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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, March 8, 2011, at 2 p.m.

Senate

MONDAY, MARCH 7, 2011

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

PRAYER

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

Let us pray.

Eternal God, known to us in countless ways and times, lead our Senators in Your way. Lord, keep them aware that they can depend on Your validation of every just cause and the forgiveness of every sin which they, in godly sorrow, confess to You. As they follow You, may their small successes prompt them to even greater understanding for human benefit. Guide them by Your higher wisdom and bring them to a desired destination with hearts at peace with You.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 7, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business until 4:30 today. Senators will be allowed to speak for up to 10 minutes each.

At 4:30 the Senate will proceed to executive session with an hour for debate equally divided and controlled in the usual form.

At 5:30 today the Senate will confirm the nomination of Sue Myerscough, of Illinois, to be U.S. District Judge for the Central District of Illinois. There will then be a series of up to three roll-call votes, first on the confirmation of Anthony Battaglia, of California, to be a U.S. District Judge for the Southern District of California; the confirmation of the nomination of James Shadid, of

Illinois, to a U.S. District Judge for the Central District of Illinois; and the motion to invoke cloture on S. 23, the America Invents Act. The filing deadline for second-degree amendments to S. 23 is 5 p.m. today.

In addition, on Friday, cloture was filed on the motion to proceed to H.R. 1, the Defense appropriations continuing resolution. I hope to reach an agreement to vote on H.R. 1 and the Democratic alternative introduced by Senator INOUE on Friday. We are going to vote on this matter sometime tomorrow, even if it is late tomorrow night.

In addition to completing action on the America Invents Act, the Senate will also begin consideration of the continuing resolution and possibly H.R. 4, the repeal of the 1099 section of the bill we passed last year dealing with health care.

PROPOSED BUDGET CUTS

Mr. REID. Mr. President, budgets and votes have something very important in common: At their heart, both require and reflect tough choices.

Tomorrow we hope the Senate will vote on the Republican response to the President's budget. That is the so-called H.R. 1. Not only is the United States now focused on it, but the entire world is as well. Then we will vote on the Democratic response. Everyone has done the math and everyone knows how these votes will turn out. It is likely neither proposal will pass, which means neither will reach the President's desk, and we will go back to

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



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square one, back to the negotiating table.

But tomorrow's votes are still significant. Just as our budget—that is, how we invest taxpayer money and invest our resources—reflects our values, so will the votes cast on these two competing measures. They will show us which Senators are serious about fortifying our long-term future and which are more concerned with scoring short-term political points. These votes will show us who wants an easy applause line and who wants to strengthen our Nation's bottom line.

As the two parties' vastly different proposals make clear, there is a fine line between a responsible budget and a reckless budget. The Republican plan we will vote on tomorrow is the same plan the tea party already pushed through the House of Representatives. It is called H.R. 1. Now the same tea party is trying to push it through the Senate. That plan will cost 700,000 Americans, including 6,000 Nevadans, their jobs, and I will not support that nor will any other Democrat I know of here in the Senate. The figure of 700,000 is not a figure picked out of the air. Economists generally agree that is a huge job loss for our country—economists led by Mark Zandi, whom I have said on this floor on a number of occasions has a pretty good résumé. He is a chief economist at Moody's now. He is a noted economist and was JOHN MCCAIN's chief economic adviser during the campaign.

The tea party Republicans are hoping America will see their budget's pricetag and swoon over its cuts. They are hoping the country doesn't look under the hood and see what is wrong. That is because they know that when we do, we will see their shiny new budget is a lemon and has a badly broken engine.

I can remember I represented a number of car dealers when I practiced law. One of them was a wonderful man. His son is now running his operations. There was someone out picketing his place of business and he had a great big lemon. He alleged he had bought a car there at Findlay Oldsmobile and it was a lemon. I was an attorney wanting to stop that. I was ready to go to court and get an injunction to stop that. Pete Findlay called me and said, look, there is something wrong with that car and I don't want people to buy cars when there is something wrong with them. Take care of it. We will get him another car.

Well, that is what the Republicans should do with the lemon they are trying to perpetuate over here. As I said, when we look under the hood of H.R. 1, we find it is not a good piece of legislation, and that is a gross understatement. H.R. 1 has not only a broken engine, it is a lemon in many other respects.

To pull ourselves out of this ditch, we need an engine that powers growth, innovation, and our being more competitive. We need one that powers a re-

covery. The last thing we can afford is a broken engine that will drive us right back into recession. We can't fix a broken economy with a broken engine. But that is exactly what the Republican House is trying to sell us with this H.R. 1. The tea party plan will make Nevada's students and workers less competitive and will make Nevada's families and communities even less safe.

It hurts education, which, of course, threatens our future. There are many examples, but let me give two or three, starting where many of our children start—in early education. Head Start is a successful early education program for the poorest of the poor. It has been proven Head Start students are much more likely than their peers to graduate from high school. But under the Republicans' plan—this tea party plan, this H.R. 1—200,000 Head Start students, including hundreds and hundreds in Nevada, will be basically eliminated from the school system. That is a careless short-term cut with devastating long-term consequences.

Second, what about students who are already out of high school and go to college thanks to Pell grants? If the Republican plan were to pass, those Nevada undergraduates who rely on Pell grants would see their tuition assistance cut by more than \$600 a year. That means one of two things: These students' tuition bills will go up or they will be forced to drop out. We can't afford this. Either choice is a bad choice.

Third, what about those who are already in the workplace who are looking to join the job market? This tea party proposal would cost Nevada \$30 million in job training investments. That would hurt about 8,000 potential Nevada workers. These cuts won't do anything to help unemployment go down or help Nevada's economy get back on its feet.

We all know we have to make some sacrifices. We know there have to be cuts made. We have made them. But these Republican cuts, as indicated in H.R. 1, dealing with education alone, as I have mentioned, are counterproductive. If we slice budgets in the name of a stronger future but cut the most important way to strengthen our future, what have we accomplished? Nothing. We have made things much worse.

It is not just education. Let's talk about a few more of these dangerous consequences the Republicans' reckless budget would have for Nevada. The same would apply to Connecticut. It would pull the plug on renewable energy jobs in Nevada, including 600 new jobs at the State's largest solar plant. It would fire another 600 Nevadans who work at community health centers. One of the outstanding things we did in the health care bill is we put \$10 billion in that bill to build 10,000 new community health centers across the country. These aren't just for poor people, but they do help poor people a lot. It gives

a place for people to go so our emergency rooms don't become overrun. All of the medical economists say it will cut down the cost of health care delivery significantly. But that isn't what the Republicans do. The 600 Nevadans who work at community health centers would basically be eliminated, which means fewer Nevadans would have jobs and the neediest among us would have fewer places to turn when they need help getting healthy.

It would cut more than \$1.5 million from local law enforcement programs to help Nevada prevent crime, fight domestic violence, and keep our neighborhoods safe from gangs. The plan would cut homeland security investments by about \$1 million which puts every Nevadan and everyone who visits Nevada at risk. Some 60 million people a year visit Las Vegas alone. These cuts threaten the health of our economy, our communities, and our citizens.

The Democrats know we cannot make our economy work again for the middle class unless we invest the taxpayers' money as responsibly, efficiently, and transparently as possible. So for anyone to say we don't think there should be cuts—we believe there should be cuts. We have proven that. We have already cut \$51 billion below what the President recommended, and it was a pretty austere budget he presented. Yes, it is easy to demonize any investments we make by calling it government spending. It has always been a political shortcut to demand that we slice zeroes off the end of the national budget. But before we go on a reckless cutting spree, let's think about what these investments do, whom they help, and how much they mean to our future.

That is what Democrats have thought about as we drafted our plan. We made responsible cuts to the tune of \$51 billion below President Obama's budget. We have made some difficult choices. But where the Republican plan cuts indiscriminately, we have cut carefully. Where the Republican plan is based on ideology, ours is based on reality.

Some of the ideological cuts: Eliminate public broadcasting, eliminate the National Endowment for the Arts, and the National Endowment for the Humanities. There are scores of things they have done, cutting indiscriminately. Where the Republicans' plan is based on ideology, ours is based on reality. That is because we know the whole point is to cut in a way that strengthens our economy, not in a way that weakens it. Our cuts eliminate redundancies, end unnecessary programs, and stop funding for earmarks. Our plan recognizes our job isn't to cut a billion here and a billion there just to say we did.

Our plan recognizes, as Democrats do, that we are not in competition to determine who can cut the most without regard to consequences; rather, we need to cooperate and figure out where we can cut the smartest.

The budget is complex, but the choice is very simple: If we want to create jobs, the Senate simply cannot pass the plan the tea party has already pushed through the House. We want to responsibly make the cuts we all agree we have to make. The Senate should pass the Democrats' proposal to bring down the deficit and keep our economy moving in the right direction.

If we want to realistically get something done before it is too late, the House and the Senate Democrats and Republicans should return to the negotiating table where we know a good compromise on common ground awaits us. The country is waiting too. Time is not on our side.

Mr. President, would the Chair announce morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Alabama is recognized.

GOVERNMENT SPENDING

Mr. SESSIONS. Mr. President, I don't think a 6-percent reduction in spending that is proposed by the House is going to cause the U.S. Government to sink into the ocean. States are making far more serious reductions in spending than that.

The language the majority leader is using seemed to me like the language of 1994—reckless Republican spending cuts, poor people thrown to the street, and that sort of thing. But what happened in 1994? The American people, through their newly elected Congress, balanced the budget in 4 years. They balanced the budget when people said it could not be done. They said the spending reductions were going to destroy America's growth and prosperity and everything else they could imagine. But it didn't happen. It helped create a period of outstanding growth.

Tuesday, we are told, we will have a key vote. It is a very important vote. It deals with the level of spending in which this country is going to participate. It is going to make a national decision that is important. We passed a 2-week continuing resolution that reduced spending by \$4 billion over that period, keeping us on track to meet the House-passed goal of a \$61 billion reduction in spending this fiscal year. It was a good, small, first step. But the big step will be coming up, I suppose, a week from this Friday when the CR that we passed will expire and we have

to pass another one. At what level will we pass it? That is the question that will be before us.

Will we continue the trend of reduced spending that the House started us on and that the American people started us on by the election last November, just months ago, or do we continue business as usual—continue to be in denial and say no more, no mas, we can't do anymore, we give up.

Well, a vote for the Democratic plan that will be presented tomorrow will be a vote to do nothing. That is a fact. It will be a vote to say we are still in denial. It will be a vote that says deficits don't matter, we can just continue to spend, just continue to invest, and it will all get better in the end. It is a vote for more investment and more spending.

Indeed, the Budget Committee, on which I am the ranking Republican, had testimony last week from the Department of Education. They are asking for an 11-percent increase, when the inflation rate is 2. The Department of Energy asked for a 9.5-percent increase. Amazingly, the Department of Transportation came in with a 62-percent increase in spending.

Is this the way to bring this country under control? Is that what the American people expected when they voted in the last election and sent us a new House of Representatives and new Senators? I don't think so. It will be another vote for fear that we can't reduce spending because the Nation will sink into the ocean. I don't think so, and the American people don't think so in the cities, counties, and States that are facing these same situations and making tough decisions and being successful at it.

The decision we make on spending could well determine the fate of our Nation and our economy. It is that important; it really is. Forty percent of every dollar we spend today is borrowed. We will spend, this fiscal year, \$3.5 trillion, but we only take in \$2.2 trillion. Did you know that? Congress knows that. They are in some denial, but that is a fact. It is indisputable, and it is in the President's budget.

Over the next 10 years, pursuant to the budget—the plan the President gave us—interest on the debt will go from \$200 billion last year to \$844 billion in 1 year. We will double the entire national debt, the gross debt, from \$13 trillion to \$26 trillion. They claim they are saving \$1 trillion. I guess it would have gone to \$27 trillion. How can we save \$1 trillion when the deficit is going up every year? The lowest single year of deficit is \$600 billion. The highest single deficit year President Bush had—which was too high—was \$450 billion. The lowest they will have is \$600 billion, according to the President's own numbers, which he sent to us. This is not an acceptable path.

We are on the wrong road. This is a road to decline. It is the road to dependence upon foreign sources of money to finance our spending spree. It

is not the road to prosperity and growth. We simply have to make tough choices. We have to make this government leaner and more productive.

We need to create growth and prosperity. The growth and prosperity have to be in the private sector. That is who pays the taxes, which allows us to continue to have a healthy government. A failure to act at this point in history, after all of the discussion we have had in the debt commission—and several have met and all have called for substantial reductions in spending. But Congress doesn't get it. This is demoralizing for our people, for our government, for investors in the United States, for businesses sitting on capital and thinking about what the future will be like, whether this is not going to be a sound economy any longer or is the Government of the United States incapable of altering its trajectory. They thought perhaps this election was that way.

Well, the House has sent a clear message. Some think it could have gone further. It proposed a \$61 billion reduction in discretionary spending accounts. That is a 6-percent reduction. We have already gotten 4 off that, so it would be \$57 billion. When we take these numbers—and I hope we will think about this—when we reduce the baseline by \$61 billion for spending in discretionary accounts, that is far larger than some people think.

One of the things that got us in trouble is the geometrical problem of increasing spending—when we increase spending at 7 percent a year, for example, for 10 years, we double the size of government just like your bank account doubles at 7 percent interest compounded.

In reducing spending, the same thing occurs. A \$61 billion reduction in the baseline, if there were no more reductions over 10 years built into the baseline, will result in about \$850 billion in savings. In 10 years, that is almost \$1 trillion. That is with just a \$61 billion cut. It does make a difference, and it is significant.

But President Obama's plan and the Senate Democratic plan do almost nothing. He proposes, as I understand it, a \$6 billion cut for the rest of the fiscal year. That is just about a one-half of 1 percent reduction in spending. The Senate Democratic plan, it appears to me, is a \$4 billion reduction, which is less than a one-half of 1 percent reduction in spending this year.

Those are fake cuts; they are not real cuts. This is Washington talk. This is why this country is virtually broke. The President says he proposed a budget to the Congress—as the law requires him to do—and that budget would cause us to live within our means and to begin paying down the debt. That is what he said, and that is what his Budget Director said in testimony before the committee.

What planet are they on? The lowest single annual deficit—and if anybody on this floor wants to dispute this, I

would like to hear it. The lowest single annual deficit is over \$600 billion in the 10-year plan. They are going up in the outyears to almost \$900 billion in the tenth year of the 10-year plan.

That is why experts tell us this is an unsustainable course. I wish we weren't in this fix. I will have to take some of the blame too. I voted against a lot of spending programs, but I have supported some, and we have gotten ourselves into a fix. It will be hard to get out of it. It is not impossible, but we have to take some action. It cannot be business as usual. But that is what the majority leader is proposing to do—nothing. Let the interest on our debt go from \$200 billion a year to \$844 billion.

Where is that money going to come from? The education budget is \$60 billion, the highway budget is \$40 billion—\$844 billion on interest? What is it going to crowd out that we would like to spend government money on? What if we have a debt crisis? Interest rates are at 3.5 percent, but a lot of people think this interest rate is not so stable. A lot of people are afraid we could have a national or even international debt crisis. Interest rates could surge.

When I bought my first house, the interest rates were double digits. I think it was 11.5 percent. Do you think we could not have that happen? Instead of \$844 billion in interest, could we have \$1½ trillion in interest in 10 years, crowding out all kinds of other spending? This is irresponsible. This is an irresponsible course. Everybody knows it. We can't borrow our way out of debt.

So what is going to happen? Let's pull back the curtain and talk about what the plans are. It is pretty clear if we look at it and have been around this town a little bit. The Democratic leader didn't want to have any debate. He accepted the \$4 billion reduction over the 2-week period last week. That was done and nobody talked about it much. The American people assumed things were rolling along pretty well, that at least we avoided a government shutdown and things are moving along pretty well.

So now we are going to have another quick vote tomorrow—that was decided, apparently, today—on two plans: the House plan on a 6-percent reduction and a Democratic plan with basically no reduction. Then neither one will pass.

A week from this Friday, the 2-week CR will expire, and we will be heading toward a government shutdown. Secret negotiations will begin; they will start talking. Maybe the Vice President will get in there and talk a little bit, and they will move around, and special interests will be involved. The American people will not be in on the discussion. They probably will not invite me in on the discussion. I don't know who all will be there, but they will begin to negotiate and talk, and they will be seeking some toothless compromise. There

will be warnings and crocodile tears will be shed and they will say we can't have a government shutdown. We have had a half dozen for short periods of time, but we certainly don't want one.

That is the way they will talk about it—we just can't cut anymore; it is going to end—schools will close, health care programs are going to close. We have heard it all before. Every State, city, and county that goes through this has the same political rhetoric out there. We can't do it. It just won't happen.

Then they are going to expect, I guess, the Republicans to cave, and the plan, of course, as it has been from the beginning, is business as usual. Business as usual. Politicians win again. People lose. Elections nullified. Business as usual.

I do not think so. Business as usual has put us on the road to bankruptcy. The voters did speak. There is a moral responsibility of this Congress to respond to the legitimate cries of the American people. Do we not have that responsibility? I know one Senator who told me that during that election, every single ad they ran talked about reducing spending and this Senator won by a margin far more than anyone predicted. There is no doubt the American people expect us to reduce spending. They know there will be some people who will not get as much money as they were getting before, but they know we are spending too much. That is so commonsensical.

A vote for the Democratic proposal truly would be a vote for the status quo. It would be a victory for the status quo. It would be seen clearly as a victory for the big spenders. It will be a continuation of the unsustainable fiscal path we are on—the path to decline, the path to dependence, debt dependence.

The whole world is watching, just as we watched the British. They stepped to the plate and made cuts. The Germans have criticized the United States for excessive spending. The European Union has criticized the United States for our excessive spending. Canada has done a lot better than the United States in containing spending. The world is watching: What is the United States going to do? Is it going to get its house in order as the other developed nations are working to do? Have they made a national decision to reform their unsustainable actions?

Some say these \$61 billion in cuts would hurt growth. I contend that absolutely is not so. In terms of total government spending, we spend \$3,500 billion. A \$60 billion reduction in that spending total is not going to throw this economy into a recession. Indeed, it would send a message to the financial world that the American people have gotten it, that the Congress has gotten it, and they are at least beginning to end the unsustainable trajectory this government is on.

The idea that we can borrow money, pay interest on it, and create jobs has

not worked. If it were such a good idea, why don't we borrow three times as much and spread around three times as much money? It is not an economically sustainable theory. It will not work, and it has not worked.

We are facing a huge national decision. I believe many of my Democratic colleagues get it. They tell me they do. Many of them have said so publicly. But talk is not enough. Action will be needed. We will begin to take action tomorrow when we cast this vote. Party loyalty is fine. We all have to try to work with our leadership. Nobody complains about that, to a degree, but we are not to be lemmings. We do have a duty to our constituents, our country, and our future to make some tough decisions.

For example, I will share one more thought and I will wrap up. I see my colleague, Senator ROBERTS, an able Senator from Kansas, is here. Do not think we are cutting spending, this 6-percent reduction, from some tight baseline of spending, such as may be so in your State, your city or your county. In the last 2 years, nondefense discretionary spending has increased 23 percent, and that does not count the stimulus package money, the \$850 billion, the largest expenditure ever in the history of this Republic or any other nation in the history of the world. That is on top of the 23 percent in spending.

For example, the EPA, in 2 years, received a 36-percent increase in baseline spending. They cannot take a 6-percent reduction? Plus, they got a 70-percent increase from the stimulus package, a \$7 billion infusion on top of their \$10 billion budget.

What about the State Department? They got a 132-percent increase in spending in the last 2 years, plus \$1 billion from the stimulus package.

The Education Department asked for an 11-percent increase this year. They received an 11-percent increase previously and—hold your hat—their budget is about \$63 billion now. They got \$97 billion out of the stimulus package—more than their whole budget.

We borrow 40 cents out of every \$1 we spend. Our debt will soon outgrow our economy. Interest on the debt, under the President's budget, will rise to \$844 billion a year. The question is not whether we are headed for a crisis but whether we have time to act to prevent it.

Our character is tested by how we respond in times of great challenge. This week, the Senate faces such a test: How do we respond to the growing fiscal crisis facing our Nation that every expert, including the debt commission, has told us is real? This is a defining vote in the career of every Senator and a defining vote for the Senate. A one-half percent proposed reduction in spending by this administration is not anything. It is basically doing nothing.

We need every group, every concerned citizen to reach out to Congress,

to tell Congress to get off this road to fiscal calamity. To every fellow Senator, I say now is the time to stand and be counted. Are my colleagues going to be the vote that helped us turn back from the fiscal cliff or the vote that pushed the economy that much further toward the edge?

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I understand we are in morning business and that I am recognized for 10 minutes. I ask unanimous consent that I be recognized for 15 minutes. I will try to make it short. If it goes on any longer, I will ask unanimous consent for additional time.

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

Mr. ROBERTS. Mr. President, I congratulate the Senator from Alabama for laying out exactly what we face when we have a vote tomorrow in regard to the future of the United States and whether we restore common sense to Federal spending and prevent the chaotic situation he so aptly described, not only in terms of our immediate future but for our children and our grandchildren.

That says it all in regard to we had a townhall meeting—Senator JERRY MORAN, Congressman KEVIN YODER, and myself in Johnson County, KS. In that meeting, the first question out—it was 100 to 250 people who were so excited: When are you going to get control of this spending? They worry not just about themselves but their kids and grandkids.

As usual, we are going to have to dub the Senator from Alabama the watchdog of the Senate, but he so eloquently described what we face. I thank him for it.

ENERGY REGULATIONS

Mr. ROBERTS. Mr. President, I rise to speak out against what I consider to be a regulatory assault on our Nation's energy sector. That is pretty strong language, but I intend it to be.

I listed a number of these proposed regulations in a letter I sent earlier today to President Obama. I ask unanimous consent to have this letter printed in the RECORD.

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

U.S. SENATE,
Washington, DC, March 7, 2011.

President BARACK OBAMA,
The White House,
Washington, DC.

DEAR PRESIDENT OBAMA: I write you today to express my sincere appreciation for your recently implemented Executive Order mandating that all federal agencies review and revoke any rules or regulations that place unreasonable burdens on our nation's business community. In light of our current economic crisis, establishing a regulatory environment that promotes growth and job creation should be the number one priority for this Congress and Administration.

Many people today believe no agency over the past few years has had more of a negative impact on business growth and regulatory certainty than the Environmental Protection Agency (EPA). Since fiscal year 2010, ten new regulations promulgated by the EPA have accounted for over 23 billion dollars in new costs to the American taxpayer. As your Administration reviews both proposed and promulgated regulations, please consider the following five regulations and the negative economic impact their full implementation will have on our nation:

EPA's proposal to amend the current primary 8 hour ozone standard to a range of 60 to 70 parts per billion. The EPA itself has estimated that this new regulation would cost between 19 and 90 billion dollars to fully implement, while providing no rationale as to what new scientific data justifies updating a standard set as recently as 2008.

The EPA and National Highway Traffic Safety Administration's decision to mandate greater fuel economy and emissions standards for all passenger vehicles and light-duty trucks. Recent analysis has estimated this new regulation will cost the already struggling automobile industry upwards of 10.8 billion dollars to comply, and consumers up to 985 dollars per vehicle in higher purchase prices.

The EPA's regulation restricting green house gas emissions from stationary sources. While this regulation currently only affects those stationary sources emitting 75,000 or more tons of carbon per year, future implementations of this rule could negatively impact millions of small businesses and community organizations with costs of over 75 billion dollars a year.

The EPA's recently promulgated Reciprocating Internal Combustion Engines (RICE) regulation that requires operators of current diesel or dual fuel engines (those operating on a mix of diesel fuel and natural gas) to install new oxidation catalysts on existing engines. This regulation has already had a profound impact on municipal electric utilities, rural electric cooperatives and agricultural irrigators in Kansas. Costing an estimated \$60,000 to \$100,000 per engine, this regulation is particularly difficult for small rural Kansas communities that may only operate these engines a few hours every year for emergency situations or extreme weather conditions.

As EPA officials prepare to release a final ruling on regulation of coal combustion by-products (CCB), I highly recommend avoiding any classification of this product as a hazardous waste. Classification of this by-product as a hazardous waste will restrict further beneficial reuse of CCBs and without any corresponding benefit to the environment.

Again, thank you for the opportunity to share my recommendations on what rules and regulations pose serious negative consequences to the growth of our nation. As the 112th Congress gets under way, I will continue to identify to your administration regulations that handicap American businesses and halt American job creation. It is my hope that we can create a regulatory environment that provides American businesses with the necessary tools to hire and thrive in this global market.

Sincerely,

PAT ROBERTS,
U.S. Senator.

Mr. ROBERTS. We—myself, staff, others, a lot of people I have met with in Kansas, regardless what economic sector we are talking about, whether it is energy, which I wish to talk about today, whether it is agriculture, which we talked about last week, health care

is coming, and then we are going to talk about the financial sector—we have talked about the President's initiative, his Executive order in which the President said rightly—and I applauded that statement that we have so many regulations pouring out of Washington and so many regulations on the books, we do not have a cost-benefit yardstick—that is my favorite term for it—to say: Does the cost exceed the benefit? Does it make sense?

The President himself said there are many that are duplicative and very costly and basically are stupid. That is exactly what the President said. I said "egregious." That is the Senate word. The President said "stupid." I think everybody understands that. He issued an Executive order, and he said to all the Federal agencies: Please, take a look at the regulations that are on the books and all the regulations that are coming out of your agency and see if you can make sense out of it and try to separate out the ones that are duplicative, costly, and, yes, stupid and the ones that are not and we can make some progress. I applauded the President's effort.

The problem is, it is an Executive order that has no teeth. There are three exemptions—and I will get into that in my prepared remarks, but basically the independent agencies are excluded. There are a bunch of them. There is language in the bill that says, if you are doing it for the public good, the Secretary can say: Oh, well, that does not apply to us. How many Secretaries around here—for that matter czars. I guess they are in the room. I don't know what they do. If there is a czar sitting there talking to schedule C appointees and says: Do you think our regulations serve the public good, of course, they think that. They would not have promulgated them or issued them or thought them up to begin with if they did not think it was for the public good. So they are exempt.

Then, we have a wonderful paragraph that I defy anybody to understand. They can also use that in regard to dodging around the President's Executive order. The President issued an Executive order, said some very good things to the American public, but it does not have any teeth.

I have a bill. We have 30 cosponsors. The bill says: Mr. President, you are right with your Executive order. We codify his order, but we take out the exemptions. What a day that would produce—or a year, for that matter—for all Federal agencies, if they truly had to adhere to the President's Executive order. I hope we get more cosponsors and we could actually consider it and actually pass it on the floor of the Senate.

We have several areas of our economy that are affected in a most egregious way by all these regulations. I talked about agriculture last week. We are talking about energy today. Health care is coming, and the financial institutions will be coming after that.

Even as the price of crude continues to climb above \$100 this administration continues to promote domestic energy policies that are making it more expensive for Americans to put gas in their cars, heat their homes, power their businesses. Just yesterday in a townhall meeting in Johnson County in Kansas, I heard complaints about the rising gas prices and our dependence on foreign oil and the need to develop our own domestic resources—all those resources. But this vital goal is now extremely difficult on the administration's own policies, again affecting not only energy but agriculture and our financial institutions and health care. I call them the four horsemen of regulatory strangulation. That may be a little harsh, but I don't think it is.

As I said, last week, I came to the floor and highlighted a multitude of new overly burdensome and, in many situations, absurd EPA regulations that will have a significant negative effect on the ability of our farmers and our ranchers to produce the food and the crops necessary to compete in a global market and to feed a troubled and hungry world. Take a look at the coverage in regard to Libya and the news blip we saw on television where somebody was shouting and protesting and one of our newspeople stuck a microphone in front of his face and said: Are you trying to promote democracy? He said: No, I just want a loaf of bread. I will say to you that a hungry nation is a nation that does not have any possibility of economic opportunity. Well, unfortunately, as we all know, the EPA's reach goes well beyond the agricultural industry. Its regulations are moving to make the energy we rely on every day more expensive to produce, and many times without providing any appreciable benefits to the environment. Nobody wants to do anything that would endanger the public health. But I think we can take a good look at some of these regulations in regards to any appreciable benefits to the environment and find they are few and far between.

Since fiscal year 2010, 10 new regulations promulgated by the EPA have accounted for over \$23 billion in new costs to the American taxpayer, costs which are even more painful for Americans as our Nation continues to struggle with an almost 9-percent unemployment rate. Unfortunately, with the number of proposed regulations currently before our domestic energy producers, if we do not take action—we meaning the Congress—2011 and beyond will be even costlier.

For example, EPA has proposed to amend the current national ambient quality standards for ozone to a range of 60 to 70 parts per billion. This is a range so stringent that recent analysis estimates hundreds of thousands of jobs would be at risk because of the inability of cities and counties to meet these attainment levels.

The EPA itself has estimated this new regulation would cost between \$19

billion and \$90 billion to fully implement. I am talking about the 60 to 70 parts per billion standard. It provides no rationale as to what new scientific data justifies updating a standard set as recently as 2008.

This proposed regulation is in addition to the recently enacted greenhouse gas regulations requiring application of the best available control technology. Who decides that? That is the Kansas Department of Health and Environment with the EPA looking over their shoulder, and it is the application of best available control technology for stationary sources of greenhouse gas emissions.

This regulation currently only affects those stationary sources of energy emitting 75,000 or more tons of carbon per year and which are already subject to the prevention of significant deterioration—they call that PSD—permitting requirements for nongreenhouse gases—or GHGS.

Future implementation of this rule could negatively impact millions of small businesses, farms, hospitals, and community organizations with costs of over \$75 billion a year. So we are talking billions and billions and billions in regards to these regulations.

According to the Affordable Power Alliance, a civil rights organization, by the year 2030, greenhouse gas regulations—trying to control them—specifically targeting our domestic energy producers will result in the loss of 2.5 million jobs—2.5 million jobs—and a reduction of household income of \$1,200 a year.

Keep in mind, these are impacts that will have the greatest negative impact on poor households, low-income households, that spend a greater percentage of their monthly income on utilities and groceries—necessities made more expensive to produce and purchase with rising energy prices.

In the area of energy recycling, EPA officials are preparing to release a final ruling on regulation of coal combustion byproducts—the acronym for which is CCBs—which I hope avoids any classification of this product as a hazardous waste. CCBs are, of course, an unavoidable residual of burning coal to create energy, which I wish to add is the most cost-effective form of energy available still, and is responsible for providing over 70 percent of the energy to my State's taxpayers—70 percent. Classification of this byproduct as a hazardous waste will restrict further beneficial use of CCBs in a multitude of industries, including agriculture, Portland cement, home construction, and without providing definitive benefits to the environment.

In my home State of Kansas, representatives speaking on behalf of a number of Kansas energy producers estimated costs to industry of over \$300 billion over the next 5 years to comply with a multitude of proposed EPA regulations dealing with air, water, and CCB management. Three hundred billion dollars. That is unreasonable, and

is probably the mildest thing I can say. These are real numbers that will doubtlessly drive up the cost of energy Kansans rely on to heat their homes and drive our Nation's agricultural industry.

Unfortunately, the negative impacts resulting from the multitude of new, overly burdensome EPA regulations don't stop with agriculture and energy. Beyond affecting the way people power their homes and businesses, the administration has even moved to regulate what cars Americans can drive. This was made evident by the EPA and the National Highway Traffic Safety Administration's decision last year to begin mandating greater fuel economy and emissions standards for all passenger vehicles and light-duty trucks. Recent analysis has estimated this new regulation will cost the already struggling automobile industry upwards of \$10.8 billion to comply, and consumers up to about \$1,000 per vehicle in higher purchasing prices. They just pass the costs on. So if you want to buy a new pickup down the road, it will be \$1,000 more.

While EPA has garnered much of the attention in my State for its efforts to make energy more expensive, from a national perspective, the Department of the Interior shares similar responsibility for pursuing policies that not only make energy more expensive but also make our country more reliant on foreign, and oftentimes unfriendly, sources of energy. For example, under the current administration, the Department of the Interior has canceled 77 oil development leases in Utah that were located within a larger formation covering three States that the Bureau of Land Management has estimated contains around 800 billion barrels of oil, more than three times the proven reserves in Saudi Arabia.

Why? Why would we revoke these leases? That question has to be asked and answered. We are speaking of 800 billion barrels of oil. No, they can't go do that. This, of course, is in addition to the gulf of Mexico deepwater drilling moratorium imposed last summer which has had a lasting negative effect on the gulf coast economy.

The President said yes, you can go ahead and drill, but the safety regulations are such that a lot of companies that were drilling have left or are leaving. However, foreign competition is drilling in the same place. That doesn't make sense.

Beyond the regulatory burdens, it is also essential we focus on removing redundant programs within the various Federal agencies. Listen up. Every upset taxpayer should know this and, more importantly, demand action from this Congress. Last month, the administration's own Government Accountability Office—the famous or infamous GAO—released a report highlighting hundreds of duplicative programs currently on the books that cost American taxpayers billions of dollars every year.

You get into double digits when you are counting the number of programs all of us want to depend on and all of us think are important, but they are duplicative. They are doing the same thing. As I say, it is costing American taxpayers billions of dollars every year.

While separate from regulatory oversight, this study further amplifies the importance that we take a serious look at our Federal agencies and put in place appropriate oversight, review, and revocation where needed.

It is for these reasons that I believe Congress must move forward with solutions that remove overly burdensome regulations and create an environment that doesn't hinder energy production and use of those resources that make the most economic sense while still protecting, yes, our clean water, clean air, and do what we can in regards to CO₂ emissions.

Understanding this, last month, I, along with 30 other Senators, introduced the bill I was talking about—the Regulatory Responsibility for our Economy Act. The bill moves to codify and strengthen the President's January 18 Executive order that directs agencies within the administration to review, modify, streamline, expand or repeal those significant regulatory actions that are duplicative, unnecessarily overly burdensome, or would have significant economic impacts on Americans.

Those are the President's words right there. I agree with them. I applaud the President for saying that. While I agree in principle with President Obama that we need to take a serious look at both current and proposed Federal regulations, I don't believe his Executive order actually does what it purports to do. There are too many loopholes and no teeth.

Specifically, my bill moves to hold accountable independent agencies which are exempt under his Executive order, such as the FDIC, the SEC, and the EPA that are not covered under President Obama's Executive order. The EPA came up and said: We are doing the public good. Then they followed that crazy paragraph I will read in a minute and said: We are okay. We are not issuing any regulations that hurt anybody.

I just attended the Commodity Classic, made up of all farm organizations, all commodity groups out in Great Bend, KS, and the No. 1 issue: regulations. Why on Earth are you putting out all these regulations that are about to put us out of business? You go right down the line and any group, any association, any business all throughout America are saying: PAT, what are you doing strangling us with all these regulations? What are you guys doing? My response is: I am not a "you guys," I am an "us guy," and I am trying to do something about it.

Specifically, my bill moves to hold accountable these independent agencies. It also removes from the Execu-

tive order highly subjective language that directs each agency to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible, and—here comes the paragraph I defy you, Mr. President, and I defy any of our highly skilled and educated people on the dais, I defy this nice young lady taking down my words the best she can, or anybody listening to this to understand—each agency may consider and discuss qualitatively—this is the way they look at a regulation to determine whether they are going to issue that regulation or not—values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

That statement is amorphous. It is synonymous with amorphous. I defy anybody to try to determine what that means, except what you want it to mean. So that statement now wins the gobbledygook award of the month. I think I am going to come down here every month and award a gobbledygook statement in the regulatory field that is about to drown us all as the gobbledygook statement of the month—and that sure hits it. It doesn't take a legislative scholar to understand that this language creates a loophole large enough to drive a grain truck through and renders the order meaningless. That is why passage of my regulation is so critically important.

I invite my friends on both sides of the aisle to please sign on as a cosponsor of my legislation, realizing the immense opportunities it creates for meaningful review and possible revocation of regulations counter to our Nation's growth, along with the GAO report outlining specific duplication of Federal programs, a report that defies PowerPoints or charts—couldn't do it; a maze of too many programs trying to do the same thing. If we don't do this, we are going to cost the business community of America and all Americans billions of dollars and get nothing in return in regard to environmental benefits.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

GOVERNMENT SPENDING

Mr. MCCONNELL. Mr. President, as we reengage in the ongoing debate over government spending this week, it is worth noting that some on the other side appear to have already decided to fold up their tents.

Last week, Republicans showed we could change the status quo in Washington by cutting government spend-

ing. It was a small step but a step in the right direction. Some of us were hopeful momentum was finally building for the bipartisan consensus that would enable us to cut even more government red ink this week.

The assistant majority leader seems to have had enough. Yesterday, he said cutting \$6 billion pushes the limits of what is needed to live within our means. This is ludicrous, Mr. President. So far this fiscal year Washington has spent nearly \$650 billion more than it has taken in—this year. That is a little more than \$4 billion a day that Washington is spending over and above what it has to spend.

Senator DURBIN thinks Democrats in Congress have pushed the limits of responsibility by agreeing to cut \$6 billion more this year. Imagine if every American had the same approach to their credit card bills. Imagine calling up your credit card company and asking first if you could just freeze your out-of-control spending habits in place. Then when they say no, imagine telling them you don't want to cut down your monthly spending because you prefer living outside your means.

That is the logic of our friends on the other side. Now, according to this logic, they would rather draw a line in the sand than agree to cut another dime in spending at a time when Washington is spending about \$4 billion more every single day than it is taking in.

Republicans have been hopeful that we could make progress and reach a bipartisan solution on this issue. It is my hope that the assistant majority leader was speaking for himself and not for his entire conference.

This, of course, is the debate that most people in Washington will continue to be focused on this week, and it is an important debate. But focusing on day-to-day expenses threatens to obscure an even larger threat. Here I am talking about, of course, entitlement programs such as Social Security, Medicare, and Medicaid.

Anyone who has looked at these programs closely knows they are becoming unaffordable, that doing nothing risks not only the future of these programs themselves but our Nation's future as well. Anyone who looks at history also knows the best time to address a crisis such as this is a time such as right now, when two parties share power in Washington. This is the time.

I have made the case for action publicly and in private conversations with the White House. As Republican leader, I put this issue front and center my first day on the job. Four years ago, I came to the floor and said the demographic changes taking place in America made it incumbent upon us as a body to reform Social Security. Two years later, when the American people put a Democrat in the White House, I renewed my call to action. I said Republicans stood ready to work with the President on entitlement reform. I repeated that call again 4 months ago

when voters decided to put Republicans in charge of the House of Representatives.

Throughout this time, I have held out hope that our friends on the other side would rise to the occasion, if not when Republicans controlled the White House, at least when they did.

I was encouraged further when President Obama said repeatedly in 2009 that his administration would seek to work with us on serious entitlement reform that preserves the safety net for our seniors, for people with disabilities, and which also puts it on a firmer, stable footing for generations to come.

The President has acknowledged the seriousness of the problem. He has noted himself that costs are escalating, even as the population is getting older, creating a perfect storm for a fiscal crisis that dwarfs even today's budget crisis, as urgent as it is.

If both parties agree on all this, I thought, then there is no reason we cannot do this for the good of the country. The urgency for action has only intensified in recent months, as we have seen an uproar in a number of State capitals.

Every State is different, but the problems in every one of them can be summed up pretty easily. Lawmakers from New Jersey to California and just about everywhere in between made promises they could not keep. But the promises lawmakers in Washington have made put the States to shame. If you add up the unfunded liabilities in all 50 States, you get, by one estimate, about \$3 trillion total. Add up Washington's promises on Social Security and Medicare alone, and it is over \$50 trillion—\$50 trillion that we promised to the American people that we do not know how we are going to pay for.

Something must be done, and now is the time to do it. Republicans are ready and willing. Where is the President? Suddenly, at the moment when we can actually do something about this, he is silent. As one columnist in the Washington Post put it: "For a man who won office talking about change we can believe in, [the President] can be a strangely passive president."

On the greatest fiscal challenge of the day, he appears, at least so far, to have taken a pass. This is obviously deeply disappointing to me personally, given my repeated raising of this issue. But more importantly, it should be deeply disappointing to every American who had reason to hope we could tackle these issues in a moment of divided government. It should be disappointing to all those who believe this President when he pledged to shake up the status quo in Washington.

Past Presidents had the foresight to seize the moment, to reach across party lines, and solve an earlier funding problem with Social Security, in the case of President Reagan, and welfare reform in the case of President Clinton.

It is not a question of whether it is possible but a question of whether the

President has the courage to step up to the challenges we face. In this case, one cannot help but wonder if the President, who came into office promising change, has been changed by the office instead.

I hope I am wrong about all this, but all the signs point toward inaction on the part of the White House and, in my view, this would be a tragic failure of leadership.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

BUDGET CRISIS

Mr. DURBIN. Mr. President, there was an interesting letter to the editor in the New York Times over the weekend, and it was sent by two Minnesota State representatives. I apologize for not having the names at my fingertips. Democratic and Republican Minnesota State representatives wrote a letter to the editor. It was in response to an article written by David Brooks. Brooks, whom I respect very much, is a conservative and a very thoughtful man and I read him with a lot of interest. Brooks had written about what to do with the State and Federal challenges when it came to budget deficits.

What these two Minnesota State representatives said—a Democrat and a Republican—is, we acknowledge in our State and Nation what we face. We face a situation where we have a weak economy, and we face a situation where the debts that are being incurred by our levels of government are going up too fast, having acknowledged that we have to find a solution.

I am going to probably not say this as accurately, but I thought they said it so well. They said we have come to the conclusion that we cannot just cut our way out of the problem and we cannot tax our way out of the problem, we have to think our way out of the problem. We cannot lurch from one budget battle to another budget battle without looking at the fact that our challenge is a structural, long-term challenge. It does not relate to the immediate budget but to a lot of things that are happening over a long period of time.

I reflected on that for a minute. I thought: There is real wisdom in what they say because, if we look at what we face at the Federal level, there are reasons why we are running into these budget problems, not the least of which, as Senator MCCONNELL mentioned earlier, is that the population of America is changing. Baby boomers have reached the point where they will be drawing on the government benefits they paid for over a lifetime. As more and more draw on these benefits, there is an obvious question as to whether the reserves will be there to take care of them. How do we deal with that?

Let me speak to two particular issues Senator MCCONNELL raised. The first is Social Security. Is there a program that is more important to America? I cannot think of one. That was the starting point of the New Deal when President Roosevelt said: We have to give seniors in America some peace of mind that when retirement rolls around and their senior years roll around, they will, in fact, have enough money to live on, not in a luxurious way but the basics.

There is a time I can remember in my family and many American families where grandparents moved back in with the kids because there was no place to go. They could no longer work and they could no longer afford their homes and they became part of the larger family. It happened in my family and it happened in others.

Then came Social Security, and with a little planning and a little saving and Social Security checks, senior citizens had independence. It was a critically important program. It was an insurance plan—not a welfare plan—an insurance plan that virtually every American paid into and from which every American drew.

Where are we today? I arrived in Congress in 1983 as a brand-new Member of the House from Illinois. They said: Welcome to Washington. Social Security is broke.

I said: Great. I thought I would get a little breathing space. But, in fact, there was not.

President Ronald Reagan and House Speaker Tip O'Neill—a political odd couple if you have ever seen one—got together and hammered out an agreement. The agreement we reached and voted for in 1983 resulted in Social Security remaining solvent from then until 2037. We wanted to buy 75 years of solvency, but we bought over 50.

Those who say today that Social Security is in trouble, I remind them, untouched with no action by Congress, Social Security will make every payment it has promised to every Social Security recipient with a cost-of-living adjustment every month of every year until 2037. There are not many things you can say that about in Washington; that for over 25 years, this program is financially sound.

The bad news is, in 2037, things change dramatically. Untouched at that point, Social Security benefits will go down 22 percent. That is a heavy hit on lower and middle-income retirees. We know that looming 25 years over the horizon is a terrific challenge.

President Obama created a deficit commission. Senator HARRY REID was kind enough—I guess "kind" is the word—was nice enough to appoint me to this Commission. I spent 10 months listening and then voted for the final Commission product. It went into Social Security, and it suggested some things that are inherently controversial. For example, if you are going to give Social Security a longer life, what

is the mix? What will you cut in benefits? How much will you increase revenue? Those are the two things.

I said Social Security is basic arithmetic. Medicare is advanced calculus. Social Security is basic arithmetic, although those basic decisions get to the heart when you retire, how much you receive when you retire and how much you receive in your payroll deductions each month.

The Commission reached an agreement. There were parts I did not like, but it did buy 75 years of solvency for Social Security.

It is interesting that we brought it up then as part of the deficit commission because literally Social Security does not add to the deficit. Currently, there is a surplus in the Social Security trust fund, and that trust fund is being invested in government securities and being paid interest, but it does not add to the deficit.

Many of my colleagues have argued: Why are we debating Social Security as part of deficit reduction if it does not have a direct connection? That is a legitimate point. I have raised the same point myself. I think we should look at it. We should do it on a separate and parallel track to deficit reduction.

I welcome what Senator McCONNELL said. Let's have that conversation. But I do not think it needs to be the necessary starting point for deficit reduction because there is no connection between the two.

Then I heard Senator McCONNELL say the President has not shown leadership on Medicare. I respectfully disagree with Senator McCONNELL. The whole debate about health care reform was lowering the cost of health care. You cannot balance the budget of America with 13 million people unemployed without addressing the skyrocketing cost of health care. President Obama worked with Congress—the House and Senate—to reduce the growth in the cost of health care.

One area was in Medicare. Time and again, the Senator from Kentucky and his colleagues came to the floor and gave critical speeches saying: "The Obama plan is going to take \$500 billion out of Medicare." Day after day, "\$500 billion out of Medicare." If we are seriously talking about budget deficit reform, if we are talking about Medicare reform, we are talking about reducing the anticipated expense of Medicare and reducing at least \$500 billion in costs.

What will that mean to Medicare recipients across America? Does it mean less coverage, less care? It does not have to. I always use as an illustration, the average cost of a Medicare beneficiary in my hometown of Springfield, IL, the average annual cost is \$7,000 to \$8,000. Go up to Chicago, where there are more specialty hospitals and a little higher cost of living and it is not \$7,000 to \$8,000, it is \$8,000 to \$10,000 a year for the average Medicare beneficiary. Then go down to Miami and the number is \$14,000 to \$15,000 a year.

Why the dramatic difference between Chicago and Miami? That is the question we ought to ask. Is there better care in Florida or more expensive care? Can we bring the cost of that care down and not compromise the quality of the care? These are hard questions but the only questions that count if you want to have reform in Medicare that does not sacrifice the basic benefits.

What I would say to Senator McCONNELL is this: He quoted me early in his statement, and I was not on the floor. Yesterday, I said I was supporting not the House Republican budget but the budget proposed by Senator INOUE. This budget, for the remainder of this year, the next 6½ months, would cut about \$10 billion more. We would cut \$51 billion below what President Obama asked for this year. In the Senate, we will have reached \$51 billion. In the House, they went \$100 billion below what the President asked.

I think there is a qualitative, not just quantitative but qualitative, difference in the approach. I think the House Republican budget went too far. I do not believe we need to cut the basics in education for lower income families across America, and that is exactly what the House Republican budget does.

Let me give an illustration. They reduced dramatically the amount of money going to be spent on Head Start. I do not know how many Members have had a chance to visit Head Start Programs. I did a couple weeks ago in Chicago. These are kids who are most likely to drop out without some intervention, most likely to struggle in pre-K and kindergarten and most likely to have a difficult time learning. So they bring them into Head Start at an early age and they learn. The one I visited in Chicago is nothing short of amazing. They were teaching these little kids—and they were so impressive—Chinese as well as a Nigerian dialect, and these kids were chattering away. I thought this experience—being together, learning, singing, being so happy about it—cannot help but prepare these kids for a classroom setting where they are going to learn in just a couple years.

The House Republican budget dramatically cuts the Head Start Program. These kids and the teachers and staff who support them will be gone under their proposal, and what will happen to those kids? I am not sure. I don't know if there will be a babysitter down the street or whether someone else will intervene. But it is possible, without early intervention and early training and education, these kids will show up in a year or two for prekindergarten or kindergarten and not be as far along as they should be. Does that make their chances at success better? No, of course not. We know that. The studies have shown it.

The second area the House Republican budget cuts is the money to school districts in the poorer parts of America. In my home State there are

plenty of those—my hometown of East St. Louis, IL, for example. To cut back on Federal assistance to that poor community at this moment in time would be a mistake. We need to make sure these young people have good teachers and good resources and can learn, even though they live in a town that is economically poor. The House Republican budget cuts that money and cuts the teachers for these school districts.

Then it cuts the money for Pell grants. Pell grants are the college aid grants given to students from lower income families. Many of them don't have a chance to go to school unless they get a grant so they can proceed with their education. The House Republican budget cuts \$850 a year out of the Pell grants for lower income students—students from lower income families. That, unfortunately, will mean many of them will drop out.

When I went to visit with the president of Augustana College, a private Lutheran college in the quad cities area, he anticipated they would lose 1 out of every 20 students because of this cut in Pell grants. So if students—when we have high unemployment in a recession—are dropping out of college because of House Republican budget cuts, the obvious question is: Does that make America's workforce any better? Are we in a better position to compete with China and the other countries of the world or will we sacrifice our advantage because students have to drop out of school? I think the answer is obvious.

That is why the House Republican budget, which some support, goes too far. It cuts too much in education. It would cut dramatically medical research. What were they thinking in the House of Representatives, that we would cut the National Institutes of Health, medical research in critical areas—Alzheimer's, Lou Gehrig's disease, diabetes, cancer—at a time when we know research and innovation are critical for America's success. Why would the House Republican budget cut back so dramatically in areas we know pay off?

I think they made some poor choices, and that is why I support the Senate Democratic approach—\$10 billion in cuts but preserving in education, worker training, education research, innovation, and infrastructure the investments we need at this moment in our history, with the recession we face and 13 million Americans out of work. That, to me, is why the difference is so stark in contrast.

Senator McCONNELL spoke with the President and said he needed to show more leadership. I know where the President is on this. He wants us to reach an agreement in terms of the decisions which we need to make to move us toward a balanced budget, but we need to do it in a thoughtful way, first, coming out of the recession making America's workforce stronger for the future, helping small businesses create

jobs, and investing in infrastructure which creates good-paying jobs right here in America.

Mr. President, I understand we are going to go into executive session, and I am going to pause at this time and ask if the Chair is ready to report executive session so I can discuss two judicial nominations.

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF ANTHONY J. BATTAGLIA TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NOMINATION OF SUE E. MYERSCOUGH TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS

NOMINATION OF JAMES E. SHADID TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS

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

The legislative clerk read the nominations of Anthony J. Battaglia, of California, to be United States District Judge for the Southern District of California, Sue E. Myerscough, of Illinois, to be United States District Judge for the Central District of Illinois, and James E. Shadid, of Illinois, to be United States District Judge for the Central District of Illinois.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate with respect to these nominations, with the time equally divided in the usual form.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise in support of two of the nominees. I will vote for all three, but I rise in support of two of the nominees—Sue Myerscough and James Shadid for the Central District of Illinois. These are nominees whom I presented to the President and who passed through the review not only by the White House but also by the Senate Judiciary Committee and now come before us today to be considered by the Senate.

This day has come not a moment too soon for the Central District of Illinois, which I call home. It is a huge district. It covers 46 counties, includes the State capital, as well as cities such as Peoria, Urbana, and Rock Island. Since last August, the Central District of Illinois has had only one Federal district court judge out of four. There are supposed to be four and, unfortunately, three seats have been vacant. Those

three vacancies were all designated as judicial emergencies by the Administrative Office of the U.S. Courts.

The chief judge, and the only active judge not in senior status, of the district—Mike McCuskey, also one of my nominees—has done an amazing job keeping the judicial system running for the past 7 months. Mike, in years gone by, had had some health issues. They asked him whether there was anything they could do to relieve the stress he was facing, being the only judge out of four in the district. He said: Only the Senate can relieve this stress. Today, Mike McCuskey, we are going to do our best to relieve that stress and send two excellent new district court judges.

It hasn't been easy. Right now there are no active status judges in the Federal courthouses in Springfield and Peoria. Judge McCuskey, who is based in Urbana, has put a lot of miles on his car driving around this large district to keep the dockets moving. I salute him for his dedicated service, and I wish to also salute Judges Mike Mihm, Joe Billy McDade, Harold Baker, and Richard Mills, who stepped up to help out the district, despite some personal family and health challenges. They have stepped up, even though they are in senior status, to try to make sure the district was served.

I am pleased that help is on the way to the Central District of Illinois. I also wish to thank my colleague, Senator MARK KIRK, who has joined me in presenting these nominees to the Senate.

The first I wish to mention is a friend of mine for many years, Sue Myerscough. She has been prominent on the legal landscape of Springfield for many years. She has over 23 years of judicial experience and currently serves as an elected justice on the Illinois Fourth District Appellate Court.

Justice Myerscough has been nominated to fill the Springfield-based judgeship that was vacated by the retirement of Judge Jeanne Scott, another one of my appointees who served that district so well.

Justice Myerscough is a Springfield native. She earned her bachelor's degree and law degree from Southern Illinois University. She began her legal career as a law clerk for Judge Harold Baker of the same Central District. Following her clerkship, she worked for 6 years in private practice.

Judge Myerscough was appointed as an associate judge of the Illinois Seventh Judicial Circuit in Springfield in 1987. In 1990, she was elected as a circuit judge for that court. During her 11 years as a trial judge, she presided over thousands of bench and jury trials, including some of the most complex civil litigation and murder trials. In 1988, Judge Myerscough was elected to her current seat on the Illinois appellate court and in 2008 won her retention election.

During her years on the appellate court, she has authored over 1,200 decisions on a wide range of issues. Justice

Myerscough has worked to promote legal education for schoolchildren, and since 2001 she has served on the Board of Visitors for the Southern Illinois University Law School. She is an excellent judge, she is an excellent lawyer, she has a great family, and I am proud the President presented her name and the Senate will have a chance to vote on her today.

Jim Shadid is a leading figure in the Peoria legal community. He currently serves as a judge on the Tenth Judicial Circuit in Peoria County. He has been nominated to fill the Peoria-based Federal judgeship that was vacated when Judge Mihm took senior status.

Judge Shadid was born in Peoria and received his undergraduate degree from Bradley University. He was quite a baseball player for the Bradley Braves. He was a two-time team MVP and was inducted into the Bradley Athletics Hall of Fame. After graduation, he played a season of minor league baseball before he turned his talents to law and getting his J.D. from the John Marshall Law School in Chicago.

He was first appointed as a circuit judge in 2001 and won retention elections in 2002 and 2008. He has presided over approximately 300 trials and thousands of additional pleas and sentencings. Prior to his service on the State bench, Judge Shadid worked as an attorney in private practice, as a part-time Peoria County public defender, as a part-time commissioner on the Illinois Court of Claims, and as an assistant attorney general in Illinois.

In addition to his broad legal experience, Judge Shadid has an impressive record of service to the Peoria community, including tenure as president of the Boys and Girls Club of Greater Peoria.

Judge Shadid was the first Arab American to serve as a State judge in Illinois. Upon his confirmation, he will be the only Arab-American Federal judge in the State and one of only a handful nationwide. There is a large Arab-American community in Peoria, including my friend, the U.S. Transportation Secretary, Ray LaHood. I know this community and all of Peoria and Illinois will be so proud of Judge Shadid.

Both Justice Myerscough and Judge Shadid were unanimously reported by the Judiciary Committee last month, and in a short time the Senate will take up their nominations. I hope my colleagues will agree that the people of Illinois will be well served with these two fine individuals on the bench.

We will still have one vacancy, when these two are approved. Fortunately, President Obama has nominated another excellent candidate to fill that vacancy. Sara Darrow is a distinguished Federal prosecutor, whom I was pleased to recommend to the White House. I look forward to working with my colleague, Senator KIRK, to consider her nomination in an expedited fashion.

Also working with Senator KIRK, we have a bipartisan agreement in terms

of filling all vacancies, and Senator KIRK is in the process now of choosing a judge to fill one of the vacancies in the Northern District of Illinois.

Last year, the Senate confirmed three excellent judges for the Northern District: Judge Gary Feinerman, Judge Sharon Coleman, and Judge Ed Chang. I might mention that Judge Chang had been recommended by the Republican Selection Committee the year before, and I found him to be an excellent candidate. Party aside, he is going to serve very well and is now serving on the Northern District. Senator KIRK and I will continue to work together to find excellent judges for that Northern District.

In conclusion, as we proceed toward this evening's votes, I urge my colleagues to join me in supporting the nominations of Sue Myerscough and Jim Shadid. They will make superb Federal judges in a district that desperately needs their service on the bench.

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

● Mr. LEAHY. Mr. President, with judicial vacancies still at 100, nearly half of them judicial emergencies, the Senate's action today on 2 nominees to fill longstanding judicial emergency vacancies in Illinois and 1 of the many vacancies in California is much needed. I thank the Senate majority leader for scheduling action on these important nominations and the Republican leader for his cooperation. I commend Senator DURBIN for his efforts to fill longstanding vacancies that have plagued the Central District of Illinois.

These nominees are 3 of the 13 judicial nominations that were unanimously reported last year and have now been unanimously reported, again, this year by the Judiciary Committee. They could—and, in my view, should—have been considered and confirmed last year. Instead, they were returned to the President without final Senate action despite their outstanding qualifications, and despite the needs of the American people to have judges available to hear cases in these Federal courts. The President has had to renominate them, the Senate Judiciary Committee has had to reconsider them and now, finally, the Senate is being allowed to consider these sorely needed judges for Illinois and California.

Justice Sue Myerscough and Judge James Shadid were each nominated to fill emergency vacancies in the Central District of Illinois. I have spoken on numerous occasions over the last 2 years about the need for the Senate to confirm them. I urged their consideration in my statement last Monday and am thankful that they are being considered tonight.

Their confirmations will help relieve the chief judge of that district, who is the only active judge for the entire district. I have previously recounted how Chief Judge McCuskey wrote to Senator DURBIN last November urging the

Senate to take action to fill these vacancies. Chief Judge McCuskey has been commuting 90 miles between Urbana and Springfield and relying on senior judges to administer justice in the district. Judge McCuskey had a heart attack a few years ago. Reportedly, when his cardiologist told him that he needed to reduce his stress level, the chief judge replied that "only the U.S. Senate can reduce my stress." Well, Chief Judge McCuskey, it has taken too long but we hope finally to provide you some relief. To the people of the Central District of Illinois I say, help is finally on the way.

Judge Battaglia of California will fill a vacancy in the Southern District of California where he has served as a U.S. magistrate judge since 1993. Last November we heard from the Judicial Council of the Ninth Circuit, which encompasses California. They wrote to us last year, noting: "In order to do our work, and serve the public as Congress expects us to serve it, we need the resources to carry out our mission. While there are many areas of serious need, we write . . . to emphasize our desperate need for judges. Courts cannot do their work if authorized judicial positions remain vacant. . . . We respectfully request that the Senate act on judicial nominees without delay." I agree. I am glad to see the Senate finally consider and confirm Judge Battaglia.

On Thursday, the Judiciary Committee will consider the nomination of another California judicial nominee, John Kronstadt, who is nominated to fill a judicial emergency vacancy in the Central District of California. In the next couple weeks we should reconsider and report again the nomination of Edward Chen to fill a judicial emergency vacancy in the Northern District of California.

Recently Seth Stern reported in Congressional Quarterly criticism from Chief Judge Lamberth of the U.S. District Court for the District of Columbia, who warned that the breakdown in the judicial confirmation process is "injuring the country." There are two judicial nominees to fill longstanding vacancies for his court still waiting for final consideration by the Senate. The Senate should consider and confirm them without further delay. I will ask that a copy of the article be printed in the RECORD.

Besides the nominees to fill vacancies in the District of Columbia, also reported from the Judiciary Committee and before the Senate are nominees to fill judicial vacancies in North Carolina, and a judicial emergency vacancy in New York. The Judiciary Committee has also now considered the renomination of Susan Carney of Connecticut to the Second Circuit and Michael Simon to be a district court judge in Oregon. More than half of the Republicans on the Judiciary Committee voted in favor of those nominations. They should be debated and confirmed without delay, as well.

I expect to be able to move forward with reporting two additional Federal circuit nominees and four additional district court nominees this week. We are holding hearings every 2 weeks and hope finally to begin to bend the curve and start to lower judicial vacancies across the country.

Federal judicial vacancies around the country number too many and they have persisted for too long. That is why Chief Justice Roberts, Attorney General Holder, White House Counsel Bob Bauer and many others—including the President of the United States—have spoken out and urged the Senate to act.

Nearly one out of every eight Federal judgeships is vacant. This puts at serious risk the ability of all Americans to have a fair hearing in court. The real price being paid for these unnecessary delays is that the judges that remain are overburdened and the American people who depend on them are being denied hearings and justice in a timely fashion.

Regrettably, the progress we made during the first 2 years of the Bush administration has not been duplicated, and the progress we made over the 8 years from 2001 to 2009 to reduce judicial vacancies from 110 to a low of 34 was reversed. The vacancy rate we reduced from 10 percent at the end of President Clinton's term to less than 4 percent in 2008 has now risen back to over 10 percent. In contrast to the sharp reduction in vacancies we made during President Bush's first 2 years when the Democratically controlled Senate confirmed 100 of his judicial nominations, only 60 of President Obama's judicial nominations were allowed to be considered and confirmed during his first 2 years. We have not kept up with the rate of attrition, let alone brought the vacancies down. By now they should have been cut in half. Instead, they continue to hover around 100.

The Senate must do better. The Nation cannot afford further delays by the Senate in taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. This is unacceptable.

We can consider and confirm this President's nominations to the Federal bench in a timely manner. President Obama has worked with Democratic and Republican home State Senators to identify superbly qualified, consensus nominations. None of the nominations on the Executive Calendar are controversial. They all have the support of their home State Senators, Republicans and Democrats. All have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution.

During President Bush's first term, his first 4 tumultuous years in office, we proceeded to confirm 205 of his judicial nominations. We confirmed 100 of

those during the 17 months I was Chairman during President Bush's first 2 years in office. So far in President Obama's third year in office, the Senate has only been allowed to consider 70 of his Federal circuit and district court nominees. We remain well short of the benchmark we set during the Bush administration. When we approach it we can reduce vacancies from the historically high levels at which they have remained throughout these first three years of the Obama administration to the historically low level we reached toward the end of the Bush administration.

I ask unanimous consent that the CQ article to which I referred be printed in the RECORD.

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

[From CQ Today Online News, Feb. 28, 2011]
JUDGES: "TOTALLY BROKEN" CONFIRMATION PROCESS CAUSING "DIRE" CASE BACKLOGS
 (By Seth Stern)

Two federal judges criticized the slow pace of judicial confirmations Monday, saying cases are backlogged and judges overwhelmed at the trial court level.

Speaking at a Brookings Institution event on judicial nominations, Royce Lamberth, the chief judge of the U.S. District Court for the District of Columbia, said the confirmation process is "totally broken" and that the pattern of "paybacks and the bickering have been thoroughly bipartisan."

Lamberth, who was appointed by President Ronald Reagan in 1987, raised similar concerns in a speech in March 2009, just after the start of the Obama administration. But he said he was increasingly concerned by the delays in the confirmation of federal trial judges, which has only worsened in the two years since.

"I say to both Democrats and Republicans, you are injuring the country," Lamberth said.

Lamberth was joined on the panel by William Furgeson Jr., a Texas district court judge who said judges' growing caseloads resulting from the vacancies in his district in western Texas are a "desperate problem" that results in "assembly-line justice."

Furgeson called the situation on the border "dire," adding it was a "giant mystery" why senators now fight over trial court judges.

Chief Justice John G. Roberts Jr. had also emphasized the "persistent problem" of vacancies on the federal bench in his annual report on the state of the judiciary released in December.

"Each political party has found it easy to turn on a dime from decrying to defending the blocking of judicial nominations, depending on their changing political fortunes," Roberts wrote in the report.

Only 67 percent of Obama's district court nominees were confirmed during his first two years in office, compared to 92 percent for George W. Bush and 87 percent for Bill Clinton, according to statistics compiled by Russell Wheeler, a visiting fellow at the liberal-leaning Brookings Institution, and 83 of 677 district court seats were vacant as of Feb. 25.

The Senate has confirmed six district court judges so far this year, including two more Monday: Amy Totenberg and Steve C. Jones to the Northern District of Georgia.

On Wednesday, the Senate Judiciary Committee will hold a second confirmation hearing for President Obama's most controversial judicial nominee: Goodwin Liu, who was

first nominated for a seat on the U.S. Court of Appeals for the 9th Circuit in 2009.

The University of California law professor has faced intense criticism from Republicans for his liberal views and for repeatedly amending the materials he has provided to the Judiciary Committee.●

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent that any time during the quorum be equally divided between both the Republican and Democratic sides.

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

Mr. DURBIN. 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.

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

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

Mrs. BOXER. Mr. President, I am honored today to support the nomination of Judge Anthony Battaglia to the Southern District of California. I had the great privilege of recommending Judge Battaglia to President Obama to serve on the Southern District Court. He is widely respected in the San Diego legal community. He will make an excellent addition to the bench. I have a committee that is set up in all the various areas over California, and they recommended him to me, and I was proud to recommend him to the President. I congratulate him and his family on this important day.

Judge Battaglia was born and raised in San Diego. He is a graduate of the U.S. International University, now Alliant International University, and California Western School of Law in San Diego. He has practiced law for 35 years in San Diego, and for 19 years he was a private practitioner with a very strong record as a litigator.

For the past 16 years, Judge Battaglia has served with distinction as a magistrate judge for the Southern District. He has a reputation as a judge's judge, which means the judges believe he is very hard-working, thoughtful, and fair. Local lawyers praise him for being well prepared for hearings and for trials, and he is very diligent in moving cases forward. He has presided over 22 trials that have gone to verdict during his tenure on the bench.

Equally important is Judge Battaglia's dedication to service outside the courtroom. He is a past president of the national Federal Magistrate Judges Association and has

twice been selected by Chief Justices of the Supreme Court to serve on a national advisory committee that reviews criminal court rules.

In short, Judge Battaglia's career stands out as a testament to his dedication and devotion to the law and legal community of San Diego, both inside and outside the courtroom.

I close my comments here by congratulating the judge and his family on this momentous day, and I urge my colleagues to confirm this highly qualified nominee to the Federal bench.

I am very grateful to the Judiciary Committee, which twice voted him out of the committee. We are grateful for that.

GOVERNMENT SHUTDOWN PAY

I would like to add a comment on another matter—the Boxer-Casey bill that was passed here and sent over to the House. The bill says that if there were to be a shutdown of government, which I know nobody wants, but if there were to be one, Members of Congress should not get their pay. They should not get retroactive pay because this is a very basic responsibility we have—to keep the government running, to make sure Social Security recipients receive checks on time, and disabled veterans, too, and make sure Superfund sites are cleaned up and the NIH continues functioning so they can find cures for the diseases that plague our families.

It is fair to say the two parties have different views on how to approach the deficit. The party I am proud to belong to believes—and we showed it under the leadership of Bill Clinton—we can balance the budget but not threaten job creation. We did it under Bill Clinton, but we did it smartly, we did it wisely, and the millionaires did pay their fair share, as opposed to some of the proposals in H.R. 1 that came out of the House that at the minimum would cost, according to the economists, 200,000 jobs. We have heard estimates of 800,000 jobs. We cannot afford to lose that many jobs just as this economy is getting to the point where jobs are being created in decent numbers.

Yes, we need to trim the deficit, and yes, we have to make sure we do not knock this economic recovery off track. Therefore, it is essential that the parties work together because if we each just stay in our camps, we are never going to get anything done.

Let's do this in a wise way. It is true that we had an election and the House changed hands. Guess what. The Senate didn't, and the White House is not up for election for 2 more years, so you cannot go around saying there was an election and the election said that the Republicans get everything they want. That just does not make any sense.

Having come back from that election, I want to say it was about jobs—jobs, jobs, jobs. My opponent essentially asked every morning, every noon, and every night: Where are the

jobs? And that was a fair question. I said to her and I said to my people in California: We are not creating jobs at a fast enough pace; we have to do better. As I stand here, how could I ever betray what I said in the campaign and vote for a plan that would cut between 200,000 and 800,000 jobs, the Republican plan from the House?

We have to get our act together here and meet somewhere in the middle. If you look at the Republican plan, I think it was \$100 billion off the President's budget. Our plan is about, now, \$50 billion off of the President's budget. We have met them more than halfway. Let's get this thing done. If we get this done and do it in responsible way, yes, we will get this deficit on the right path. But to hold out this idea that we are going to go after just 12 percent of the budget and the things the people really rely on, the roads and the bridges and the highways and education and cleaning up Superfund sites and the FBI and all the things we rely on—to go after that one small part of the budget and decimate it the way H.R. 1 would do would be counterproductive.

It is a job killer that hurts the middle class, and we cannot go that way. Having said all of this, I am sure we are going to see a vote on H.R. 1. I am pretty sure we are going to see a vote on H.R. 1, and I do not think it is going to get enough votes to pass. Then we will take the proposal of the Democrats that Vice President BIDEN has put forward and see what that does. If neither gets the requisite number of votes, we are going to have to keep talking. But we cannot continue with these 2-week extensions. It is absolutely irresponsible. Imagine taking billions of dollars out of the Federal budget every 2 weeks. It is going to be tens of thousands of jobs in every one of our States that are lost.

In summing up, I hope the Speaker of the House over there will take up our bill quickly, make sure that Members of Congress are not treated any better than anybody else. And we will hopefully avert a shutdown. But if there is one, we are treated like every other Federal employee, no budget, no pay.

I am very grateful to the Judiciary Committee for giving us the opportunity to vote for Anthony Battaglia who is going to make a great judge for the U.S. District Court for the Southern District of California.

Mrs. FEINSTEIN. Mr. President, I rise to speak in strong support of the nomination of Magistrate Judge Tony Battaglia to be a Federal district judge in the Southern District of California.

Judge Battaglia is a highly regarded jurist in the San Diego area. For more than 17 years, he has served as a magistrate judge. He has seen more than 20 cases to verdict or judgment, has managed both individual and large class action suits, and has presided over matters ranging from environmental claims to commercial contract disputes to criminal and civil rights cases.

Outside of the courtroom, Judge Battaglia has generously given his time to train and educate other lawyers and judges by, for example, writing extensively in local bar journals and leading instructional workshops and seminars across the country.

He has been appointed by Chief Justice John Roberts to represent magistrate judges across the country on the Judicial Conference. He has served as president of the Federal Magistrate Judges Association. And he has been president of the San Diego County Judges Association.

Prior to his appointment to the bench, Battaglia was an equally well regarded litigator—first with the law offices of John Marin, then as a sole practitioner, and finally as a partner in the firm of Battaglia, Fitzpatrick, & Battaglia.

During almost two decades in private practice, he tried 23 cases to verdict and handled more than 125 arbitrations.

His accolades as an attorney included serving as president of the San Diego Bar Association and president of the San Diego Trial Lawyers Association, as well as being named Outstanding Trial Lawyer by the San Diego Trial Lawyers Association.

Judge Battaglia will bring to the district court a wealth of experience as an attorney, as well as a top-notch record as a judge.

I commend Senator BOXER for recommending him for this position, and I am very pleased to support his nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, today we continue in our efforts to lessen the burden our overworked courts currently face. We are about to confirm three more judicial nominees. Two of the three nominees we will vote on tonight are for seats designated as judicial emergencies. With our action today, in only 22 days the Senate has been in session, the Senate has confirmed 10 nominees.

With these votes tonight, we will have confirmed 19 percent of President Obama's judicial nominees submitted in this Congress. This pace far exceeds the progress made at this point in the 108th Congress, which was the beginning of the third year of President Bush's Presidency. At this point, the 108th Congress had confirmed only 4 of the 48 nominations sent to the Senate, about an 8 percent confirmation rate.

Our fast pace on the floor is matched by our rapid pace in committee. We held our third nominations hearing this past Wednesday. We have now heard from 13 judicial nominees and have reported 16 favorably. Our work in committee and on the floor indicates a cooperative effort between me, the chairman of the Judiciary Committee and our leadership. It is an indication of the progress that can be made when the President nominates consensus nominees.

We will continue in our efforts, but again, I would remind everyone that while we in the Senate are doing our part, the administration must also be engaged in this process. I would note that 24 of the 41 vacant seats deemed to be judicial emergencies have no nominee. Of the additional 54 vacancies, 28 have no nominee.

I am perplexed as to why the President would ignore these pending vacancies and instead spend time and resources to send up a nomination for a seat that will not be vacant for some time. I refer to the President's nomination, on February 16, 2011, of Scott Skavdahl, to be United States District Judge for the District of Wyoming. This seat will not be vacant until July 24, 2011, when the current judge will retire. I do not understand the administration's priorities when it comes to judicial nominations. Instead of focusing on nominations for future vacancies, I would hope the administration would use some common sense and direct its efforts towards nominating individuals for seats which are at least currently vacant.

With regard to the nominees on whom we will vote this evening, let me say a few words about each.

Judge Joseph Battaglia is nominated to be a U.S. district judge for the Southern District of California. He presently serves in that district as a U.S. magistrate judge. He was first appointed to that position in 1993. In addition to serving as a magistrate judge, Judge Battaglia has served on the Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure, on the Ninth Circuit Executive Board of Magistrate Judges, and as a Magistrate Judge Observer on the Judicial Council of the Ninth Circuit. In 2009, Judge Battaglia was appointed by Chief Justice Roberts as Magistrate Judge Observer to the Judicial Conference of the United States.

Judge Battaglia received his B.A. from the U.S. International University and his J.D. from California Western School of Law. He spent almost two decades working in private practice, and also acted as an arbitrator for the San Diego Superior Court, serving on many panels. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated him "Well-Qualified."

This evening, we will also vote on two nominees to the Central District of Illinois. Both of these vacancies are considered to be judicial emergencies.

Judge James E. Shadid received his B.S. from Bradley University and his J.D. from the John Marshall Law School. Upon admission to the Illinois bar, Judge Shadid opened his own law practice. He maintained his law practice until 2001, when he was appointed by the Illinois Supreme Court to fill a vacancy on the Tenth Judicial Circuit. He was elected to a full term in 2002 and re-elected in 2008.

While in private practice, he served as a part-time public defender at the

Peoria County Public Defender's Office. He also served an assistant attorney general for the State of Illinois. He was appointed by Governor Jim Edgar to serve as a commissioner of the Court of Claims in Illinois. The American Bar Association Standing Committee on the Federal Judiciary rated Judge Shadid as "Qualified" by a substantial majority, while a minority rated him "Well Qualified."

Also nominated to a judicial emergency vacancy for the Central District of Illinois is Judge Sue E. Myerscough. Judge Myerscough received her B.A. with honors, from Southern Illinois University, and her J.D. from Southern Illinois School of Law. Upon graduation from law school, she served as a law clerk to the Honorable Harold A. Baker of the U.S. District Court for the Central District of Illinois.

Judge Myerscough was in private practice for approximately 6 years before being elected as an associate circuit court judge for the Seventh Judicial Circuit of Illinois. Judge Myerscough later became a circuit judge for the Seventh Circuit. In 1998 she was elected as an appellate court justice of the Illinois Appellate Court, Fourth District. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated Judge Myerscough as "Qualified."

I congratulate these three nominees and wish them well in their public service as a U.S. district judge.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. I ask unanimous consent to speak as in morning business.

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

Ms. KLOBUCHAR. Mr. President, I first wanted to alert Senators that we will most likely be voting somewhere around 5:30. We are still working on an agreement about yielding back time, but I thought people would like to know that.

The other thing I wish to note is to first urge my colleagues to confirm the judges before us tonight, and then I wish also to briefly say a few words about the third vote we are going to be taking in this sequence.

AMERICA INVENTS ACT

In a few moments the Senate will take another important step toward passing the America Invents Act. This bipartisan bill will go a long way in ensuring our country remains the world leader in entrepreneurship, research, and development and, of course, innovation.

Over the course of last week, every Senator had an opportunity to come to the floor and weigh in on this bill with amendments. We made a lot of progress, and as a result I am pleased to say we have a bill that is even better than the one we started with, a truly bipartisan product which will bring our patent system into the 21st century. If passed, this legislation will make the

first comprehensive set of reforms to our Nation's patent process in almost 60 years. Sixty years.

A lot has changed since then. The America Invents Act will create a legal framework that reflects current technology and a climate in which innovation can flourish. In doing so, it will unleash the power of our Nation's single most precious resource, the ingenuity of our people. I point out that it will do it without adding a penny to our deficit.

An improved patent process will spark the kind of job creation and business growth our economy needs right now. I know you know that in Delaware—and we certainly know it in Minnesota. Those are not Democratic priorities—the priorities of competitiveness and innovation—and they are not Republican priorities, they are American priorities.

I urge all Senators to support the motion so we can move forward with this important legislation. I thank Senator GRASSLEY for all his work on this bill and Senator LEAHY as well, and all the rest of the Judiciary Committee.

I yield the floor, and we will soon have an update on whether we can yield back the time to start the votes at 5:30.

Mr. GRASSLEY. Mr. President, we are prepared to yield back the balance of time on this side.

Ms. KLOBUCHAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Ms. KLOBUCHAR. I ask unanimous consent that all remaining time on both sides be yielded back.

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

NOMINATION OF SUE E. MYERSCOUGH

Under the previous order, the nomination of Sue E. Myerscough, of Illinois, to be United States District Judge for the Central District of Illinois is confirmed.

VOTE ON NOMINATION OF JAMES E. SHADID

Ms. KLOBUCHAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James E. Shadid, of Illinois, to be United States District Judge for the Central District of Illinois?

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from North Caro-

lina (Mrs. HAGAN), the Senator from Vermont (Mr. LEAHY), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. DEMINT), the Senator from Nevada (Mr. ENSIGN), the Senator from North Dakota (Mr. HOEVEN), the Senator from Georgia (Mr. ISAKSON), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Kentucky (Mr. PAUL).

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

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 32 Exe.]

YEAS—89

Akaka	Feinstein	Moran
Alexander	Franken	Murray
Ayotte	Gillibrand	Nelson (NE)
Barrasso	Graham	Nelson (FL)
Baucus	Grassley	Portman
Begich	Harkin	Pryor
Bennet	Hutchison	Reed
Bingaman	Inhofe	Reid
Blumenthal	Inouye	Risch
Blunt	Johanns	Roberts
Boozman	Johnson (SD)	Rockefeller
Boxer	Johnson (WI)	Rubio
Brown (MA)	Kerry	Schumer
Brown (OH)	Kirk	Sessions
Burr	Klobuchar	Shaheen
Cantwell	Kohl	Shelby
Cardin	Kyl	Snowe
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Chambliss	Lee	Thune
Coats	Levin	Toomey
Coburn	Lieberman	Udall (CO)
Cochran	Lugar	Udall (NM)
Collins	Manchin	Vitter
Coons	McCain	Warner
Corker	McCaskill	Webb
Cornyn	McConnell	Whitehouse
Crapo	Menendez	Wicker
Durbin	Merkley	Wyden
Enzi	Mikulski	

NOT VOTING—11

Conrad	Hatch	Murkowski
DeMint	Hoeven	Paul
Ensign	Isakson	Sanders
Hagan	Leahy	

The nomination was confirmed.

VOTE ON NOMINATION OF ANTHONY J. BATTAGLIA

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Anthony J. Battaglia, of California, to be United States District Judge for the Southern District of California?

The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the next two votes be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. KLOBUCHAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from North Carolina (Mrs. HAGAN), the Senator from Vermont (Mr. LEAHY), the Senator from Vermont (Mr. SANDERS), and the Senator from Virginia (Mr. WEBB) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nevada (Mr. ENSIGN), the Senator from Utah (Mr. HATCH), the Senator from North Dakota (Mr. HOEVEN), the Senator from Georgia (Mr. ISAKSON), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Kentucky (Mr. PAUL).

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

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 33 Exe.]

YEAS—89

Akaka	Enzi	Mikulski
Alexander	Feinstein	Moran
Ayotte	Franken	Murray
Barrasso	Gillibrand	Nelson (NE)
Baucus	Graham	Nelson (FL)
Begich	Grassley	Portman
Bennet	Harkin	Pryor
Bingaman	Hutchison	Reed
Blumenthal	Inhofe	Reid
Blunt	Inouye	Risch
Boozman	Johanns	Roberts
Boxer	Johnson (SD)	Rockefeller
Brown (MA)	Johnson (WI)	Rubio
Brown (OH)	Kerry	Schumer
Burr	Kirk	Sessions
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Shelby
Carper	Kyl	Snowe
Casey	Landrieu	Stabenow
Chambliss	Lautenberg	Tester
Coats	Lee	Thune
Coburn	Levin	Toomey
Cochran	Lieberman	Udall (CO)
Collins	Lugar	Udall (NM)
Coons	Manchin	Vitter
Corker	McCain	Warner
Cornyn	McCaskill	Whitehouse
Crapo	McConnell	Wicker
DeMint	Menendez	Wyden
Durbin	Merkley	

NOT VOTING—11

Conrad	Hoeven	Paul
Ensign	Isakson	Sanders
Hagan	Leahy	Webb
Hatch	Murkowski	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made en bloc and laid upon the table en bloc.

Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

PATENT REFORM ACT OF 2011—
Resumed

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the

Senate the pending cloture motion, which the clerk will state.

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, hereby move to bring to a close debate on S. 23, the America Invents Act.

Harry Reid, Patrick J. Leahy, Debbie Stabenow, John F. Kerry, Jeanne Shaheen, Christopher A. Coons, Tom Harkin, Mark Begich, Jeff Bingaman, Al Franken, Kay R. Hagan, Michael F. Bennet, Richard Blumenthal, Sheldon Whitehouse, Amy Klobuchar, Bill Nelson, Benjamin L. Cardin, Richard J. Durbin.

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

• Mr. LEAHY. Mr. President, today the Senate will take another step toward completing action on the America Invents Act. This is commonsense legislation that will make the first comprehensive reforms to our Nation's patent system in nearly 60 years. The debate on this bill since its introduction 6 years ago has been long, and the compromises have been many. I am confident that the bill before us today makes the needed changes to bring the U.S. Patent and Trademark Office into the 21st century.

The America Invents Act is bipartisan legislation that has resulted from deliberation in both the Senate and House. It has been the topic of more than a dozen hearings and committee meetings in the Senate, and countless hours of meetings and negotiations. I had hoped to complete action on this legislation last week. The additional time has allowed every Senator the opportunity to come to the floor and speak about the important matters encompassed by this bill. We have debated and adopted relevant amendments and debated and rejected other amendments, including some that were not even relevant to this legislation. This is a bill that does not spend a dollar of taxpayer money and does not add to the deficit. It will directly result in millions of dollars being saved, and indirectly in helping unleash American innovation to create jobs and help bolster our economy.

Now is the time to act. Now is the time to vote. Now is the time to move forward with this job-creating bill that will help boost our economy and restore America's competitive edge in the global marketplace.

Modernizing our patent system through the America Invents Act will make America more competitive. It protects innovators and inventors large and small, from the small independent inventor in Middlesex, VT, to cutting-edge manufacturers and innovators in Ohio and California. It will give the Patent and Trademark Office the tools it needs to process and award the patent for what may be the next life-saving device or life-changing invention. And the America Invents Act will do

all of this without spending a dollar of taxpayer money. This is a jobs bill that doesn't add a cent to the deficit. Supporters of this legislation come from both sides of the aisle, from every corner of the country, and from every component of the patent community.

This country's first patent was issued to a Vermonter. Thomas Jefferson, the Secretary of State, examined the application, and President George Washington signed it. A lot has changed in the more than 220 years since that first patent was issued. We cannot remain complacent and expect to remain at the forefront of innovation. Enacting the America Invents Act is one way in which we can come together and show the American people that we in Washington are working together with the future of our country in mind.

I commend Austan Goolsbee, the chair of the President's Council of Economic Advisers, for his white board presentation today on the importance of patent reform to help America win the global competition and create jobs. The creation of more than 220,000 jobs in the private sector last month, the creation of 1.5 million jobs over the last 12 months, and the unemployment rate finally being reduced to 8.9 percent are all signs that the efforts we have made over the last 2 years to stave off the worst recession since the Great Depression are paying off and the economic recovery is taking hold. The almost full percent point drop in the unemployment rate over the last three months is the largest decline in unemployment since 1983. Despite interruptions of economic activity in many parts of the country caused by winter weather over the last months and days, despite the extraordinary rise in oil prices, the Dow Jones industrial average has climbed back to over 12,000 from a low point of 6,500. Passage of the America Invents Act should help bolster our economic recovery and keep us on the right path toward business development and job creation.

I urge all Senators to support the cloture motion on the America Invents Act. The Nation's economy, American inventors and innovators, our competitive edge in the global marketplace all will be helped when we pass this important bill.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 23, the Patent Reform Act of 2011, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from Vermont (Mr. LEAHY), the Senator from Vermont (Mr. SANDERS), and the Senator from Virginia (Mr. WEBB) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from Nevada (Mr. ENSIGN), the Senator from Utah (Mr. HATCH), the Senator from North Dakota (Mr. HOEVEN), the Senator from Georgia (Mr. ISAKSON), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Kentucky (Mr. PAUL).

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

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

The result was announced—yeas 87, nays 3, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—87

Akaka	Feinstein	Merkley
Alexander	Franken	Mikulski
Ayotte	Gillibrand	Moran
Barrasso	Graham	Murray
Baucus	Grassley	Nelson (NE)
Begich	Hagan	Nelson (PL)
Bennet	Harkin	Portman
Bingaman	Hutchison	Pryor
Blumenthal	Inhofe	Reed
Blunt	Inouye	Reid
Boozman	Johanns	Roberts
Boxer	Johnson (SD)	Rockefeller
Brown (MA)	Johnson (WI)	Rubio
Brown (OH)	Kerry	Schumer
Burr	Kirk	Sessions
Cardin	Klobuchar	Shaheen
Carper	Kohl	Shelby
Casey	Kyl	Snowe
Chambliss	Landrieu	Stabenow
Coats	Lautenberg	Tester
Coburn	Lee	Thune
Cochran	Levin	Toomey
Collins	Lieberman	Udall (CO)
Coons	Lugar	Udall (NM)
Corker	Manchin	Vitter
Cornyn	McCain	Warner
DeMint	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Enzi	Menendez	Wyden

NAYS—3

Cantwell	Crapo	Risch
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NOT VOTING—10

Conrad	Isakson	Sanders
Ensign	Leahy	Webb
Hatch	Murkowski	
Hoeven	Paul	

The PRESIDING OFFICER. On this vote, the yeas are 87, the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 23) to amend title 35, United States Code, to provide for patent reform.

Pending:

Leahy amendment No. 114, to improve the bill.

Bennet amendment No. 116, to reduce the fee amounts paid by small entities requesting prioritized examination under Three-Track Examination.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 141, AS MODIFIED

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside, and I call up an amendment on behalf of Senators BAUCUS and GRASSLEY, No. 141; that it be

modified with the changes that are at the desk; further, that the amendment, as modified, be agreed to, that the motion to reconsider be considered made and laid upon the table, and that there be no intervening action or debate.

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

The amendment (No. 141), as modified, was agreed to, as follows:

(Purpose: To clarify that section 14 shall not apply to an invention that is a computer program product or system used solely for preparing a tax or information return or other tax filing)

On page 94, between lines 22 and 23, insert the following:

(e) EXCLUSION.—This section does not apply to that part of an invention that is a method, apparatus, computer program product, or system, that is used solely for preparing a tax or information return or other tax filing, including one that records, transmits, transfers, or organizes data related to such filing.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 114 AND 116, WITHDRAWN

Mr. REID. Mr. President, I ask unanimous consent to withdraw the pending Leahy and Bennet amendments.

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

AMENDMENT NO. 143

Mr. REID. Mr. President, I call up my amendment, which is No. 143, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. ENSIGN, proposes an amendment numbered 143.

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:

(Purpose: To include public institutions of higher education in EPSCOR jurisdictions in the definition of a micro entity)

On page 93, before line 18, insert the following:

"(d) EPSCOR.—For purposes of this section, a micro entity shall include an applicant who certifies that—

"(1) the applicant's employer, from which the applicant obtains the majority of the applicant's income, is a State public institution of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR); or

"(2) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a li-

cense or other ownership interest in the particular application to such State public institution, which is in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR)."

AMENDMENT NO. 152 TO AMENDMENT NO. 143

Mr. REID. Mr. President, I now call up a second-degree amendment, which is No. 152.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 152 to amendment No. 143.

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:

(Purpose: To provide an effective date)

On page 2 of the amendment, after line 11, add the following:

"(e) EFFECTIVE DATE.—Subsection (d) shall take effect 1 year and 1 day after the date of enactment of the Patent Reform Act of 2011."

Mr. REID. Mr. President, so everyone knows what this amendment does, we looked at the National Science Foundation regarding a program called EPSCoR. A number of sparsely populated States are disadvantaged with this program. However, in talking with a number of Senators, this amendment we are going to seek modification of at a later time would have no, zero, effect on scoring. There is no score to it whatsoever. But we are going to try—not trying to, we are going to include every State because it costs nothing.

Even though a lot of States are not funded adequately with this EPSCoR money, there is no reason every State that has a State university and does something inventive should have to pay exorbitant patent fees.

It does not cost any money. It is the right thing to do. We will discuss it at a further time. If someone has some problem with it, we will have to make a determination. At this stage, I think it would be the right thing for the country.

SATELLITE OFFICES

Mr. BENNET. Mr. President, I thank Chairman LEAHY for working to pass an amendment I introduced last week with Senator UDALL to authorize the Director of the U.S. Patent and Trademark Office, USPTO, to establish three or more satellite offices. This amendment will go a long way toward improving the efficiency and quality at the USPTO.

I really appreciate the chairman and ranking member for working with us to modify the amendment's language in order to address colleagues' concerns on both sides of the aisle. We struck a good balance to not tie the hands of the USPTO, allow the Office to take advantage of the work it has done on the satellite office concept, and ensure

that PTO can have an open, competitive process in making determinations for future regional satellite offices. At this moment, I would like to invite the senior Senator from Colorado, MARK UDALL, to enter into a colloquy to discuss this amendment.

The establishment of regional satellite offices will help the USPTO recruit and retain workers from across the country. Regional offices will draw local scientists, engineers and patent attorneys into the USPTO, which add real world expertise to the patent review process. They will also increase outreach activities and connection to patent filers; enhance the ability of the USPTO to recruit and retain patent examiners; and improve the quality and pendency for patent applications.

In short, USPTO Director Kappos has already taken steps toward establishing regional satellite offices. Our amendment is intended to build on this prior work, which I believe provides a good foundation for the USPTO improving its footprint in innovation centers across the country. I know Senator UDALL and I will be advocating for a regional satellite office in Denver, and of course we expect other advocates to point out the merits of their potential sites as well.

Mr. UDALL of Colorado. I would also like to thank the chairman for helping us pass this important amendment. Right now, the European Union uses four geographically diverse patent offices. By only having one patent office, we are at a competitive disadvantage. We need to have these regional offices in order to connect innovators and businesses across the country.

The current lack of regional satellite offices is even more of a problem when you consider all of the recruitment and retention issues the USPTO is having with its patent examiner workforce. USPTO is unable to hire and retain over 6,000 examiners at its single location in Alexandria, VA. This has resulted in one-third of patent examiners having been with the USPTO for less than 3 years. USPTO should be recruiting examiners from across the country. Establishing satellite offices will help the USPTO develop expertise from all regions of the country—and I know that a satellite office in Denver, CO, would attract highly qualified examiners.

Mr. BENNET. I agree with the Senator. We need to be maximizing our human capital. I have heard from a number of more senior patent attorneys and engineers in Denver that would love to work for the USPTO but cannot uproot their families across the country. Having a satellite office in places like Denver will make sure we are taking advantage of these high-skilled workers.

While our amendment provides for an open process and does not constrain the USPTO in making determinations for future offices, we do hope that the Office can build on its decision making process in 2010. This process ultimately

led to the selection of Detroit as an initial regional satellite. While Senator UDALL and I were disappointed that Colorado wasn't selected, we respect the thoroughness of the USPTO's review and do not want all of its hard work in reviewing locations across the country to go to waste.

Mr. UDALL of Colorado. There really are a number of objective reasons for choosing Denver. First, opening an office in Colorado will permit USPTO to recruit and hire from a pool of the best candidates the U.S. has to offer. Colorado is home to a great number of technology workers who would be excellent long-term patent examiners for an office located in Colorado. The technology workforce in Colorado is consistently ranked in the top-10 in the U.S. in many important categories. According to a report by Pew Research, Colorado is ranked: third for percent of workers with a bachelor's degree or more; fifth for number of workers with science and engineering degrees per capita; fifth for number of scientists and engineers as a percent of the labor force; and second for number of patents per 1,000 workers. Additionally, other Federal agencies have found Colorado to be a great place to locate an office. Outside of the Washington metro area, Denver has the highest number of Federal employees per capita.

Because Colorado is a very desirable place to live, locating a satellite office in Colorado would allow the USPTO to dramatically improve its ability to recruit and retain its most valuable employees. According to the report by Pew Research, Colorado is ranked first for percent of U.S. workers who say they want to live there; and sixth for the percentage of sunny days. Colorado is also well known for its reasonable cost of living, especially in comparison to cities located on the east and west coasts, and Chicago.

Colorado is also centrally located in the U.S. and easily accessible to the entire country. Our location in the middle of the country provides convenient access for the technology centers of the West, Midwest, and Rocky Mountain regions.

Mr. BENNET. I fully agree with Senator UDALL. There are a number of clear, objective reasons why Colorado should be a regional satellite location for the USPTO. My understanding is that in 2010 the USPTO applied a number of criteria to review numerous site possibilities. This criteria included patents granted, per capita; scientists and engineers in the State, per capita; proximity to law schools and major research institutions; number of patent attorneys and agents; number of teleworking PTO patent examiners; and presence of Federal employees, office space. This approach makes sense. By all accounts—and I admit I am biased here—Denver is at the top. It is my strong view that when you factor in our central location and accessibility to the rest of the country, it makes sense for an office to be located in Denver.

Mr. UDALL of Colorado. I look forward to working closely with the Senator to advocate for an office in Denver. I think a Western office will go a long way toward ensuring the success of our patent system.

Mr. BENNET. I thank the Senator.

Mr. SESSIONS. Mr. President, I rise today to speak in support of S. 23, which largely reflects the agreement on patent-reform legislation that Senator LEAHY and I announced last year.

The Judiciary Committee has been working hard on landmark patent reform legislation for the past 7 years, and has finally reached a broad, bipartisan agreement. This bill includes important reforms that will improve the functioning of the Patent and Trademark Office and will allow the office to reduce its backlog of pending applications. The bill also makes the long-overdue transition to a first-to-file system, a change that will help ensure U.S. inventors receive patents that will also be entitled to priority in foreign countries.

This bill has the support of a broad range of industries and trade associations, across the economic spectrum, as well as the support of universities, patent professional organizations, independent entrepreneurs and labor unions. The PTO and the Commerce Department also strongly support this legislation. While not all interests are satisfied, I think it is fair to say that the present agreement has produced a near consensus on this issue, and has resulted in the broadest possible support for this reform.

The most important change made by this bill is its adoption of a first-to-file patent system. Under current U.S. law, when two different people come up with the same invention, priority is given to the person who can prove that he first conceived of the invention and was able to make it work. Under the first-to-file system, by contrast, priority is given to the first person who not only conceived of the invention and was able to make it work, but who also filed a disclosure with the PTO explaining the invention and how to make it work.

The first-to-file system has several important advantages over the current system. First, it is easy to verify when an inventor filed a disclosure statement with the PTO. By contrast, under the current system, invention priority dates are determined by examining the inventor's notebooks and other records, all of which must have been contemporaneously validated by a third party. The first-to-file system not only dispenses with expensive discovery into "what did the inventor know and when did he know it," it also allows the public to easily determine an invention's priority date—and whether a patent for the invention is valid in light of the prior art. Additionally, the first-to-file system, combined with the use of provisional applications for patents, also provides an inexpensive and secure way for small inventors

to protect their patent application while discussing the invention with possible investors and other third parties.

Other reforms included in the bill will improve the quality of U.S. patents over the long term. The bill creates a new post-grant review of patents, which can be sought within the first 9 months after the patent is issued and used to raise any challenge to the patent. This will allow invalid patents that were mistakenly issued by the PTO to be fixed early in their life, before they disrupt an entire industry or result in expensive litigation.

The bill also allows third parties to submit prior art relevant to a patent application before the patent is issued. This will help PTO determine if the invention is already in the public domain and should not be patented. This provision will allow the public to help the PTO correct its mistakes, and ensure that no patent rights are granted for inventions already available to the public.

The bill also makes structural reforms to post-grant review that were sought by the PTO. It allows inter partes reexamination to be run as an adjudicative system, and elevates the threshold for starting post-grant proceedings. The PTO has insisted that a higher threshold is critical to its ability to administer these proceedings. By raising the threshold for starting an inter partes review to a showing of a "reasonable likelihood" that a patent is invalid, the bill will allow the PTO to avoid accepting challenges that were unlikely to win in any event.

The bill also includes many protections that were long sought by inventors and patent owners. It preserves estoppel against relitigating in court those issues that an inter partes challenger reasonably could have raised in his administrative challenge. It imposes time limits on starting an inter partes or post-grant review when litigation is pending. And it imposes a one-year time limit on the duration of these proceedings. All of these reforms will help to ensure that post-grant review operates fairly and is not used for purposes of harassment or delay.

I commend the members of the Judiciary Committee for the work they have put into this bill and I urge my colleagues to support passage.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, and that the 30 hours postcloture run on the patent bill, and that Senator GRASSLEY be recognized for whatever time he may use in morning business, and that following his statement, Senators be recognized for up to 10 minutes each.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that I may speak for some little time after 10 minutes.

Mr. REID. Mr. President, I know my friend was preoccupied. I knew he wanted to do that. The unanimous consent agreement said whatever time he may consume.

The PRESIDING OFFICER. The Senator from Iowa.

ENERGY

Mr. GRASSLEY. Mr. President, the American economy remains on an unsettled footing, as we all know. There are some real signs of economic recovery, but it shows a very fragile recovery. The consumer confidence level seems to be increasing, and that is good news. U.S. factory activity is up. That is good news. But also we are very nervous about the housing market remaining weak. The Nation's unemployment rate stands at 9 percent—maybe officially now 8.9 percent—and now our economy is facing a significant head wind due to rising energy prices.

Since the unrest began in Tunisia, our energy markets have rocked upward by the uprisings in Egypt and now in Libya. Libya produces only roughly 2 percent of the world's crude oil, with much of that going to Europe. But even with Libya producing such a small amount, it still makes a tremendous impact on the world market of oil. The uncertainty and fear about supplies, according to oil speculators, has driven crude prices to more than \$100 a barrel. Prices at the pump were already high before the unrest in the Middle East. The events going on in North Africa and the Persian Gulf area just worsened the problem.

According to the Energy Information Administration, gas prices jumped 19 cents during a 1-week period at the end of February. This is the second largest 1-week jump in more than 20 years. I think over the weekend we learned that gasoline, in a 2-week period of time, is up 33 cents. So Americans are now paying, on average, \$3.51 a gallon for gas. That, obviously, is about 80 cents higher than this time last year.

The average cost to fill a tank of gas is likely around \$50. We all know that for a family struggling to make ends meet, these are valuable dollars spent at the pump, with most of those dollars going overseas.

I am sure the Presiding Officer probably knows that before this rapid rise in the price of oil, we were spending \$730 million a day to import oil. Obviously, that is now a much higher figure, probably close to \$1 billion a day right now. Our country is at risk, our economy is at risk, our Nation's security is at risk; that is, economic security, but also it is related to our national security. Our ever-increasing reliance on foreign sources for energy is undermining our Nation's economic and national security. The activities in the Middle East over the last 6 weeks should be an alarm bell going off. It should, in fact, be a wake-up call. Let me be clear. I know that for our economy to grow and for business and indi-

viduals to thrive, we need access to reliable, affordable energy. I support an energy policy that I like to say is akin to a four-legged stool or another way of saying it is all of the above—obviously, all the sources of petroleum we can get our hands on, and more domestically, obviously, than import, all sorts of alternative energy. Conservation has to be a leg of that stool and, obviously, nuclear energy.

So to be repetitive: First, we have to have access to oil and gas resources here at home. Two years ago, when gas prices were so high, the rallying cry was "drill here, drill now." It seems to me that still is a legitimate rallying cry for us with gas at \$3.51 a gallon. The idea that we limit our access to our own resources, which in turn leads us to go hat in hand to foreign dictators such as Hugo Chavez and oil sheiks is ludicrous. It is silly to be sending more money overseas to give people resources to train terrorists to kill Americans.

We currently import more than 60 percent of our crude oil, and it doesn't have to be that way. I know we can't get to energy independence by drilling here and drilling now all by itself, but isn't it a little foolish to have our economy held hostage by events in Libya—North Africa generally—or the Persian Gulf area and particularly with Libya only supplying 2 percent of the world's oil?

The Obama administration needs to put an end to the existing policy of a de facto moratorium through permitting; that is, for drilling onshore and offshore of our own domestic supply. We need to make sure we are doing everything we can to protect workers and the environment. But permitting delays and obstacles should not prevent our Nation from moving forward to developing resources here at home.

I also support efforts to expand the use of clean coal and nuclear energy. I also support conservation efforts. I agree that the cheapest form of energy is the energy that doesn't have to be used. That is conservation. Here in the Senate, I have supported policies aimed at reducing energy use in homes and buildings through conservation and energy-efficient technologies. I see the value in reducing overall energy consumption.

I have also been a leader in the Senate in promoting alternative and renewable energy. Why? Because the supply of fossil fuels is a finite quantity. We must look to alternative and renewable resources so we can improve our energy and our national security. This includes supporting energy from wind, biomass, hydroelectric, solar, geothermal, and biofuels.

I would like to focus now on the effort to develop homegrown biofuels. For many years, Congress has realized the need to develop an alternative to fossil fuels, particularly as a means of reducing our dependence on that fossil fuel. One of the first priorities was a tax incentive to encourage the use of

homegrown ethanol. For over 100 years, the fossil fuel industry has had a monopoly on our transportation fuel. They built the market. They own the infrastructure. They weren't about to use a product they didn't manufacture, own or profit from. So Congress created a tax incentive to encourage big oil to use the product and make it available to their consumers. It was paired with an import tariff to make sure that only domestic ethanol receives the benefit of the tax incentive.

So the tax incentive and the tariff worked together to do two things: The incentive exists to encourage the use of domestic ethanol. The tariff exists to ensure that we aren't giving a tax incentive to already subsidized foreign ethanol.

In other words, wouldn't it be silly to have a tax incentive for the production of a domestic alternative energy and then allow the import of it, which would have taxpayers subsidizing an alternative form of energy coming in from another country? Well, that wouldn't make sense.

Together, these two approaches ensure that we don't replace our dependence on foreign oil with a dependence upon foreign ethanol. The incentive was created to encourage big oil to use a domestically produced product and a renewable product. In 2005, Congress created the Renewable Fuels Standard. The standard was created to ensure a minimum amount of renewable fuels was used in the fuel supply. It was strongly opposed by big oil, but it was enacted over their opposition.

In 2007, it was greatly expanded. It mandates the use of 36 billion gallons of renewable fuel annually by 2022. But that decision, made in 2007, also limited the amount of ethanol that can be made from grain to 15 billion gallons.

One of the criticisms I hear occasionally is that the ethanol receives both an incentive and a mandate. So I think we should address that point.

First, while the mandate requires that the fuel be used, it does not mandate that the ethanol be produced domestically. The incentive acts as an encouragement to use homegrown products. It increases economic activity at home and works to reduce our dependence upon foreign oil. It doesn't do any good if you are importing a domestic renewable fuel if it can be done here locally, creating the jobs here.

Secondly, the mandate acts as a floor to ethanol use. Without the incentive, we would consume a bare minimum. The incentive encourages ethanol use beyond the mandate.

Some in the environmental community are quick to raise objections to the biofuels mandate as well as the incentive. I would like to suggest to them that this is a clear example of limitless hypocrisy and intellectual dishonesty in this town. Many of the loudest voices against these policies are the same voices who lobby me for tax incentives and also mandates for wind, solar, geothermal, and other renewable energy.

I happen to be a strong supporter of electricity generated from wind and other renewable sources. I first authored the production tax credit for wind in 1992. Over the years, it has been expanded to include other types of resources. Since as far back as 2003, environmental advocacy groups have been pushing for a renewable portfolio standard, which is a mandate that utilities around the country use a certain amount of wind or other types of alternative energy instead of coal in the production of electricity.

So now what do we hear? They want the production tax credit for wind and other renewable electricity and a mandate that it be produced. Yet they oppose these same policies for biofuels. That is an inconsistency. That seems to be an intellectually dishonest approach; that they would like to have this Senator support mandates for wind as well as a tax incentive for wind but lobbying against this Senator's approach to having a tax incentive for other alternative energies as well as a mandate.

I have been a champion of ethanol and biofuels for a long time. I am well aware of the positive role ethanol is playing to create a cleaner environment. It is improving our economic and national security and it is creating jobs and economic activity in rural America. In 2010, nearly 90 percent of all gasoline sold in the United States contained some ethanol. The 13 billion gallons of ethanol produced in the United States reduced our oil imports by 445 million barrels of oil.

After domestic oil production and imports from Canada, U.S. ethanol production is the third largest source of transportation fuel—what we use in internal combustion engines. U.S. ethanol production is larger than what we import from Saudi Arabia or even from Hugo Chavez's Venezuela. Without domestic biofuels, we would be on bended knees even more than we are today, begging others for oil.

Just think what has developed in the 2 weeks of Libya. We have OPEC having to go to Saudi Arabia to make up the difference, just because of 2 percent of the oil production being affected. Why would we want to be more dependent upon foreign sources of energy, particularly for our national security?

Without domestic biofuels it seems to me that we would be on bended knees even more than we are today, begging others for oil. Ethanol is the only reliable, legitimate alternative to crude oil. Domestic ethanol currently accounts for nearly 10 percent of our transportation fuel. There is no other renewable fuel that comes close to achieving the economic, environmental, and national security benefits currently delivered by this biofuel that we call ethanol.

There are other well-funded misinformation campaigns underway to undermine the only alternative to crude oil. Big oil has been joined in recent years by opportunistic grocery manu-

facturers who hope to find a scapegoat in their desire to increase profits and raise food prices. They did this just 2 years ago, when corn was \$7. They scapegoated ethanol. They needed a cover to raise the price of food and then, within 7 months, when the price of corn was down to half that price, \$3.50 per bushel, did you see the price of food come down? No. You are going to find the same thing now.

These people continue to perpetuate the same tired, baseless arguments to try to undermine our efforts toward energy independence. They are more interested in protecting market share and profits than national economic security.

Over the next few weeks I am going to do everything I can to talk about this issue, to educate the public on the benefits of domestic biofuels. I am not going to sit quietly while the energy, environmental, and national security benefits of ethanol are scoffed at. I intend to beat back every false attack. The American public deserves an honest, fact-based discussion about the benefits of reducing our dependence on people such as Hugo Chavez and Muammar Qadhafi. They deserve to hear the benefits of reducing our dependence on dirty fossil fuel.

I look forward to continuing this effort and invite dialog from any of my colleagues.

BIENNIAL BUDGETING

Ms. SNOWE. Mr. President, I rise today to express my support for instituting biennial budgeting within the U.S. Government. We should reform the Federal budget process by converting it from an annual spending process to a 2-year cycle, with 1 year for appropriating Federal dollars and the following year devoted to oversight of Federal programs.

Under the current budget process, Congress almost never finishes the appropriations bills by October 1 and is forced to consider omnibus legislation composed of individual appropriations bills that were never considered on the Senate floor. Worse still is that we are often unable to amend an omnibus appropriations bill and are forced to accept provisions that may be objectionable. Because we are constantly racing against the clock to finish appropriations, authorizing committees are hampered in their ability to conduct effective oversight. This means that we have trouble learning about what spending programs work and which must be modified or eliminated. Budget reforms are much needed and long overdue.

The amendment that I filed today would require the President to submit a 2-year budget at the beginning of the first session of a Congress. Members of Congress would then need to adopt a 2-year budget resolution, a reconciliation bill if necessary and 2-year appropriations bills during that first session. The legislation ensures the enactment

of 2-year appropriations bills by providing a new majority point of order against consideration of an appropriations bill that fails to cover 2 years. The second session of a Congress would then be devoted to the consideration of authorization bills and oversight of Federal programs. The result is enhanced oversight that will provide greater accountability of government programs and a superior budget process.

Each year, approximately 40 percent of Congress's debating time is spent on appropriations, on the resolution and on the reconciliation process. In some years, that number is as high as 60 percent, not even reflecting the time that the budget process consumes the entire Federal bureaucracy. Moreover through February 18 of this year, House lawmakers spent 61 hours over 4 days debating 162 of the nearly 600 amendments filed on the 359-page measure to fund government until September. And after all the debate and consideration last year, Congress failed to adopt the budget or pass any of the 13 appropriations bills for the first time since the landmark Budget Act of 1974.

It is no wonder that the American people are dismayed because all they have seen is the chaotic nature of the budgetary process and the failure of Congress time and time again to meet statutory deadlines.

It is important to have a biennial budget because it will allow the President—as well as Congress—in the second year to fine-tune the budget, revisit issues, improve oversight activities, and—if necessary—respond to a downturn in the economy, such as a recession. And it would also immeasurably add to accountability to the American taxpayer. If you ask the American taxpayer, “Do you think your Federal dollars are being spent wisely and efficiently?”—the response is a resounding “no” as reflected in many polls and public opinion surveys. Only if we improve oversight activities and examine every program and agency, will we restore the confidence of the American taxpayer in how government spends hard-earned tax dollars.

Unfortunately, the battle to get the biennial budget passed is not new. I have been advocating for budget reform for years and have pursued shifting the federal budgeting process to a biennial system throughout my tenure in the Senate. In 1997—the year that led to record surpluses—I cosponsored the Biennial Budgeting and Appropriations Act, S. 261, to amend the Congressional Budget Act of 1974 to revise the Federal and congressional budget processes by establishing a two-year budgeting and appropriations cycle and timetable. That bill sat dormant in a Senate committee—as did the next four bills of this kind that I have cosponsored since.

So we find ourselves with record deficits, a complicated and time consuming budget process that gives

Americans little confidence in their government, lack of congressional oversight over the many programs and agencies that dispense taxpayer's funds, and the surpluses of the 1998–2001 nowhere to be found. If that does not tell us that the system is broken, I do not know what does.

The biennial budget would free up Senate floor time for other matters, help us avoid having to consider an end-of-year omnibus bill, and provide authorizing committees more time to carry out their oversight responsibilities. Biennial budgeting would make us more effective legislators and enable us to make more informed choices on behalf of our constituents.

Biennial budgeting is necessary to return us to the path of fiscal sustainability and to allow Congress time to engage in meaningful oversight of government spending. As such, this legislation is long overdue and it is my hope that Congress will finally institute this much needed reform.

ADDITIONAL STATEMENTS

REMEMBERING C. RAY BAKER

• Mr. BOOZMAN. Mr. President, today I honor the life of C. Ray Baker, a devoted champion of Fort Smith, AR.

Ray Baker was a lifelong cheerleader of Fort Smith, proving his love for the community through serving its citizens for 20 years as mayor.

Dedicating countless hours volunteering for civic service organizations, he brought an unmatched, contagious energy to ribbon cuttings, groundbreaking, awards ceremonies and special community events. His commitment to Fort Smith inspired the “Ray Baker Lifetime Achievement Award.”

He shared his enthusiasm for the community with the generations of students he taught over his 46 years as an educator. His legacy is far reaching beyond the halls of Southside High School where he taught for 44 years.

He received numerous awards and commendations for his years in the classroom including being named Arkansas PTA Teacher of the Year, a Milken Family National Educator, Arkansas Teacher of the Year and Daughters of the American Revolution National American History Teacher of the Year.

Ray is a true American hero who not only taught what it means to participate in the government, but also showed his students and the citizens by the example he set.

Ray Baker's legacy will live on for future generations to experience the projects he supported encouraged to the lives he touched in the classroom and civic outings all across the region.

His energetic spirit has given us all strength, and we are fortunate to have had his leadership. During the opportunities I had to share the stage with Mayor Baker, I often had to follow his

passionate and enthusiastic addresses. I would joke with the audience that I needed to spend a few days with the mayor so I could learn how to become as animated as he was.

We all came to know and say his famous words he would recite after his speeches and proclamations, “Life's worth living in Fort Smith, Arkansas.” I am confident this will always be a motto for the community, and thanks to Ray Baker's determination, perseverance and dedication, he certainly made Fort Smith a place worth living.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-825. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, a report entitled “Commodity Futures Trading Commission Strategic Plan Fiscal Years 2011–2015”; to the Committee on Agriculture, Nutrition, and Forestry.

EC-826. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Research, Development, Test and Evaluation account of the Department of the Army and was assigned case number 08-08; to the Committee on Appropriations.

EC-827. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Operation and Maintenance account of the Department of the Army and was assigned case number 08-04; to the Committee on Appropriations.

EC-828. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled “Presidential Library Facilities; Correction” (RIN3095-AA82) received in the Office of the President of the Senate on March 4, 2011; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. LIEBERMAN (for himself and Mrs. HUTCHISON):

S. 494. A bill to amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal cancer; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY:

S. 495. A bill to expend and enhance existing adult day programs for individuals with neurological diseases or conditions, including multiple sclerosis, Parkinson's disease, traumatic brain injury, and other similar diseases or conditions, to support and improve access to respite services for family

caregivers who are taking care of such individuals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCAIN (for himself and Mr. COBURN):

S. 496. A bill to amend the Food, Conservation, and Energy Act to repeal a duplicative program relating to inspection and grading of catfish; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. MIKULSKI (for herself and Mr. KIRK):

S. 497. A bill to amend the Immigration and Nationality Act to modify the requirements of the visa waiver program and for other purposes; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mrs. MCCASKILL, and Mr. PORTMAN):

S. 498. A bill to ensure objective, independent review of task and delivery orders; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HATCH:

S. 499. A bill to authorize the Secretary of the Interior to facilitate the development of hydroelectric power on the Diamond Fork System of the Central Utah Project; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 500. A bill to direct the Secretary of the Interior to convey certain Federal features of the electric distribution system to the South Utah Valley Electric Service District, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HATCH (for himself and Mr. UDALL of Colorado):

S. Res. 93. A resolution establishing the Committee to Reduce Government Waste; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 17

At the request of Ms. AYOTTE, her name was added as a cosponsor of S. 17, a bill to repeal the job-killing tax on medical devices to ensure continued access to life-saving medical devices for patients and maintain the standing of United States as the world leader in medical device innovation.

S. 102

At the request of Mr. McCAIN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 102, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 258

At the request of Mr. MENENDEZ, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 258, a bill to amend the Internal Revenue Code of 1986 to eliminate oil and gas company preferences.

S. 344

At the request of Mr. REID, the name of the Senator from California (Mrs.

BOXER) was added as a cosponsor of S. 344, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 347

At the request of Mr. BURR, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 347, a bill to amend the Internal Revenue Code of 1986 to provide for reporting and disclosure by State and local public employee retirement pension plans.

S. 359

At the request of Mr. JOHANNIS, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. INHOFE), and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to repeal the expansion of information reporting requirements to payments made to corporations, payments for property and other gross proceeds, and rental property expense payments, and for other purposes.

S. 362

At the request of Mr. WHITEHOUSE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 362, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 386

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 386, a bill to provide assistance to certain employers and States in 2011 and 2012, to improve the long-term solvency of the Unemployment Compensation program, and for other purposes.

S. 387

At the request of Mrs. BOXER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 387, a bill to amend title 37, United States Code, to provide flexible spending arrangements for members of uniformed services, and for other purposes.

S. 390

At the request of Mr. WEBB, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 390, a bill to ensure that the right of an individual to display the Service Flag on residential property not be abridged.

S. 398

At the request of Mr. BINGAMAN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 398, a bill to amend

the Energy Policy and Conservation Act to improve energy efficiency of certain appliances and equipment, and for other purposes.

S. 412

At the request of Mr. LEVIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 412, a bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance.

S. 439

At the request of Mr. THUNE, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 439, a bill to provide for comprehensive budget reform in order to increase transparency and reduce the deficit.

S. CON. RES. 7

At the request of Mr. BARRASSO, the names of the Senator from Montana (Mr. TESTER), the Senator from Georgia (Mr. ISAKSON), the Senator from Wyoming (Mr. ENZI), the Senator from Kansas (Mr. MORAN), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Con. Res. 7, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 51

At the request of Mr. MENENDEZ, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. Res. 51, a resolution recognizing the 190th anniversary of the independence of Greece and celebrating Greek and American democracy.

S. RES. 86

At the request of Mrs. FEINSTEIN, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Res. 86, a resolution recognizing the Defense Intelligence Agency on its 50th Anniversary.

S. RES. 87

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. Res. 87, a resolution designating the year of 2012 as the "International Year of Cooperatives".

S. RES. 90

At the request of Mrs. SHAHEEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 90, a resolution supporting the goals of "International Women's Day" and recognizing this year's centennial anniversary of International Women's Day.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. COBURN):

S. 496. A bill to amend the Food, Conservation, and Energy Act to repeal a duplicative program relating to inspection and grading of catfish; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. McCAIN. Mr. President, I am pleased to be joined by my colleague, Senator COBURN, in introducing legislation to repeal duplicative federal regulations relating to the inspection and grading of catfish. Specifically, our bill would rescind a provision in the 2008 Farm Bill, Section 11016 of P.L. 110-246, which aims to inhibit Vietnamese catfish imports as well as catfish imports of other potential trade partners.

Section 11016 is nothing more than the latest effort by Members of Congress serving the special interests of the catfish industry in their home States. A similar protectionist tactic was tried in the 2002 Farm Bill when many of these same members slipped in language that made it illegal to label Vietnamese catfish, "pangasius," as catfish in U.S. retail markets. The intent there was to discourage American consumers from buying Vietnamese catfish products even though they are virtually indistinguishable from U.S. grown catfish. It didn't work. Vietnamese catfish remain popular with American consumers because it is more affordable and cheaper to produce than domestic catfish grown in aquaculture ponds. Now these special interests are relying on this latest Farm Bill rider to over regulate Vietnamese catfish by, ironically, deeming pangasius a catfish again. Under the guise of food safety, the 2008 Farm Bill directs the U.S. Department of Agriculture's Food Safety Inspection Service, FSIS, to inspect catfish like it does meat products or eggs, except that no other fish is under the regulatory thumb of the FSIS. Catfish is already regulated by the Food and Drug Administration, FDA, which hasn't reported any safety or health problems with the Vietnamese imports. Domestic producers are simply trying to create barriers for Vietnamese catfish farmers by forcing them to comply with a second inspection regime administered by an entirely different arm of the Federal bureaucracy.

The U.S. Department of Agriculture, USDA, is currently engaged in the proposed rulemaking process for implementing this new inspection authority. A recent Government Accountability Office, GAO, report flagged this FSIS program as "duplicative" and "high risk" for "fraud, waste, abuse, and mismanagement." GAO estimates that the USDA would spend about \$30 million in taxpayer dollars to implement the agency's new catfish inspection program and that we would be further fragmenting our federal food safety system by having catfish regulated twice by both USDA and FDA.

The provision that I am seeking to repeal is nothing more than a protectionist tactic funded at taxpayers' expense. If implemented, the proposed USDA regulations will lead to a duplicative, costly and complex overseas inspection program that serves no real purpose but to protect American catfish growers from competition while forcing American consumers to pay more for fish. Not only is the catfish

provision in Section 11016 offensive to our principles of free trade, it flagrantly disregards our Bilateral Trade Agreement and relationship with Vietnam. I urge my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 93—ESTABLISHING THE COMMITTEE TO REDUCE GOVERNMENT WASTE

Mr. HATCH (for himself and Mr. UDALL of Colorado) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 93

Resolved,

SECTION 1. ESTABLISHMENT.

There shall be a Senate committee known as the Committee to Reduce Government Waste (referred to in this resolution as the "Committee").

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Committee shall be composed of 12 members as follows:

(1) 4 members from the Committee on Finance, 2 selected by the Majority Leader and 2 selected by the Minority Leader.

(2) 4 members from the Committee on Appropriations, 2 selected by the Majority Leader and 2 selected by the Minority Leader.

(3) 4 members from the Committee on the Budget, 2 selected by the Majority Leader and 2 selected by the Minority Leader.

(b) TENURE OF OFFICE.—

(1) PERIOD OF APPOINTMENT.—Members shall be appointed for a period of not to exceed 6 years.

(2) EXCEPTIONS.—No person shall continue to serve as a member of the Committee after the person has ceased to be a member of the Committee from which the member was chosen.

(c) VACANCIES.—Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Committee shall select a Chairman and Vice Chairman from among its members.

(e) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings. The powers conferred upon them by section 4 may be exercised by a majority vote.

SEC. 3. DUTIES.

(a) IN GENERAL.—The Committee shall have the following duties:

(1) STUDY.—The Committee shall—

(A) research, review, and study Federal programs that are underperforming or nonessential; and

(B) determine which Federal programs should be modified or eliminated.

(2) RECOMMEND.—The Committee shall develop recommendations to the Senate for action designed to modify or eliminate underperforming or nonessential Federal programs.

(3) REPORT AND LEGISLATION.—The Committee shall submit to the Senate—

(A) at least once a year, reports including—

(i) a detailed statement of the findings and conclusions of the Committee; and

(ii) a list of underperforming or nonessential Federal programs; and

(B) such legislation and administrative actions as it considers appropriate.

(b) CONSIDERATION OF LEGISLATION.—Any legislation submitted to the Senate by the Committee shall be considered under the provisions of section 310 of the Congressional Budget Act of 1974 (2 U.S.C. 641).

SEC. 4. POWERS.

(a) HEARINGS.—The Committee or, at its direction, any subcommittee or member of the Committee, may, for the purpose of carrying out the provisions of section 3—

(1) sit and act, at any time, during the sessions, recesses, and adjourned periods of Congress;

(2) require as the Committee considers necessary, by subpoena or otherwise, the attendance of witnesses and the production of books, papers, and documents;

(3) administer oaths and take testimony; and

(4) procure necessary printing and binding.

(b) WITNESS ALLOWANCES AND FEES.—The provisions of section 1821 of title 28, United States Code, shall apply to witnesses requested to appear at any hearing of the Committee. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Committee.

(c) EXPENDITURES.—The Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.

SEC. 5. APPOINTMENT AND COMPENSATION OF STAFF.

Except as otherwise provided by law, the Committee shall have power to appoint and fix the compensation of the Chief of Staff of the Committee and such experts and clerical, stenographic, and other assistants as it deems advisable.

SEC. 6. PAYMENT OF EXPENSES.

The expenses of the Committee shall be paid from the contingent fund of the Senate.

Mr. HATCH. Mr. President, our Nation's fiscal situation has reached a tipping point. The debt held by the public now exceeds \$9 trillion. We are now in our third year of trillion dollar deficits. According to the Congressional Budget Office, by the end of 2011, our debt will be \$10.4 trillion. This represents 69 percent of GDP, the highest level since 1950.

The picture only gets uglier if you take into account other factors. Our total public debt outstanding is over \$14 trillion. Moreover, if you assume that certain things that always happen will continue to happen things like the AMT patch, tax relief for families and businesses, and a "doc-fix" our debt will soon be nearly 100 percent of GDP.

This is, quite simply, unsustainable. If we do not act now to get a handle on this spending, the nation that gave boundless opportunity to generations of Americans will not be there for our children and grandchildren. With interest payments on all this debt set to grow from \$225 billion in 2011 to \$792 billion in 2021, we are approaching a fiscal death spiral.

Congress could go a long way simply by reducing wasteful and redundant government spending. Last week, in response to a request from my colleague from Oklahoma, Dr. COBURN, the Government Accountability Office released a report identifying between \$100 and \$200 billion in wasteful spending on redundant government programs alone.

Dr. COBURN has been doing yeoman's work burrowing into the federal budget to find the sources of wasteful spending, but getting this report from GAO

is, in my view, his greatest achievement to date. He has given Congress a roadmap for cuts that really should be no-brainers.

But Congress' record on securing cuts is less than stellar. Ronald Reagan once said that nothing comes closer to eternal life than a government program. Congress' committee structure is set up to authorize and reauthorize new programs. It is set up to appropriate money for those programs.

But there are few institutionalized forums in Congress for spending restraint.

That is why I am introducing today, with my colleague from Colorado, Senator MARK UDALL, a Senate Resolution that will create a Committee to Reduce Government Waste. After last week's GAO report, there is no longer any doubt that the Federal Government is deluged with wasteful, non-performing, and underperforming programs.

This committee would be required, every year, to identify wasteful government programs and recommend legislation to either cut them or reduce them in scope.

Most importantly, the consideration of this legislation would be expedited, subject to Section 310 of the Congressional Budget Act.

There is a precedent for a committee such as this one. In response to the rising costs of World War II, Senator Harry F. Byrd of Virginia proposed the establishment of a committee to cut wasteful programs instead of raising taxes. In just three years, the committee cut wasteful programs, resulting in more than \$38 billion in today's dollars. Given the growth of government in the intervening 6 decades, I expect that our anti-appropriations committee will have an even easier time identifying wasteful spending and programs today.

This would be a truly bipartisan committee, with 4 members, 2 Republicans and 2 Democrats, from each of the Senate Finance, Budget, and Appropriations Committees.

Ultimately, getting our budget deficits and structural debt under control is going to take meaningful action from both sides of the aisle. This needs to be a bipartisan process, and I could not be more pleased that I am being joined in this effort by my Democratic colleague from Colorado, Senator UDALL.

The American people have spoken loud and clear. Every day families make tough choices to balance their books, and they expect Congress to do the same. Dozens of groups, representing millions of American taxpayers, have come together to ask Congress to support a committee devoted to eliminating government waste.

I look forward to working with my colleagues on enacting this resolution. Senators hear every day from interest groups seeking more money from the Federal Government. They are well organized, well financed, and well versed in the ways of the Senate. The com-

mittee we are proposing will make sure that the citizens who have to foot the bill for all of this government spending will have a venue where their concerns take precedence.

AMENDMENTS SUBMITTED AND PROPOSED

SA 152. Mr. REID of Nevada submitted an amendment intended to be proposed to amendment SA 143 proposed by Mr. REID of Nevada (for himself and Mr. ENSIGN) to the bill S. 23, to amend title 35, United States Code, to provide for patent reform.

SA 153. Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 154. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 23, supra; which was ordered to lie on the table.

SA 155. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 141 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill S. 23, supra; which was ordered to lie on the table.

SA 156. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 141 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill S. 23, supra; which was ordered to lie on the table.

SA 157. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1, making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 152. Mr. REID of Nevada submitted an amendment intended to be proposed to amendment SA 143 proposed by Mr. REID of Nevada (for himself and Mr. ENSIGN) to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; as follows:

On page 2 of the amendment, after line 11, add the following:

“(e) EFFECTIVE DATE.—Subsection (d) shall take effect 1 year and 1 day after the date of enactment of the Patent Reform Act of 2011.”.

SA 153. Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. _____ PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN EPSCOR ELIGIBLE JURISDICTIONS.

Chapter 11 of title 35, United States Code, is further amended by inserting after section 123, the following:

“**SEC. 124. EPSCOR.**

“Notwithstanding any other provision of this chapter, for purposes of section 123, a micro entity shall include an applicant who certifies that—

“(1) the applicant's employer, from which the applicant obtains the majority of the applicant's income, is a State public institu-

tion of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR); or

“(2) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the particular application to such State public institution, which is in a jurisdiction that is eligible to qualify under the Research Infrastructure Improvement Grant Program administered by the Office of Experimental Program to Stimulate Competitive Research (EPSCoR).”.

SA 154. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

At the end, add the following:

(e) EXCLUSION.—This section does not apply to that part of an invention that is a method, apparatus, computer program product, or system, that is used solely for preparing a tax or information return or other tax filing, including one that records, transmits, transfers, or organizes data related to such filing.

SA 155. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 141 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 1, line 3, beginning with “shall not” strike all through line 7, and insert “does not apply to that part of an invention that is a method, apparatus, computer program product, or system, that is used solely for preparing a tax or information return or other tax filing, including one that records, transmits, transfers, or organizes data”.

SA 156. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 141 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill S. 23, to amend title 35, United States Code, to provide for patent reform; which was ordered to lie on the table; as follows:

On page 1, strike lines 3 through 8 and insert the following:

(e) EXCLUSION.—This section does not apply to that part of an invention that is a method, apparatus, computer program product, or system, that is used solely for preparing a tax or information return or other tax filing, including one that records, transmits, transfers, or organizes data related to such filing.

SA 157. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1, making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —BIENNIAL BUDGETING

SEC. 01. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(1) in subsection (a), by striking “September 30, 1997” and inserting “September 30, 2011”;

(2) in subsection (b)—

(A) by striking “five years forward” and inserting “6 years forward”;

(B) by striking “at least every three years” and inserting “at least every 4 years”; and

(C) by striking beginning with “, except that” through “four years”; and

(3) in subsection (c), by inserting a comma after “section” the second place it appears and adding “including a strategic plan submitted by September 30, 2011 meeting the requirements of subsection (a)”.

(b) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Paragraph (28) of section 1105(a) of title 31, United States Code, is amended by striking “beginning with fiscal year 1999, a” and inserting “beginning with fiscal year 2010, a biennial”.

(c) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter before paragraph (1)—

(i) by striking “section 1105(a)(29)” and inserting “section 1105(a)(28)”; and

(ii) by striking “an annual” and inserting “a biennial”;

(B) in paragraph (1) by inserting after “program activity” the following: “for both years 1 and 2 of the biennial plan”;

(C) in paragraph (5) by striking “and” after the semicolon,

(D) in paragraph (6) by striking the period and inserting a semicolon; and inserting “and” after the inserted semicolon; and

(E) by adding after paragraph (6) the following:

“(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.”;

(2) in subsection (d) by striking “annual” and inserting “biennial”; and

(3) in paragraph (6) of subsection (f) by striking “annual” and inserting “biennial”.

(d) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Section 9703 of title 31, United States Code, relating to managerial accountability, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking “annual”; and

(B) by striking “section 1105(a)(29)” and inserting “section 1105(a)(28)”;

(2) in subsection (e)—

(A) in the first sentence by striking “one or” before “years”;

(B) in the second sentence by striking “a subsequent year” and inserting “a subsequent 2-year period”; and

(C) in the third sentence by striking “three” and inserting “4”.

(e) PILOT PROJECTS FOR PERFORMANCE BUDGETING.—Section 1119 of title 31, United States Code, is amended—

(1) in paragraph (1) of subsection (d), by striking “annual” and inserting “biennial”; and

(2) in subsection (e), by striking “annual” and inserting “biennial”.

(f) STRATEGIC PLANS.—Section 2802 of title 39, United States Code, is amended—

(1) in subsection (a), by striking “September 30, 1997” and inserting “September 30, 2011”;

(2) by striking “five years forward” and inserting “6 years forward”;

(3) in subsection (b), by striking “at least every three years” and inserting “at least every 4 years”; and

(4) in subsection (c), by inserting a comma after “section” the second place it appears and inserting “including a strategic plan submitted by September 30, 2011 meeting the requirements of subsection (a)”.

(g) PERFORMANCE PLANS.—Section 2803(a) of title 39, United States Code, is amended—

(1) in the matter before paragraph (1), by striking “an annual” and inserting “a biennial”;

(2) in paragraph (1), by inserting after “program activity” the following: “for both years 1 and 2 of the biennial plan”;

(3) in paragraph (5), by striking “and” after the semicolon;

(4) in paragraph (6), by striking the period and inserting “; and”; and

(5) by adding after paragraph (6) the following:

“(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.”.

(h) COMMITTEE VIEWS OF PLANS AND REPORTS.—Section 301(d) of the Congressional Budget Act (2 U.S.C. 632(d)) is amended by adding at the end “Each committee of the Senate or the House of Representatives shall review the strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, of all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the applicable House.”.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2012.

(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this Act, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this Act.

SEC. 02. BIENNIAL APPROPRIATIONS BILLS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:

“CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

“SEC. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.”.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 316 the following new item:

“Sec. 317. Consideration of biennial appropriations bills.”.

SEC. 03. REPORT ON TWO-YEAR FISCAL PERIOD.

Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget process based on the 2-year period; and

(2) report the findings of the study to the Committees on the Budget of the House of Representatives and the Senate.

SEC. 04. EFFECTIVE DATE.

Except as provided in section 03, this title and the amendments made by this title shall take effect on January 1, 2012, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2013.

WELCOME HOME VIETNAM VETERANS DAY

Mr. REID. I ask unanimous consent the Committee on Veterans' Affairs be discharged from further consideration of S. Res. 55 and the Senate proceed to that.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 55) expressing support for designation of a “Welcome Home Vietnam Veterans Day.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid on the table.

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

The resolution (S. Res. 55) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 55

Whereas the Vietnam War was fought in the Republic of South Vietnam from 1961 to 1975, and involved North Vietnamese regular forces and Viet Cong guerrilla forces in armed conflict with United States Armed Forces and the Army of the Republic of Vietnam;

Whereas the United States Armed Forces became involved in Vietnam because the United States Government wanted to provide direct military support to the Government of South Vietnam to defend itself against the growing Communist threat from North Vietnam;

Whereas members of the United States Armed Forces began serving in an advisory role to the Government of the Republic of South Vietnam in 1961;

Whereas, as a result of the Gulf of Tonkin incidents on August 2 and 4, 1964, Congress overwhelmingly passed the Gulf of Tonkin Resolution (Public Law 88-408), on August 7, 1964, which provided the authority to the President of the United States to prosecute the war against North Vietnam;

Whereas, in 1965, United States Armed Forces ground combat units arrived in Vietnam;

Whereas, by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969, a peak of approximately 543,000 troops was reached;

Whereas, on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners-of-war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam;

Whereas, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat units and combat support units from South Vietnam;

Whereas, on April 30, 1975, North Vietnamese regular forces captured Saigon, the capitol of South Vietnam, effectively placing South Vietnam under Communist control;

Whereas more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded;

Whereas, in 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing-in-action in Vietnam;

Whereas the Vietnam War was an extremely divisive issue among the people of the United States and a conflict that caused a generation of veterans to wait too long for the United States public to acknowledge and honor the efforts and services of such veterans;

Whereas members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were often wrongly criticized for the policy decisions made by 4 presidential administrations in the United States;

Whereas the establishment of a "Welcome Home Vietnam Veterans Day" would be an appropriate way to honor those members of the United States Armed Forces who served in South Vietnam and throughout Southeast Asia during the Vietnam War; and

Whereas March 30, 2011, would be an appropriate day to establish as "Welcome Home Vietnam Veterans Day": Now, therefore, be it

Resolved, That the Senate—

(1) honors and recognizes the contributions of veterans who served in the United States Armed Forces in Vietnam during war and during peace;

(2) encourages States and local governments to also establish "Welcome Home Vietnam Veterans Day"; and

(3) encourages the people of the United States to observe "Welcome Home Vietnam Veterans Day" with appropriate ceremonies and activities that—

(A) provide the appreciation Vietnam War veterans deserve, but did not receive upon returning home from the war;

(B) demonstrate the resolve that never again shall the Nation disregard and denigrate a generation of veterans;

(C) promote awareness of the faithful service and contributions of such veterans during

their military service as well as to their communities since returning home;

(D) promote awareness of the importance of entire communities empowering veterans and the families of veterans to readjust to civilian life after military service; and

(E) promote opportunities for such veterans to assist younger veterans returning from the wars in Iraq and Afghanistan in rehabilitation from wounds, both seen and unseen, and to support the reintegration of younger veterans into civilian life.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 106-567, reappoints the following individual to serve as a member of the Public Interest Declassification Board: Sanford Ungar of Maryland.

The Chair, on behalf of the President of the Senate, pursuant to Public Law 85-874, as amended, reappoints the following individuals to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: the Honorable KENT CONRAD of North Dakota and the Honorable DIANNE FEINSTEIN of California.

ORDERS FOR TUESDAY, MARCH 8, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow, Tuesday, March 8 at 9:30 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following leader remarks there be a period of morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with 30 minutes of the Democratic time under the control

of Senator JOHN KERRY; that the Republicans will control the first hour, the majority to control the second hour; following morning business, the Senate resume consideration of S. 23, the America Invents Act, postcloture; further, that the Senate recess from 12:30 to 2:15 p.m. to allow for the weekly caucus meetings; and, finally, I ask that any time during any period of adjournment, recess, or period of morning business count postcloture.

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

PROGRAM

Mr. REID. Mr. President, I have spoken with the Republican leader and hope we will be able to work out an agreement on the continuing resolution we will receive from the House that we are going to offer as an amendment. That should be sometime tomorrow afternoon.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

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

There being no objection, the Senate, at 7:14 p.m., adjourned until Tuesday, March 8, 2011, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Monday, March 7, 2011:

THE JUDICIARY

ANTHONY J. BATTAGLIA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

SUE E. MYERSCOUGH, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

JAMES E. SHADID, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.