include the categories I just listed, become duty free immediately. In addition, 88 percent would become immediately duty free once the Panama agreement is ratified as well.

What can this mean for the future? Well, certainly jobs. The International Trade Administration calculates that nearly one-third of all manufacturing workers in my State depend on exports for their jobs, and more than 4,000 companies engage in exporting some kind of products to these nations. Of those firms, 89 percent were small or medium-sized businesses—precisely the firms that President Obama's Export Initiative targets—that will be well positioned to take advantage of these agreements once they are ratified. This means expanded economic opportunities for workers in our own country and businesses in our various States across the Nation.

The Panama and Colombia Free Trade Agreements were established over 2 years ago. They have been the subject of intense scrutiny and public debate. They have benefitted by the input of the Congress, through the historic May 10 agreement, which I described earlier, that saw the inclusion of binding, enforceable, and meaningful labor, public health, and environmental standards. These discussions have allowed the Congress and the American people to critically examine the importance of these trade agreements and our partnerships with these key allies.

I urge support of these trade agreements before us not in spite of our current economic situation but because of it. This recession demands bold moves and innovation. It requires us to strengthen our key economic partnerships and to expand into new markets where we can. Now is not the time to close our borders to nations with whom we already have strong ties. History shows that erecting barriers to trade has the potential for deepening the global recession. Conversely, these agreements mean more economic opportunities for American workers and our families.

It is time for us to change the way we relate to the world, particularly in Latin America. For too long we have used our differences in this region with our allies as an excuse not to act, as a reason to disengage. These agreements offer us a chance to refresh that paradigm, to make the United States a proactive partner in fostering economic opportunity by bringing us closer together and promoting our shared values.

It is time, in my view, for the United States of America to lead a global economic recovery. A small but important step down that road is the passage of the Panamanian and Colombian Free Trade Agreements, and I urge my colleagues, both Democrats and Republicans, to support these agreements. I hope we can do so before we adjourn this session of Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

EDUCATION REFORM

Mr. ALEXANDER. Mr. President, the President of the United States made an important speech this morning. He spoke to the National Urban League Centennial Conference on Education.

Every speech a President makes is important, but this speech is especially important, and I commend the President for his courage, for his vision, and for his willingness to undertake the hard work of helping children across this country learn what they need to know and be able to do, and the competence with which he is doing that.

Let me be specific about why I say that. No. 1, the President began with teachers. He extolled teachers. He said he wanted to lift them up as high as he could, he wanted them to be on the front pages of magazines, and for us to dignify them in every way we could. But he didn't back away from tackling the most important and the most difficult challenge that any of us who have dealt with education reform have found; that is, how do we reward outstanding teachers. Especially, how do we tie that reward to student achievement? In other words, what can we do to help reward and encourage those outstanding men and women who help our children learn, particularly our children who are having the hardest time learning?

All of us know a great teacher makes a great difference. The President said that himself. Each of us in the Senate knows that. But any of us who have, over the last several years, spent time trying to find ways to reward outstanding teaching knows how hard it is.

I worked on it in 1983 when Tennessee became the first State to reward outstanding teaching. Not one State at that time paid one teacher one penny more for being a good teacher. They could make more money for being around a long time. They could make more money for getting a degree. But they didn't make more money at all if the children were succeeding.

For a while that worked because we were able to capture women. They had very few options and they became saints in the classroom and they were our teachers. But in the 1970s, the 1980s, and the 1990s, women had many options, and they took them. In the companies where they went to work, they were paid more for excellence. They made good salaries. As a result, it

became more difficult to attract and keep outstanding men and women in our classrooms.

Governor Graham, who was later a Senator, tried the same thing in Florida. Governor Clinton—later a President—was trying many of the same ideas in Arkansas. Those were the 1980s. Every education meeting I go to comes down to the same point: After you get past the role of the parent, the teacher is the center of it. Whether a child is a gifted child or whether a child comes from a home where he or she does not have breakfast, or whether a child comes from a home where he or she has never been read a book until they are 7, whether a child needs to be in school 12 hours a day or 8, on Saturdays or not, the teacher at the center of the education of that school is the indispensable product and the best and most important part of a child's ability to achieve and to learn.

What the President has done—through the Teacher Incentive Fund that he has continued to encourage, and through his leadership on the subject—deserves credit and support from all Americans. I for one am here to offer him that.

Second, he talked about charter schools. He is not the first to do that either. I remember as Education Secretary on my last week in office, in 1993, I wrote a letter to all the superintendents in America to encourage them to try charter schools. At the time they were the invention of a few Democratic liberal reformers in Minnesota. There were maybe a dozen charter schools at that moment. But charter schools were simply ''start over'' schools. It was simply saying to a faculty: Let's start over. What if we took off the rules and regulations and gave you the freedom to do with the children who are presented to you what they need, so if you need to start at 7 in the morning and finish at 7 in the night, do it. If you need 2-hour classes, do it. If you need 200 days a year instead of 180 days at school, do that as well. If you need to learn during Easter holidays, do that.

Who are the beneficiaries of the charter schools? When they work, the beneficiaries are most often the children who come from the most difficult circumstances.

I can point to a charter school in Memphis I visited 3 years ago where it was an Easter holiday. The children there were ninth or tenth graders. Instead of being on Easter holiday, they were studying for their advanced placement course in biology at the freshman or sophomore level. There was not any other school in Tennessee where children that age were studying advanced placement biology, especially during the Easter week break.

President Obama has done what President Bush did, what President Clinton did, what Vice President Gore did, what I have done, what many others have done, which is to say: Let's have independent public charter schools and give teachers the freedom to do what they know how to do. The first thing is rewarding outstanding teaching. As the late Albert Shanker, the head of the American Federation of Teachers, used to say: If we can have master plumbers, we can have master teachers, and we can pay them accordingly, pay them very well, and let's have charter schools and give teachers the freedom to do what they in their own good judgment know to do.

The third thing the President talked about was high standards. That is also not a new idea but he has advanced it down the road very well. Higher standards are an indispensable part of a good education in kindergarten through the 12th grade.

The way I used to help Tennesseans learn about that was to say look at all these big new auto plants that are coming into our State. To get a job there, you have to know a lot more today than you did when your parents might have worked there, or your grandparents. You have to know algebra and statistics. You have to know English well to be able to communicate. In other words, the standards are high if we are going to compete in the world and keep our high standard of living.

While a lot of work has been done by the Governors of the country through ACHIEVE, the President has advanced the idea of common standards very well in the last 18 months, and he has done it in the right way. He has not said: Okay, I am the President; we will write it from Washington. That would have killed it—or at least I hope it would have killed it. He didn't say that. He said let's create an environment in which States can make a difference and make their own choices, and States, in surprisingly large numbers, are beginning to do that, in terms of reading and math.

The fourth area the President spoke about, and this is his own initiative, is the Race to The Top. This is infusing one of the hardest things that is possible to infuse in public education and that is excellence. We have a democratic society. We are usually interested in leveling things. If we have five things, one goes to each person.

What is hard for us to do in government, and that means public education as well, is to say let's reward excellence. Let's say to those school districts or to those States or those teachers or those others who are making the A-pluses and the A's and doing the best job, we want to incentivize you to do that. He has found a way to do that. It is a fair way. He has kept politics out of it. He has put money into it and he deserves credit for it.

Finally, he has picked a very good Secretary of Education. I said when Arne Duncan was appointed that he might be the President's best appointment. I still think that. That is not because I agree with everything Arne Duncan has recommended. In fact, I think he was completely wrong about the student loan takeover. I think his proposal on gainful employment, which is an obscure higher education thing and a different subject, is, with all respect, a little wacky. But what I think is he is an excellent leader for education, and he has a big heart and he has worked in a bipartisan way, and he has gotten results that are as good as anybody could possibly have gotten on some of the toughest subjects facing our country.

The President and Arne Duncan deserve our applause and support for their efforts. We will have differences of opinion about how much we can spend and when we can spend it, but if the goal is to reward outstanding teaching, to create more charter schools, to help States raise standards in an environment where they are not told to do so by Washington, but create an environment to do it themselves; if the goal is to infuse excellence into public higher education by challenging States to do better, then we should be for that and we should do it together.

I think President Obama has the opportunity in public education to do what President Nixon did in China. It may be easier for a Democratic President to make these changes or to lead the country in these changes than it would be for a Republican President, just as it was easier for a Republican President in the early 1970s to cause us to have an opening to China. That is a large claim to make but I think it is an equally important goal.

About the only thing I disagreed with today in the President's speech was this. He said teachers were the most important part of a child's education. I think a parent is and I think he does, too. I think he would agree. I think parents and teachers are 90 percent of it and it starts with the parent. The reason I think he would agree with that is because he had good parents and he is a good parent and a very good example to the rest of the country.

Anyone who has read his biography, ''The Audacity of Hope,'' knows the story of his mother getting him up at 4 o'clock in the morning in Indonesia and teaching him math and to read and telling him: Buster, it's not any fun for me so get busy and learn, and he learned very well. His example as a good parent and good student is exactly the kind of example we need for students and parents across our country.

This is a time when we have differences of opinion on many issues. I will have some differences of opinion with the President on education, as I mentioned. But I have no lack of enthusiasm for the importance of his leadership on K–12 education, on rewarding outstanding teaching, on giving teachers the freedom to create schools in which they can use their common sense, on creating high standards, on the Race to The Top, on setting a good example as a good parent, and I thought it was important—perhaps especially for a Republican Senator who spent a number of years

working on these issues as Education Secretary and president of a university and Governor—to come to the floor and say: Good work, Mr. President. An excellent address. And on those broad issues and themes, you have my full support.

The President's remarks can be found at: http://www.whitehouse.gov/the-press-office/remarks-president-education-reform-national-urban-league-centennial-conference.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. BEGICH. Mr. President, I come for a few minutes on the floor. I am down here with Senator WYDEN from Oregon, and I want to talk a little bit and probably in an informal way about a piece of legislation, a bipartisan piece of legislation on tax fairness and simplification.

There is one thing I hear a lot about when I go back home and when I was running for office, when I was mayor, and serving in our city government—how do you simplify the process of taxes, making them fairer for the middle class.

For all my time prior to serving in the Senate, I have thought about these ideas and ways we can move forward. When I was mayor, we simplified the business taxes for our small businesses, making it easier and simpler, lowering their tax burden, for our residents doing the same thing.

Here I am in the Senate and I look at lots of legislation every day, as I know you do, Mr. President, and I know the Senator from Oregon does. We see all sorts of ideas created and put on the table, and one which intrigued me was the Wyden-Gregg bill, which is focused on simplifying the tax paperwork mill, I call it, that we are subjected to every single year as individuals; the mound of paper we have to fill out not only as an individual but as a small businessperson trying to go through the rules and regulations and what is a reasonable amount of taxation that we should pay; also, the complicated system in what is owed or hopefully refunded back to us because we overpaid the IRS.

As I looked at a lot of different ideas, I have to tell you this idea—as we debate here on the floor a small business plan, small business ideas—sooner or later we will debate the Bush tax cuts and what we will do with those. To me, there is a simpler solution when it comes to issues of taxation, what we are going to do lowering the tax burden on small business, lowering the tax burden on the middle class, and simplifying it. Today there are so many different things we have to worry about and focus on: multiple retirement accounts we are trying to balance, trying to figure out who is a dependent, who is not, doing our returns—how to simplify this so our life is less burdened by the IRS.

I want to first commend Senator WYDEN and Senator GREGG for their work in multiple years pushing this issue forward, trying to figure out how we can help the middle class and the small business people of this country lower their tax burden; getting the IRS, as we would say back home in Alaska, out of our pockets. They have done a good job.

If there is no objection from the Presiding Officer, if it is OK, I will ask Senator WYDEN to join me here with couple of questions. Sometimes you look at these bills and you wonder are they too good to be true. Here we have, if I am not mistaken, not only the Heritage Foundation and some of the more conservative groups as well as the more liberal groups, the Brookings Institution and others, commenting positively about this legislation. In my year and a half here I have not seen that on anything.

We have Republicans and Democrats who are looking at it positively. We have business groups that look at it positively because it lessens their burden and allows them to reinvest in their businesses, to grow this economy. It reduces the deficit, which I know Senator WYDEN, myself, and others—like yourself, Mr. President—are concerned about—the growing deficit and the burden it may lay onto future generations.

But it also has true tax reduction, tax relief for the middle class and businesses. When you see something such as that—and, by the way, you can also do this in one page, a one-page return. When you hear those kinds of things, those claims, you are wondering, What is the catch? What does the small print say? What are you going to get hooked into and pay a pretty good price for later? We have been going through it, I have been going through it. Actually when you first introduced it before I was a Senator, I looked at this legislation when I campaigned. Here I am now in the Senate with a chance to participate, to see what we can do to accelerate this.

We are going to talk a lot about the tax extender bill and other tax issues in the future. But my view is it is time to reform the system. The system is broken. The middle class is paying higher than they should. Small businesses are burdened with incredible paperwork and increased costs. It is time that we reform the system and do something that is dramatic and makes a difference.

Today it is an honor to be down here. Senator WYDEN, I hope doesn't mind; I have extracted off of every piece of his Web site every document related to this, the research to understand it, to make sure I do not see that small print that later I might regret. So far what I have seen is small print, big print, that I do not regret and that is why a few weeks ago I cosponsored the legislation to be one of those who joined the team, to move us forward to real reform.

I know when I joined, Senator Bob Bennett from Utah also joined on—again, focused on the same issues we are, again keeping it a bipartisan, fair, simplification of taxes.

No one likes to talk about taxes. No one loves to be around April 15. But the fact is, it does occur. So how do we make the burden less on middle-class America?

How do we make the burden less on small businesses? This bill does it. So, again, I say to the Senator from Oregon, I wish to make sure I am saying the right stuff. So maybe the Senator could comment back to me. But it does have a positive impact. Correct me if I am wrong, but I think the numbers, for example, on average for a small business, they are pretty much going to be guaranteed they are going to save at least $5,000 in taxes and more, depending on the size of their business.

For middle-class America, they are clearly going to save. Their rates will be lower, which means their cash out of their pocket will be less to the IRS, meaning the IRS is not reaching in there, not only in your front pocket but your back pocket. They will have less capacity to do that.

Tell me, I hope I am right on this and I do not want to mislead—the public is watching—but also make sure I am correct.

Mr. WYDEN. I thank my colleague. I especially appreciate his kind words about a piece of legislation Senator GREGG and I sat for the better part of 2 years working on. I think everyone appreciates colleagues supporting their legislation. I appreciate the Senator's kind words.

I think he is right with respect to the relief, and colleagues will see that, whether it is the Heritage organization or the Brookings Institution or the various analyses that have been done by other groups. But I think it is especially important, even apart from our piece of legislation, that we get at the central question the Senator's talking about, which is, the current tax system is broken. It is broken, and we are not going to get the country where we need to go by just kind of tinkering here and tinkering there.

I wish to give a couple examples because I think the central question is, Are we going to make a break with a broken system and look forward or are we going to do what has been done year after year after year, which is to just to tinker with a broken system and cause more problems?

Here is the heart of it. What we are seeing today is that every few years there are thousands of changes in tax law. So that means all the small businesses—and you were a small business leader before you came to the Senate—all those small businesses, trying to compete in the tough global market, incredibly competitive markets, do not even have any certainty and predictability of what is ahead. They are not in a position to be able to know what the Federal Government and particularly the IRS is going do in terms of taxes, and that drains additional chances for them to make changes in

their production, in their workplace, productivity areas. It defies common sense. So the fact that there are these thousands of changes every few years, in my view, is very antibusiness, and particularly antismall business.

Then, the second point that the Senator touched on deals with individuals. The reality is, today, the current tax system is so complicated that most Americans do not even know when a tax break has been extended to them.

The Senator and I have talked about it. It seems to me Senator BEGICH made the central point here. In the stimulus legislation, in the Recovery Act, there were $300 billion worth of tax cuts put into that legislation—$300 billion worth of tax cuts. If we left today and walked the streets in Anchorage or Portland or Gresham or wherever and asked people about the stimulus legislation, people would know virtually nothing about any tax incentives.

Mr. BEGICH. If I may interject.

Mr. WYDEN. Please.

Mr. BEGICH. That is actually right. One thing I thought, wow, $300 billion tax relief, predominately for middle-class America. I thought my phone would be ringing off the hook with people saying: Wow, what a great relief. If we got 1 e-mail on this out of the 1,000 or so e-mails and phone calls we get every single week, I would be surprised.

Because, as the Senator said, it is a complicated system we have, and when we do relief, no one will even notice it. That is why I was so attracted to Senator WYDEN and Senator GREGG's proposal, because it is reform. It is changing the system for the better. It is ensuring that middle-class America, making sure small businesses benefit.

That is when I was shocked, actually. I know if I was back in the mayor's office when we did the small business relief, making sure 90-plus percent of our small businesses did not have to fill out the paperwork anymore and got relief, I heard from them because they were very appreciative because they could reinvest it. But we made it real because we reformed it, not just tinkered with it as you talk about how the past Congresses have done.

Mr. WYDEN. The other aspect of the Recovery Act, I think, that reaffirms this point with respect to the complexity is the Internal Revenue Service puts out what they call their annual ''oops'' list. This is the list of the 10 most common mistakes made by taxpayers when filing. The ''oops'' list released this past March included, for example, one of the principal credits in the Recovery Act because people simply were unable to figure out how to make it work on their 1040EZ forms. So the fact is, the Tax Code today is anything but an easy system. It is quite the opposite.

To further support the point with respect to the complexity, this year individuals and businesses are going to spend 10.6 billion hours to comply with the code. If the tax compliance sector were an industry, it would be one of the Nation's largest, requiring a full-time effort of 3.8 million people to get done that 7.6 billion hours.

The cost of compliance is jaw-dropping, $200 billion a year, 15 percent of all tax revenue the IRS collects each year. So the point of this is, we are at a fork in the road. We can either look to the kind of approach that a Republican President, Ronald Reagan, and a number of Democrats talked about one-quarter century ago and move in and drain the swamp, Democrats and Republicans together, taking on these special interest groups that have hijacked the Tax Code or the Congress can continue, as Senator BEGICH has said, to keep fiddling with one provision or another, making the Tax Code even more complicated, running what amounts to a full employment program for tax preparers or we can take steps that will make the code fairer and more progrowth.

I also think it is worth noting that in the last round of tinkering, 2001 and 2003, for much of that period we had stagnant economic growth. So we were not doing what the country needed in terms of fairness for the middle class, nor was the country doing what was essential in terms of promoting more high-skill, high-wage jobs.

You and I know, for example, if you take away the tax breaks for shipping jobs overseas, you can use that money to lower the cost to manufacture in this country. I see Senator CASEY. He comes from the State of Pennsylvania. He has done terrific work because I have heard him on the floor talking about the importance of manufacturing.

This is one of the issues relating to the question of tax reform. Right now there are tax breaks in the code that reward companies for closing U.S. operations and moving them overseas. Why would not Democrats and Republicans want to go to a more simple system, as Senator BEGICH is talking about? That would be in the interest of fairness for all but also one that is likely to create more good-paying manufacturing jobs in Pennsylvania and other parts of the country, by taking away the tax break for shipping the jobs overseas and use those dollars to hold down costs for manufacturing red, white, and blue here in the United States. So I am very much appreciate Senator BEGICH taking this time. He has been awfully kind with us. I appreciate the kind words about the bill and having him on it. But I especially appreciate him outlining what this problem is all about in terms of starting—with getting beyond the tinkering and the complexity to real reform that works for all Americans.

I thank my friend.

Mr. BEGICH. To the Senator from Oregon, I will close and say thank you very much. It is kind of like the Senator said, a fork in the road. It is a moment. We can continue to do business as usual, tinker with it a little bit here, a little bit there, have special interests kind of run the show or we can turn it back to the American people by helping them keep more money in their pockets, helping small business keep more money in their pockets. Let them invest in the economy, as the data that I have seen around this can show, that over a 10-year spread, you will add over $2 trillion to the GDP, based on small business reinvesting those dollars instead of the IRS grabbing them from them.

This is a positive step. I do think, I hope as our colleagues—a couple of them are on the floor and we will stop in a second so they can get their time to do their presentations. But I know and I hope other colleagues are watching and listening because this is a moment maybe in this body that we can actually do some significant reform in a bipartisan way.

I do not sit on Banking. I do not sit on Finance. Some people have asked me: Well, if you are not on those committees, why are you interested in this? Well, simply because it has a simplification of the tax return system. It lowers middle-class taxes and those on small business. That is what drives this economy. That is what we should be focused on.

So I credit these Senators for stepping up, kind of plowing the field in a way. I am a latecomer to this. But I am going to be one of those who is taking that plow and putting a high-speed engine on it so we can keep plowing more and getting more folks, hopefully, on board. So, at the end of the day, the American people can look at this Congress, Republicans and Democrats, and say: They did something that reformed the system, made it simpler in our lives, saved the middle-class taxpayer money and improved and lowered the taxes for small business.

Now the business economy is humming along and investing those dollars to grow this economy and keeping those jobs right here in the country.

So thank you for allowing us a few minutes to, hopefully, start to engage the Congress as we move into tinkering with the Tax Code, so we do something different and we reform the Tax Code for the betterment of this country.

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

AVIATION SUBSIDIZATION

Mr. BROWNBACK. Mr. President, I appreciate the discussion I was hearing. I would also like to draw attention to an issue that I think is about the most important to our Nation. We recently won a major trade case against the European Union and their subsidization of Airbus.

This is an effort by the European Union, over a period of 30 years, to buy their way into the large commercial aviation marketplace. They did so. They did so successfully. They drove out two major U.S. competitors, McDonnell-Douglas, Lockheed-Martin, drove them out completely. They do not even make those big jet airliners

anymore, and they had Boeing on the ropes.

Airbus took more than half the market share globally in the large airliner business. The U.S. Trade Representative's office, over a couple different administrations, pursued Airbus's subsidization. We just won this case, a multibillion dollar trade subsidy case that we won against the Europeans and their subsidization of Airbus, taking market share in the large commercial airliner business in an illegal fashion, illegally subsidized.

Now we will go into the damage and remedy phase. But we won the case, and it is a massive case. The reason I am raising this to my colleagues, my colleagues all know about, is a similar setting is starting in the small aircraft market, general aviation market. It is starting in the business jets, the small airplane business.

This is a U.S. homegrown business, it is centered in my State in Kansas. It is a great business. It provides connection throughout this country and increasingly throughout the world. There are 5,000 airports in the United States; only 500 of them have commercial service.

So the other 4,500, I guess you ride a bike to if you do not have a business jet or an airplane to get people there. Eighty-six percent of the passengers on those business jets or airplanes are mid-level sales, engineers. They make connections in between their various properties as the company operates. They make them much more efficient within that business.

But what is taking place today is this homegrown general aviation business in the United States that is a major exporter, recently cited by a major study by Brookings that this is a major export cluster, 40 percent export that we do in general aviation, the small business jet-airplane market is now under targeted attack by other countries to take this business away from the United States, the same way Airbus, subsidized by the European Union, took that market share away from the United States.

Instead of going after the big airliners, they are going after the small jets, the small airplanes. Several countries are lining up to do this. This is one of the major challenges facing general aviation domestically—foreign countries targeting this industry, which has high-wage, high-scale manufacturing sets of jobs. Various governments around the world are lining up and preparing programs with various means of support for their domestic aircraft industries, in research and development, sales and export financing, as well as certification of new aircraft, very similar to what took place in Airbus taking over that market share that they did.

In that situation, you had large companies fighting against a government operation, and they had, in some cases, deep enough pocketbooks to last, such as Boeing did. Lockheed-Martin, McDonnell-Douglas did not and were driven out of the field. My great fear in this targeting of general aviation, of the smaller business aircraft market, is that they are going to have countries behind them, companies in those countries are going to push forward and they are going to take the market share away and they are going to be aggressive and it is going to happen rapidly if we do not get out in front of it and stop these other countries from doing this subsidization.

It is absolutely critical to engage this competition now, that we stop it now, that we start the investigation of foreign governments' illegal subsidization in the general aviation market now, and that we get on top of this now, before it goes on 10, 20 years, as it did with Airbus, and we drive U.S. businesses out of the field.

One country in particular I wish to draw attention to, and one company. The country in particular is Brazil. It has made a strong commitment to expanding its presence in this market, the general aviation market, through Embraer, one of Brazil's largest exporters and employers. Embraer has made it a strategic focus and publicly stated its goal in 2005 to become ''a major player in the business aviation market by 2015.'' That was their statement in 2005, so they are 5 years away.

How have they done? After entering the business aviation market in 2002, Embraer has been involved in a massive program to develop aircraft for this market segment. They have experienced unbelievable growth and have rolled out a full product line of new jets, including the Phenom 100 and 300, the Legacy 600 and 650, and the Lineage 1000. Beyond the staggering numbers of models Embraer has introduced since 2002—in 8 years that number of product introduction—it is now responsible for around 14 percent of all global sales of business aircraft.

Again, this is a U.S. homegrown business. This business didn't exist outside of the United States before we started it many years ago. It is headquartered in my State in Wichita, the air capital of the world. What they have done since 2002 is get 14 percent of the market share from a start position, a cold start position. This is quite an unbelievable feat for a company that has only been manufacturing business aviation for a little over 7 years. That is phenomenal. It also, I suspect, was done illegally and subsidized by the government. At the same time, Embraer continues full speed ahead toward its goal of being a major player in the business aviation market.

U.S. manufacturers during this same period have had to delay or cancel new program starts due to challenging market conditions. I don't need to remind Members what has happened since 2008. It has been a horrific market condition. In my State, we have had huge job losses and sales in the business aviation field since 2008. We had a nice period going into 2007. We were up to 40 percent international sales. International sales helped us a lot because previously we sold 90, 95 percent of the market domestically, so that's a nice expansion in the international marketplace.

Since that period, 2007 moving forward, this has been a downward market. In that period, Embraer has moved up to 14 percent and introduced a whole new cross-section of planes. As someone who has seen similar signs in the past that were later proven to be the result of illegal subsidization of aircraft by the EU, this activity by Embraer and the Brazilian Government and growing market control does not seem possible without heavy and creative government support across the board. It does not seem possible to have done that in this market condition, in this atmosphere, in that short a period of time by a new startup company that hasn't been making these aircraft for more than 7 years. That was the similar sort of trajectory Airbus went on when it had heavy and creative government subsidization to go into a marketplace they had not been anywhere close to in the past. That's seven years, now 14 percent of the market share by Embraer, starting from a dead start. There is heavy illegal subsidization.

I urge the President to look into this matter through the U.S. Trade Representative's Office, the International Trade Commission, to start an investigation into what I believe is illegal subsidization. Let's get the factual setting established.

We now see what they have accomplished in this period, I believe, through illegal subsidization. We need to get the International Trade Commission and the U.S. Trade Representative's Office focused on what needs to take place; otherwise, what will happen is Embraer will continue to grow in its market presence, taking over more and more of the global and U.S. domestic market. It will drive weaker incumbents out of the field in the United States, as happened in the large aviation market. We will lose export share. It will encourage other entrants such as the Chinese to come into this marketplace, possibly the Japanese as well in subsidized ways, illegal government subsidization into this marketplace that has high-wage, high-skill manufacturing jobs that we should be doing in the United States and not allow to be stolen by foreign treasuries to other places around the world.

We have to do this and get in it before they do what Airbus and the EU did to the large market which is to drive Lockheed Martin and McDonnell Douglas out of the business. While we were sitting here saying: We think maybe there is a problem, there might be a problem, there was a huge problem, a huge illegal subsidization by the Europeans. But we didn't get on top of it until two major U.S. companies were completely driven out of the business. Let's not let this be repeated.

As my colleague from Kentucky loves to say: There is no education in the second kick of a mule. We have seen this play before. We have seen countries go after key market segments in the United States. If we are not aggressive in confronting it, it goes on until we do. I hope my colleagues will look at this. There are two actions we can take near term with the International Trade Commission, starting the investigation in this particular case with the U.S. Trade Representative's Office, starting to raise this issue, particularly with the Brazilians but also other countries. Now is the time to do it, not 5 years later after U.S. companies have been driven out of the business.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

CLEAN ENERGY JOBS

Mr. CASEY. Mr. President, I rise today to discuss a very important provision in the new Clean Energy Jobs and Oil Company Accountability Act just introduced by the majority leader which would require public disclosure of hydraulic fracturing chemicals used in natural gas drilling. The bill itself will have a number of important benefits which I will highlight before getting into the issue I rose to speak about.

This legislation will create at least 150,000 jobs and save millions of consumers up to $500 annually. Second, it will hold BP accountable. A lot of Americans are waiting for that accountability. Third, it will reduce our dependence on foreign oil and create up to 550,000 jobs. Next, it will protect the environment by providing full funding for the Land and Water Conservation Fund over the next 5 years. Finally, the bill will protect taxpayers from any future oilspills. That is the overall bill itself.

I wish to speak about a provision included in the bill as it stands now. I thank the majority leader for his leadership on energy issues for many years but especially, as our leader, for his work on efforts to combat global warming, pollution, and certainly for his leadership in putting together this new piece of legislation. I thank him for including important language in the bill as it relates to natural gas drilling in places such as Pennsylvania.

The language in the bill amends the Emergency Planning and Community Right-to-Know Act, which was designed to help local communities protect health, safety, and the environment from chemical hazards. It would require well operators to disclose to the State and the public a list of the chemicals used in each hydraulic fracturing process, including chemical constituents but not the proprietary chemical formulas the companies are so concerned about.

This bill also includes the chemical abstract service registry numbers and material safety data sheets. If a State does not have a disclosure program in effect, the disclosure would be made to the public itself. This provision would also require disclosure of a proprietary formula or chemical constituents to a treating physician or nurse in an emergency situation. That is a narrow exception to the general disclosure rule.

This is about something that is critically important to the people of Pennsylvania and people across the country. In order to extract the gas from the Marcellus shale which lies beneath large portions of Pennsylvania and several other States—of course, there is shale formations—the gas industry uses a process called hydraulic fracturing or, by the shorthand, fracking, as it is known colloquially, whereby about ½ million or more gallons of water, sand, and chemicals, in combination, are injected at very high pressures into underground rock formations to blast them open and increase the efficiency of the wells.

Each well must be fracked multiple times, really hit with that combination of sand, water and chemicals in order to release the natural gas from the shale. Then, of course, the gas is captured and can be used as an energy source.

The explosive growth of natural gas wells in Pennsylvania in many incidents involving some of these wells highlights the urgent need—I think that is an understatement—for disclosure of the chemicals used in hydraulic fracturing. Pennsylvanians and people across the Nation have a right to know what is being injected into the ground at thousands of sites throughout the country.

Fracking fluids are believed to contain toxic chemicals. These compounds are kept secret from the public as proprietary information. However, even low concentrations of toxic chemicals can have adverse health and environmental consequences.

We all know the history of our Nation as it relates to the extraction of a natural resource. Pennsylvania has a history as well. We have developed our natural resources to power the region and, indeed, the Nation from the first commercial oil well, the Drake well near Titusville, PA, in the 1850s, to western Pennsylvania's production of natural gas and, of course, most notably, Pennsylvania coal. We have used that coal and other sources of energy but especially coal to provide electricity throughout the State and throughout many States in the Nation. We have been a producer of a resource which has helped to light and heat the country.

Pennsylvanians are proud of that contribution. We are also proud of the way we have been able to balance the need for that resource and the benefit with what happens to our environment and our quality of life. However, before our State did the right thing in striking that balance, we did create a number of environmental legacies that we should not be proud of. Most were created in previous generations when Federal regulations that promoted responsible development did not exist. We know that history. We know it all too well. We cannot make those mistakes again in Pennsylvania or anywhere around the country when it comes to the benefit and the burden of having a resource under the ground.

Natural gas has played and will continue to play an important role in our energy portfolio as we transition to a new energy future, and we are fortunate to have domestic sources to help us meet our growing needs.

Pennsylvania will develop the natural gas in the Marcellus shale, and we should. But we should also make sure we develop the Marcellus shale using the best practices to protect our communities and our people. We have to get this right. The good news is that we have a lot of knowledge and information and research and technology and good-old American ingenuity and can-do spirit to get it right. Those old, false choices we used to debate all the time years ago—about choosing jobs over the environment, about choosing economic prosperity or great economic opportunity over quality of life and health and safety—are largely part of our history. But we have to make sure we get this right.

It is not just underground sources of drinking water. That has been my main concern when it comes to this issue. What happens to groundwater or drinking water with all of this hydraulic fracturing going on? And the EPA, of course, is in the midst of a study. But it is not just a concern I have about underground sources of water. There have been cases where this fracking fluid—again, a combination of chemicals and sand and water and millions of gallons of it in one small area, in one geographic area—that those fracking fluids have, in fact, spilled on the ground.

The language in this legislation will require that the natural gas industry provide complete disclosure of the chemical composition of hydraulic fracturing materials to ensure that if drinking water supplies, surface waters, or human health is compromised, the public and first responders will know exactly—exactly—what they are dealing with.

The intent is not to stop hydraulic fracturing, and this disclosure language is not going to stop it, despite what we have heard in the last couple of days here in Washington and around the country. I would categorize some of that language, some of that hysteria from the industry as a lot of hot air and not a lot of truth. The provision that is in this bill that relates to the fracturing process simply requires well operators to disclose what chemicals they are releasing underground in our environment. What is so problematic or troubling about that? Let me read that again: requiring well operators to disclose what chemicals they are releasing underground into our environment. That is what we are talking about.

We know companies, such as big soft drink companies, over many years—Coke and Pepsi—have put their ingredients on their soda cans without revealing their so-called secret formula. This is a lot more serious. This is lot more serious business. So for the life of me, I cannot understand—I really cannot, try as I might—why would oil and gas companies oppose this? What are they afraid of? If the chemical composition—the chemicals that are used in the process are not harmful or cannot compromise health and safety or contaminate drinking water or compromise groundwater or put the public at risk—if that is all OK, then why can't we shine the light of disclosure on it? What are they opposing here or the better question is, I guess, why? Why would they oppose this kind of disclosure?

This is very simple—not complicated, very simple. We do this in America. When we are getting it right, we disclose information to give the public the information they should have a right to expect about what is happening underneath the ground, underneath their own homes or in their communities. This is not a well every couple of miles. There are thousands of these—thousands—across Pennsylvania and a lot more across the country. In the next year, there will be thousands more just in Pennsylvania.

So I think it is a simple matter of citizens having the right to know. You have heard that expression before, that line, that commitment we have made, that value of having information—the right to know about any risks in their communities.

We have had some good news lately. One major company has already announced it will voluntarily disclose hydraulic fracturing chemicals used in each of its wells on a well-by-well basis. The chairman of the company, when they made the decision, said:

> It's the right thing to do morally and ethically. . . .

Those are not my words; those are the words of the leader of Range Resources. So if companies like that are willing to provide some disclosure—now, we have to check and double-check that disclosure is equivalent to the disclosure we are talking about here, and we will do that analysis—but if he is speaking in that way and using that language, I do not know what the others are all worried about. There is a lot of worry here by the industry.

If the development of the Marcellus shale and other shale formations is carried out in a manner that fully protects the environment and human health, then I believe the economic benefits for Pennsylvania and a lot of other States can be achieved without environmental costs.

So I hope we can kind of lower the rhetoric and speak forthrightly on this issue. But I will tell you, what I have heard over the last couple, 2 days or so or over the last couple of hours is really hysteria, and I think we have to make sure we do everything possible to get this right—have the economic benefits from this, the job creation potential, but make sure that when we are creating jobs and enlarging a new industry, we do not compromise the environment and we do not threaten health and safety.

Mr. President, with that, 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.

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

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

Ms. LANDRIEU. Madam President, I am going to speak for some time and try and reengage this debate. We had an excellent debate this morning between 9:30 and 12:30 trying to find a way forward on a very important bill, the small business bill. This is the Main Street bill we have been working on. As you know, Madam President—you are a member of the Small Business Committee—we have been working in good faith up until the last few hours. It has been a good effort on both sides. I am hoping in potentially the next few hours we can work through this because we are extremely close on a very important bill for small businesses in America and for Main Street.

I wanted to come to the floor to clarify a few things. Many people are following this debate. They heard the minority leader say that he was upset and some of the Republican Members were upset that they had not quite gotten amendments on this bill. That is a charge that needs an answer.

I want to go over, again, this bill and point out how many amendments are already included in the underlying bill that were offered by the other side, by Republican Senators.

I had in the last few hours several of my Members on the Democratic side say to me: Gee, Mary, I didn't realize there was so much in the bill and how good the bill was, but I didn't understand how many Republican provisions are in this bill.

I want to take a minute, because the minority leader has made a charge that Democrats have been heavyhanded—it does not sit well with many of us who have a fairly light glove here. I don't think anybody watching this debate over the last couple of weeks, or even as it has gone through the iterations of the past year, can say we are trying to have a heavy hand. We are trying to get a bill that is important to the 27 million small businesses closed, finished, and delivered to them.

The fact is, the longer we stay here without coming to some terms, the harder and harder that gets. As the 70 organizations that support this bill most certainly understand, there is a risk because not every bill that every Member can think of is going to pass in this Congress, but they are going to think this is a bill that has a lot of support, which it does, and they are going to think: This bill is going to get passed, so I am going to add my amendment, I am going to add my amendment, I am going to add my amendment.

If we do not hurry up and get this done—you can kill a bill in a lot of ways. One way you can kill it is put too many amendments on it and it is too heavy to carry itself. The small businesses do not deserve that. I said 100 times on this floor, they are already carrying a heavy load. They are carrying more regulations. They are carrying a weakened economy. They are having to lay off employees, and in a small business, it is like laying off family because these businesses are having to say goodbye and hand pink slips to people they literally know well and love. It is hard to fire anyone but particularly upfront, close, and personal, like this is happening.

I want to put up one chart—the lost business chart—to make this point. I know that Members are clear, but this is according to the National Employment Reports. This is jobs lost by firm size. Small businesses, which are defined by businesses 500 or less—that is the official definition: 81 percent of the job loss has been absorbed by small businesses. They have laid off people.

When people ask the question, How do we get this recovery engaged, how do we make this recovery successful, how do we get jobs attached to the recovery as opposed to just money—we know the big businesses have money. They are sitting on it. It has been widely reported. We know Wall Street has money because they just paid $1.8 billion in bonuses to top executives, the money we gave them. We know they have it. The people who do not have the money are the small businesses.

That is what this bill is for, to help them in many different ways, voluntarily lay out some things they can choose. This is not government telling them what to do. They can choose. They can choose to take part of the $12 billion tax cuts we are providing them. They can file for those tax cuts. If they want to, they can get the tax cuts. They can apply for the lending program.

Eighty-one percent of the jobs are lost by small businesses. If we want jobs, I suggest we focus on small business. That is what this bill is. For a year and a half, we have been pulling this bill together.

I want to go over how many Republican provisions are in this bill. I do not want my Democratic colleagues to get upset. I am taking some risk because they could come to me and say there are more Republican proposals in this bill than Democratic proposals. But we tried to be very fair.

Again, the 7(a) loans, an increase to $5 million, was a Landrieu-Snowe provision; small business trade export was

a Snowe-Landrieu provision; small business contracting was SNOWE and MERKLEY, CRAPO and RISCH; small business management counseling, Senator SNOWE took the lead on that amendment; Senators SNOWE and PRYOR took the lead on small business regulation relief; Senators KERRY, SNOWE, and MENENDEZ, the 100-percent exclusion. You pay no capital gains. People on that side are talking about reducing capital gains from 20 percent or 15 percent. They are arguing it should not go up to 20 percent. This is 100 percent, zero capital gains. If you invest in a small business in America, you will pay zero capital gains. Zero. This is a bipartisan amendment.

MERKLEY and LAMAR ALEXANDER, a leader on the Republican side, the increased deduction for small business expenditures; another Republican amendment, the Snowe amendment, extension of section 179; another bipartisan amendment, Senator HATCH, Senator GRASSLEY, Senator INHOFE, Senator JOHANNS, Senator BROWNBACK. These are Republican Senators.

For the minority leader to say this bill has not had Republican input, this is the red line. I put down all of the sponsors of the amendment so that the press and the groups that are following this debate can see.

This is probably the most bipartisan bill we have taken up on this floor in the last Congress and maybe in a long time, maybe a decade.

The leader would come to the floor and say: That is in the underlying bill, Senator. What we are talking about is amendments on the floor. I will go through a few Republican amendments that were put in on the floor.

The first bill the majority leader laid down was a bill that included the lending fund. Senator SNOWE and others objected. A Republican objection was laid against that bill, so the lending fund was taken out. That was a Republican amendment. They were against the lending fund. It was taken out. We had to fight to put it back in.

Then Senators SNOWE, GRASSLEY, ENZI, ISAKSON, and COLLINS filed amendment No. 4483 which adds the SBA Recovery Act extenders to the bill. That was not in the bill. I think these are Republican Senators—Republicans SNOWE, GRASSLEY, ENZI, and ISAKSON. The last time I checked, they were Republicans. This is another amendment they got in the bill.

Then Senators THUNE, JOHANNS, COBURN, INHOFE, and filed amendment No. 4453 to strip out the Small Business Lending Fund. That was agreed to. We have been fighting over this Small Business Lending Fund. They want to strip it out. We are putting it back in with support from two Republicans, maybe more as this debate goes on. We have two now. We won that.

Then comes the substitute, the second one, with the SBA extenders in it and the lending fund is out. That is at least two or three amendments, in addition to the underlying amendments, that Republicans put in this bill, both in the Finance Committee and the Small Business Committee.

I hope no one tries to tell a reporter, either in Washington or back home—because reporters are smart. They need to be listening, and I think they are. I hope no reporter takes the line: Oh, well, the Democrats were heavyhanded. They offered us no amendments, so we could not possibly vote for the small business bill.

We are clear that there are many Republican amendments in the underlying bill. We have made clear in the RECORD that to get us to this point, there have been any number of Republican amendments either accepted or voted in or voted out. I have not mentioned one Democratic amendment yet.

I am thinking we are doing fine. We are not being heavyhanded. We are going right along. We have an open vote, 12-hour debate on the Small Business Lending Fund, and we win with 60 votes. It is back in the bill because it is the right thing to do.

I know some people are opposed to it, but we have 70 organizations, including the Chamber of Commerce, the National Federation of Independent Business, Small Business Majority, manufacturers, heating and air conditioning—all sorts of organizations. I submitted for the RECORD several times this long and impressive list.

In addition, we have the Community Bankers Association of Alabama, the community bankers of Georgia, the community bankers of Illinois, the community bankers of Kansas, the community bankers of Ohio, the community bankers of Iowa—I could go on and on; the Independent Bankers of America, the International Automobile Dealers. I don't know how many other groups we can have to step up and say: This is the right thing to do. The Travel Goods Association, the Tennessee Bankers Association, the Virginia Association of Community Banks, National RV Retailers Association, Nebraska Independent Community Bankers. They are for this lending program. They have been sitting on the sidelines watching us give money to big banks, bailing out Wall Street, bailing out big car manufacturers in Michigan. These small banks are sitting out there saying to us: Don't you know we are out here, 8,000 of us? We are ready to do our job, roll up our sleeves, be a partner with you, and go to work getting capital to small businesses so we can have a job-filled recovery instead of a jobless recovery. We want a job-filled recovery.

This is not about this recovery making a few fat cats richer. This is about making the middle class stronger. It is about creating jobs and hope and opportunity for the broad middle class. I do not want to be part of a recovery that does not include that. It is not worth it.

So we created a fund that works with our community bankers and we still can't get the Republican side to step to the plate and say it is time to close this debate.

We have had a year and a half to talk and to think, and that is what the vote was this morning. Every Democrat, I am extremely proud to say, voted to say yes to Main Street. They gave a green light to go forward. Every single Republican in this Chamber voted no against Main Street this morning, which is why I am here, to try to pull up the shades here a little bit and shed some light, under the guise that they weren't given enough amendments.

If I give them any more amendments, I am going to get in trouble with the Democrats because I am the Democratic chair of the committee. I have given more amendments to the Republicans than I have given to my own side. After a while, it is hard to convince our side, and my Democratic colleagues have been so good. I have 10 Democrats who are dying to offer amendments on this bill—and some of them are relevant to the underlying bill—but they know the more time that passes the less likely it is we will get this bill passed, and they know how important it is.

I wish to say another thing about this, and hopefully the last about this amendment situation, unless the minority leader says something else—and he might this afternoon about amendments. I have in front of me, and every reporter also has this, the unanimous consent agreement from last night. Senator REID offered four amendments—Baucus, Murray, another Baucus, and then another Reid amendment. Four. Senator MCCONNELL reserved his right to object and he did object and then he offered eight. So that is where we are. We offered four, they offered eight.

You would think, in the next few hours, that somebody could figure out around here how to split this baby and do six and get it done. I am hoping that is what we can do. We are running out of options. If six is too many, maybe we could agree to have no amendments, because we already have so many, and pass this good bill that is already right here on the floor. I mean, we do have a good bill already that has Republican and Democratic amendments in it.

So the Democrats have offered four, the Republicans have offered eight. Some of them are directly germane and some are indirect. It gets a little confusing sometimes about what is direct and indirect. I am not confused about farmers, but the Senator from Kentucky said today he doesn't think farmers are small businesses. I think there are a lot of Senators who disagree with that. They do think farmers work hard, and many of them are small business owners and operate small operations. I think most people understand that those disaster payments that go to farmers don't stay in their pockets that long. They go to pay out all sorts of vendors—seed companies, to pay down their tractor or their equipment bill. I think people understand,

even though it has the title ''disaster aid,'' it actually is a small business issue.

I heard the majority leader say that if the Republican leader objected so much to that, even though Senator LINCOLN worked so hard to put it in, we would take that out of this bill and find another way to do that. But that didn't seem to be enough either. So I am going to say again that I am so proud of the Senators who have worked hard on this bill—Senator MERKLEY, Senator CANTWELL, Senator MURRAY, Senator BOXER, Senator SCHUMER—and Senator DURBIN has been down to the floor—both Senators from Florida. I am hoping Senator LEMIEUX will do his very best and I know he is continuing to work through the afternoon to talk with his leadership, to say: Look, there are dozens of amendments already in the bill. The only amendments that have been offered on the bill to date have been Republican amendments, either Republican amendments by Senator SNOWE to take things out or put things in or an amendment by Senator LEMIEUX to put the lending fund in, the only amendments.

The amendment Senator LINCOLN put in the bill, without a vote, we offered to take that out to try to move this forward. So I hope reporters here and around the country will not allow a Republican Senator to say they just couldn't get to the small business bill because Democrats would not let them have amendments. The question is, Do they want to get to a small business bill or do they want to just continue to support big business, big corporations, and Wall Street?

That is the question. Do they want to get to Main Street? Do they want to help Main Street? They have to show that by their votes—not just by their words but by their votes. In this business it is not words, it is actions that matter, and the only action we have is them voting no. No. I am trying to help them say yes. I know they want to say no. That is what they think they should say to America: No on this, no on that. I don't think Americans want to hear no when it comes to help for small business. I could be wrong, but I don't think I am. I think they want to hear yes.

So let's find a way. I am asking my colleagues on the other side to look at their list of amendments again and see if there is some way between the numbers of two and four and eight we can find a way to move forward to help Main Street businesses.

Just so people understand, again, this bill that is pending before the Senate—and I see the Senator from Michigan is here. I am hoping he wants to speak a minute about the provision he has. I am thinking in a minute we may have some word—I know the leadership is talking, and perhaps sometime in the next hour or so we may have something that has come together. But I hope the Members are focusing on the importance of this bill for creating jobs in America today, and that is what people want. That is what we should have been focused on.

We have tried, in many different ways, through many different bills, but this bill has $10 billion in tax cuts to small businesses—not to the big businesses, not to Wall Street but to small businesses. It has so many helpful provisions, through the Small Business Administration, to give small businesses the support they need.

Mr. SCHUMER. Madam President, would my colleague yield for a question?

Ms. LANDRIEU. I would be delighted to yield for a question.

Mr. SCHUMER. I would like to ask the chair of the Small Business Committee, who has done such an outstanding job here, is it not true that we have heard many different numbers and types of amendments that should be offered?

Ms. LANDRIEU. Yes, it is true.

Mr. SCHUMER. Is it not true that many of the amendments the other side wanted to offer had nothing to do with small business whatsoever?

Ms. LANDRIEU. That is true.

Mr. SCHUMER. They were not an attempt to improve, modify or help small business but were to simply get us off the subject?

Ms. LANDRIEU. That is true.

Mr. SCHUMER. Isn't it true that yesterday or a day or so ago, when we did the Citizens United bill, the minority leader was complaining that the leadership was getting off the subject of small business to go to some other subject? It would seem now, at least, that the other side is doing exactly that. Is that an unfair characterization?

Ms. LANDRIEU. That is a fair characterization.

Mr. SCHUMER. Is it not true as well that as chair of the committee, you have offered them every opportunity and all kinds of amendments and all kinds of compromises in the committee before we got to the floor and now on the floor?

Ms. LANDRIEU. That is absolutely true.

I say to the Senator, in some ways I have some trepidation of continuing to read this because I have had any number of Democrats come to me and say: But there are more Republican provisions in this bill than there are Democratic provisions in the underlying bill. That is a credit to Senator SNOWE, I have to say, who worked so hard and does such a good job. But to come to the floor, I say to the Senator from New York, that there are no Republican provisions in this bill, it is laughable.

Mr. SCHUMER. So it wouldn't seem, to me at least—and I am wondering about your opinion—to be an unfair conclusion that what is going on is not a dispute about which amendments or how many amendments, even the subjects of the amendments, but that they don't want to pass a small business bill that will help create jobs, for whatever reason.

Ms. LANDRIEU. For whatever reason, I don't know why. I think maybe they think that is good politics. But I don't believe it is, and I don't think most Americans, even Republicans, would think that is good politics.

Mr. SCHUMER. I thank my colleague.

Ms. LANDRIEU. I see the Senator from Michigan, and I yield to him.

Mr. LEVIN. I wonder, through the Chair, if I could inquire of the chairman of the Small Business Committee—unless the majority leader is seeking the floor.

I am trying to figure out exactly why it is that the Republicans, who over and over say they understand that small business is the generator of at least two-thirds of jobs and maybe more—in fact, I use a figure that all the new jobs in this country were created by small businesses—but at least two-thirds. The Republicans, I think, believe that small businesses are the creators and generators of these jobs. As I understand it, organizations that represent small business have endorsed this bill. The Senator from Louisiana has done such a great job of putting those together.

But I am trying to figure out exactly how it is that in the situation where the small business organizations—or those purporting to represent small business—have supported this bill and where Republicans say, and I think believe, that small businesses are the great generators of jobs, that we are now in a position where, despite those things being true, the Republicans are not letting us proceed to a bill supported by those organizations. Is that where we are?

Ms. LANDRIEU. That seems to be where we are. That is why I said I feel like I am ''Alice in Wonderland,'' because it is topsy-turvy.

Mr. LEVIN. I would hope the organizations which purport to support small business—and, by the way, the greatest complaint I get when I go home, just about, other than the general one of where are the jobs, is that credit is not available to small businesses that are creditworthy and have proven it over and over—never missed a payment, have contracts that provide services or goods—yet can't get credit.

Ms. LANDRIEU. You are absolutely correct.

Mr. LEVIN. This bill has provisions for credit to flow. The community bankers, as I understand it, are supportive of this bill.

Ms. LANDRIEU. Absolutely.

Mr. LEVIN. I would just hope that between now and the time the majority leader moves to reconsider that vote that we would hear loudly and clearly from those organizations representing community bankers, representing small businesses. Maybe they just have to say more loudly and clearly that this filibuster is wrong—wrong for Main Street, wrong for the organizations they represent, whether it is community banks or small businesses.

If the NFIB has spoken on this already, and if community bankers have spoken on this, I would hope they would speak a lot more loudly and a lot more clearly and a lot more forcefully.

This is the big job creator where I come from. I would just hope we would hear more clearly and forcefully from those organizations between now and the time the majority leader offers a motion to reconsider.

Ms. LANDRIEU. Well, through the Chair, I thank the Senator from Michigan because he is absolutely right. This is the wrong bill to filibuster. I mean, you may get political points by filibustering other issues, but to filibuster a small business bill, to filibuster a Main Street bill is not the way forward.

Again, I cannot stand here and allow any Member of the other side to say there haven't been Republican amendments that have been accepted, offered. We have done everything to the point where there are almost more Republican provisions than there are Democratic provisions in the bill, which is completely paid for and provides a $12 billion tax cut today.

I see the majority leader, and I will yield the floor in just 30 seconds, but I wish to repeat one thing that is worth repeating. The Senator from Michigan was a cosponsor of this. For 10 years, independent entrepreneurs, sole entrepreneurs—and there are 20 million of them in America—have begged and pleaded to be on the same parity with big corporations so they could get a little bit of a break on their health insurance. This is a big issue for 20 million Americans. You know where it is? In this bill. Two billion dollars will leave the Federal Treasury and go into the pockets of every independent entrepreneur in America, and that side is standing in the way of that. I hope the reporters are following this carefully because the details are important.

I thank the Senator from Michigan, and I see the majority leader on the floor. I think he may have a word or two to say.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 4 Leg.]

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

The PRESIDING OFFICER. A quorum is not present.

Mr. REID. Madam President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mrs. HUTCHISON), the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. INHOFE), the Senator from New Hampshire (Mr. GREGG), the Senator from Oklahoma (Mr. COBURN), and the Senator from Kansas (Mr. BROWNBACK).

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—70

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

NAYS—23

Alexander	Crapo	Murkowski
Barrasso	DeMint	Risch
Bennett	Graham	Roberts
Bond	Johanns	Sessions
Bunning	Kyl	Thune
Chambliss	LeMieux	Vitter
Collins	McCain	Wicker
Cornyn	McConnell	

NOT VOTING—7

Brownback	Gregg	Murray
Coburn	Hutchison	
Enzi	Inhofe	

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader is recognized.

Mr. REID. We have before us the small business bill we have worked on so hard. As I went through the bill today, virtually every provision in this is bipartisan, except some are strictly Republicans with no Democrats involved. It expands access to credit for small business all across America, cuts taxes for small business, and expands domestic and foreign markets for small business. This has the potential of creating hundreds of thousands of jobs. The reason for that is that most jobs in America are small business jobs. Two-thirds of the jobs lost in America have been from small business.

As I indicated today, I was disappointed that my friends on the other side of the aisle have not been willing to work with us. It seems to me the goalposts were moved often, but I have been here a while and I understand how things work.

Last week, they requested; that is, the Republicans, that we give them votes on three amendments.

We all know what they are now. GRASSLEY has an amendment dealing with biodiesel. HATCH has an amendment dealing with research and development. JOHANNS has an amendment to repeal the corporate reporting requirement.

Earlier today, I propounded a unanimous consent request where we took out of the bill the issue relating to agricultural disaster and that we would have the three votes I mentioned and we would have Democratic amendments that would be opposite those, three in number. There was an objection. I cannot understand why they, my friends on the Republican side, cannot take yes for an answer. It tells me and I think the American public that it is more about something than getting votes. It seems they think it is more important to say no to votes on Democratic amendments than say yes to helping small business. But I understand where we are, and I am working very hard.

I have had a number of conversations with my friends on the other side of the aisle about a couple of amendments we have that we want to be voted on in opposition to the amendments offered by my friends on the other side of the aisle. A number of Republicans do not want to vote on those amendments as it relates to small business. I think that is unreasonable, but that is me. I accept their view that it is not unreasonable.

As I have talked with the Republican leader and a number of other people, I am going to try my utmost—and I think I figured a way to do that—to get the two amendments my friends did not want to vote on as relates to small business off this bill. I am going to do everything I can to do that in the near, foreseeable future.

But I say to everyone here: Let's take a little time over the next couple of days to kind of cool down. This is important. I know we have argued and scrapped, as my friend the Republican leader said, a lot of the time during this year. But let's do this legislation. This is not a victory, if we can get this done, for the Democrats. This is not a defeat for the Republicans. It is a victory for Democrats and Republicans

and Independents and the people who supply most of the jobs in America today—small businesses. That is why, if one can imagine, the chamber of commerce supports this bill. They are in favor of the Johanns amendment, and I accept that. When I was here this morning, 80 organizations supported this bill. We are now well over 100. This has gotten traction.

This is something we should do. This is good legislation. It would set a very good tone before we leave for the August recess to do this bill because by the time we come back in September, there would actually be some jobs created as a result.

I renew my request that I made this morning. I am not going to read this again. My request this morning was that we will take out the disaster relief, and they, the Republicans, can have their three amendments. We will have our three amendments. That is my request. I renew that request.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Madam President, reserving the right to object, I think we are making some real headway. I appreciate the majority leader taking out basically the appropriations measures. One was in the underlying bill and the others were going to be offered as amendments.

I had not originally intended to offer a counter UC, but in order to reassure everyone—I know there is support on our side of the aisle if we can get it right—I offer a counter UC which I suppose will be objected to, as I will object to the majority leader's, for the afternoon.

But I want to underscore what he said, which is I do think we are getting closer to getting back to the original bill which started off on a pretty strong bipartisan basis and then seemed to deteriorate over the course of the last month. In fact, we turned to the bill on June 24 and left it six times between then and now.

Having said all that, I think we are heading back in the right direction.

Madam President, I ask unanimous consent that the cloture motions with respect to the small business substitute and the bill be vitiated. I further ask unanimous consent that the following amendments be the only amendments in order to the Reid substitute, and there are four: Johanns amendment No. 1099, repeal; Hatch, R&D; Grassley, biodiesel; Sessions, spending caps. I further ask unanimous consent that it be in order for the majority to offer relevant side-by-sides limited to the subject matter of the above-listed amendments. And, as I said last night, we are prepared to enter into reasonable time agreements on each of these amendments.

Mr. REID. Reserving the right to object to my friend's proposal, I have to smile, even though I have not smiled a lot today. On the Sessions amendment, how many times do we have to vote on it? How many times? One of my friends on the other side of the aisle said: How many times do we have to vote on what you propose to vote on? Not nearly as many times as this Sessions amendment. There has been a general agreement between the Republican leader and myself that we are going to wind up there basically anyway. I understand he has people he has to satisfy on his side of the aisle. I do my best to satisfy people over here. But I have to respectfully object.

The PRESIDING OFFICER. The majority leader has declined to accept the Republican leader's modification of his request.

Is there objection to the majority leader's request?

Mr. MCCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

Mr. REID. Madam President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 1586.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 1586) entitled ''An Act to impose an additional tax on bonuses received from certain TARP recipients'' with the House amendment to the Senate amendment.

MOTION TO CONCUR WITH AMENDMENT NO. 4567

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to H.R. 1586 with an amendment, which is at the desk.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. MURRAY, for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER, proposes an amendment numbered 4567.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4568 TO AMENDMENT NO. 4567

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4568 to amendment No. 4567.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, insert the following.

The provisions of this Act shall become effective 5 days after enactment.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion on the motion to concur at the desk. I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 1586, an act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes, with amendment No. 4567.

Harry Reid, Max Baucus, Charles E. Schumer, Edward E. Kaufman, Barbara Boxer, Roland W. Burris, Tom Udall, Robert P. Casey, Jr., Mark Begich, Patrick J. Leahy, Jack Reed, John F. Kerry, Richard J. Durbin, Sheldon Whitehouse, Amy Klobuchar, Tom Harkin, Al Franken, Daniel K. Akaka, Maria Cantwell.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

MOTION TO REFER WITH AMENDMENT NO. 4569

Mr. REID. Mr. President, I have a motion to refer with instructions at the desk. I ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message to the Senate Appropriations Committee with instructions to report back forthwith, with an amendment numbered 4569.

The amendment is as follows:

At the end insert the following:

The Appropriations Committee is requested to study the impact of any delay in providing funding to educators across the country.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4570

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4570 to the instructions to the motion to refer.