The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER
The Chaplain, Dr. Barry C. Black, offered the following prayer:
Let us pray.
Eternal and ever blessed God, strengthen our Senators today to walk in Your steps. Help them to walk in Your humility so that they will strive to serve. Help them to walk in Your courage so that nothing will deflect them from the path of integrity. Help them to walk in Your endurance so that discouragement will not hinder them from reaching laudable goals. Help them to walk in Your loyalty so that nothing will destroy their devotion to You.
Lord, place Your truth in their minds, Your love in their hearts, and Your kindness on their lips.
We pray in Your merciful Name.
Amen.

PLEDGE OF ALLEGIANCE
The Honorable KIRSTEN E. GILLIBRAND 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. INOUYE).
The assistant legislative clerk read the following letter:

U.S. SENATE,
President pro tempore,
Washington, DC, December 14, 2011.

To the Senate:
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME
The Acting President pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER
The Acting President pro tempore. The majority leader is recognized.

SCHEDULE
Mr. REID. Madam President, following leader remarks, the Senate will be in a period of morning business for 1 hour with the majority controlling the first half and the Republicans controlling the final half.
Following that morning business, the Senate will resume consideration of S.J. Res. 10 and S.J. Res. 24. Both of these resolutions regard the balanced budget amendment. At approximately 10:45, there will be two votes on those resolutions.
We also hope to consider the Department of Defense authorization conference report today as well as the House Republican payroll tax bill.

PROTECTING MIDDLE-CLASS WORKERS
Mr. REID. Madam President, this has become a familiar scene on Capitol Hill. As time ticks down to the wire, the House has sent the Senate yet another bill that will not pass. Meanwhile, American families stare down a $1,000 tax increase, and on January 1 they will be scrambling to afford the necessities because of Republican obstructionism that Americans don’t understand.

It has become the Republican fallback play: Waste precious time catering to tea party extremists when they could be working with Democrats to compromise.

Republican leaders have already spent weeks drumming up tea party support for legislation they knew was dead on arrival in the Senate. Now it is time to get this vote over with so real negotiations can begin to prevent a tax increase on 160 million middle-class Americans.

This morning I will ask unanimous consent to vote on the House-passed bill. Democrats were ready to vote on this legislation last night, but I can’t set a vote at this time under Senate procedures without Senator McCONNELL’s approval. Even though we already knew the bill was dead, Senator McCONNELL wasn’t ready to hold a vote on it last night.
That is an about-face from just a few hours before—even as recently as yesterday morning. Here is what he said yesterday morning:

MCCONNELL said:
This morning I will ask unanimous consent to vote on the House-passed bill. Democrats were ready to vote on this legislation last night, but I can’t set a vote at this time under Senate procedures without Senator McCONNELL’s approval. Even though we already knew the bill was dead, Senator McCONNELL wasn’t ready to hold a vote on it last night.

That is what I tried to do last night—not pass it but at least have a vote on it.

Senator McCONNELL repeated that call yesterday morning—Tuesday morning. Here is what he said yesterday morning:

MCCONNELL said:
I would suggest that our friends put the political games aside and give the American people the certainty and the jobs that they deserve. Take up the House bill, pass it right here in the Senate, and send it to the President . . . without theatrics and without delay.

Then yesterday afternoon Senator McCONNELL said:

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
The first thing we need to find out is whether there are the votes in the Senate to pass what the House has passed.

So I say to my friend the Republican leader let’s find out whether he has the votes in the Senate to pass what the House has passed. Let’s vote on this now. We knew Monday the bill wouldn’t pass the Senate, we also knew yesterday this bill wouldn’t pass the Senate, and we still know it will not pass the Senate.

Here is why this legislation is a non-starter. I will give 3 of 33 reasons: The bill cuts unemployment benefits for 1 million Americans at a time when there are not jobs for one out of every four people seeking work. It weakens safeguards that keep our air clean and our children healthy, and the President has already threatened to veto it. In fact, he said he will veto it.

Legislation was not supposed to be jammed in with the extreme rightwing of the Republican Party can’t pass the Senate. Republicans will see that, again, whenever they allow us to vote on this legislation that my friend, the Republican leader, wants to let Right away. Right away was last night.

So let’s get this vote over with. Then we can begin serious negotiations on how to prevent a $1,000 tax hike on American families. The sooner we put that number of people seeking work, the sooner we can negotiate a true bipartisan solution that protects middle-class workers.

Madam President, has been a lot of talk last night’s get to the omnibus. We pass it. However, it is not complete. There are major issues. We have made significant progress. There are still critical issues to be ironed out. There are issues that deal with foreign policy. There are issues that deal with the environment. There are issues that deal with—we have about seven or eight—what some would refer to as game stoppers. We could complete that work, but it is something that is not done now.

There is no reason, while that work is continuing, to hold up the middle-class tax cut. Congress is not going to go home for vacation—remember, the bill that some want to pass, the omnibus bill, takes care of us, it takes care of legislators. It has Legislative Branch appropriations in it. So we shouldn’t go home until we finish the business of the American people.

Preventing a $1,000 tax increase on American families is the most pressing business we have, and we are not going to allow Republicans in Congress to take care of themselves without taking care of middle-class families as well.

We hope to complete this important work. This week, if we can’t, we should pass a short continuing resolution to keep the government open while we work through each compromise. We have passed short-term CRs many times before, and we should do it. It is what it takes to prevent a tax on the middle class.

The bottom line is this: It is time for the two sides to come together and compromise. As I told the Speaker Monday and as I spoke on the floor yesterday and I have said this to my friend the Republican leader the House can’t pass legislation that will succeed over here unless they get Democrats to support their legislation. We cannot pass legislation of how the Republicans have set not a major- ity rule but we have to get 60 votes. We can’t get 60 votes unless we get Repub- lican assistance. So we need to com- promise. Legislation is there to com- promise out of difference and to do it in time. Republicans should give Congress a few more days to finish its job rather than rushing home for vaca- tion.

I have already talked about the im- portance of doing this legislation as quickly as we can. I think it is ex- tremely important, and we understand that it could be done—the vote could take place, and it would take 20 min- utes to do that.

UNANIMOUS CONSENT REQUESTS

Mr. REID. Madam President, I ask unanimous consent that following the two scheduled votes in the Senate, we proceed to consideration of H.R. 3380, which is the House-passed legisla- tion—the House-passed legislation that, out of 435 Members of Congress, got 10 Democratic votes—that there be 2 hours of debate equally divided be- tween the designees prior to a vote on passage of the bill; that no amendments be in order prior to a vote on passage, and that the vote on passage be subject to a 60-vote threshold—which my friend, the Rep- ublican leader, seems to believe is the standard around here anymore—fur- ther, that if the bill is not passed, it re- main the pending business, and that following I be recognized.

The ACTING PRESIDENT pro tem- pore. Does the majority leader so mod- ify the request?

Mr. REID. Reserving the right to obj- ect, my friend is living in a world of nonreality. Let’s look for a way out.

The House of Representatives, which has a significant majority of Repub- licans, last week couldn’t even pass a bill. That was in all the press. They couldn’t get the votes. So what they did was to make an effort to placate the far right, so they could pass a bill with Repub- lican votes, they stuck in a bunch of issues that are hard to comprehend— issues dealing with the environment that have nothing to do with this bill. Even a Republican Senator said that bill, standing alone, looks OK, but jammed in with everything else it doesn’t look so good. They should be separate issues.

We have issues on the so-called omnibus—spending bill that have not yet been resolved, one dealing with Cuba, a very important piece of legislation in the minds of many Senators. One of the Senators who believes so strongly that this provision should be taken out is a Republican Senator from Florida. We have issues dealing with the environ- ment which are extremely important: light bulbs, coal, and many other issues that haven’t been resolved in this so-called omnibus.

So, Madam President, I think every- one can see very clearly that my friends on the other side of the aisle obviously want to have the government shut down.

Let me repeat that our friends across the aisle have no plan, and some might suggest no desire, to pass a payroll tax cut extension—the most im- portant—extend unemployment insurance or ensure seniors’ access to medical care. They have made no attempt at all to produce a bill that can pass the Sen- ate. It is their responsibility in the ma- jority to do that. Instead, we have an eight—what some would refer to as nonreality. Let’s look for a way out.

The bottom line is this: It is time for us to find a way out.
As I have said before, and I will say again, they have had experience doing this. The presumptive Republican nominee Newt Gingrich tried that once and it didn’t work so well. So I don’t think it is going to work very well again. Everyone knows why the government is going to shut down, if, in fact, it does.

We have 160 million Americans who are out there cheering for us—cheering for us—that we can get them the tax relief they deserve. We have well more than 1 million Americans who have been out of work for a long period of time who are cheering for us. We have businesspeople out there who are cheering for us, that there are certain tax benefits that are important to creating jobs that we need to do before we leave here.

So, Madam President, I object and ask unanimous consent that if the Senate receives from the House a bill that continues funding for the Federal Government through December 21, 2011, it be in order for the majority leader, in consultation with the Republican leadership, to proceed to the bill; further, that the bill be read three times and passed, all with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MCCONNELL. Madam President, I am not sure what the majority leader just said.

Mr. REID. Madam President, what I said is, I ask that if we get a bill from the House to have a CR, a continuing resolution, for another few days, that we be allowed to take it up. Under the rules of the Senate and the Congress, I cannot initiate a CR here. It is a tax measure and constitutionally has to start over there. So I have said that if the Senate receives from the House a bill to continue funding for the Federal Government—I said through December 21—any reasonable time is fine with me—it be in order for me, after I talk to the Republican leader, to proceed to the bill.

Mr. MCCONNELL. Madam President, reserving the right to object, we do not need to do that.

Representative JIM MORAN, Democrat of Virginia, one of the top members on the House Appropriations Committee, said this yesterday:

Our bill is done, and it should go to the president immediately. . . . We’re not holding it up. . . . I can’t speak for HARRY REID. I can’t speak for him. As far as I’m concerned, it should be done.

A government shutdown is 2 days away. We have an agreement based on what all the appropriators on the conference report are saying. We can pass that and do first things first—prevent a government shutdown. I agree with the majority leader, a government shutdown is a terrible idea. He has said that repeatedly. We have all said it repeatedly. The way to avoid that is to get our work done. The work is done on the appropriations conference report. We ought to get signatures on it, and we ought to pass it, and we ought to do it in the next 2 days.

Now, Madam President, there were a series of other competing UCs here, and I am a little confused as to where we are.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MCCONNELL. Object to that one, by the way, the last one we were discussing.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, I know Congressman Moran. He is a fine man who has been in Congress many, many years. But he should step over here and talk to Senator MENENDEZ or MARCO RUBIO and see how they feel about Cuba and the language in that bill that changes things in relation to how they feel, which dramatically changes our relationship with Cuba, or how about the chairman of the Environment Committee, BARBARA BOXER. See how she feels about going back, in effect, to some saying the Dark Ages, changing things in the bill. That is what he said. It is obvious that something has happened in the last few hours that suddenly they do not want to vote on their own bill.

Keep this in mind: The House has passed a bill that I have said and non-Democrats have said is a dead duck, DOA, dead on arrival. It is here. It is dead. And they do not want to vote on it. Do you think maybe they do not want to vote? The non-Democrats are kind of embarrassed or ashamed of what is in that bill? I would think so.

Mr. MCCONNELL. Madam President, I would say, speaking of embarrassment, it is that we are doing an omnibus again. The reason we are doing an omnibus again here on the eve of Christmas is because we have not passed our appropriations bills. We have had almost as many show votes in the Senate this year, roughly an equal number, roughly 30 votes, of something, all designed to fail, to go nowhere, to present a talking point for the President in his campaign—as we have had votes on real bills that we are supposed to pass.

So here we are once again. Three years this Democratic Senate has not passed a budget. Three years we have ended up either in omnibus or CR situations. And here we are.

Now the appropriators in the House and Senate have labored long and hard. A couple days ago, they said they were ready to sign the report. My good friend the majority leader and the President. Now they say: Drop it in the report. We might actually have to pass the bill—a mysterious strategy to me.

All I am saying here is, first things first. If the majority leader is convinced the House-passed bill is DOA, why doesn’t he start talking to the Speaker about how we might actually craft a bill that can pass both the Republican House and the Democratic Senate and quit wasting our time here in the Senate scoring points? A government shutdown is 2 days away. I have said: First things first. Let’s keep the government from shutting down. These other measures do not expire until the end of the month. If the majority leader is correct that the House bill will not pass the Senate, why doesn’t he talk to the Speaker and work out something that can pass on a bipartisan basis because, regretfully, I would say to my friend the majority leader, the Republicans control the House. The Democrats control the Senate. Unfortunately, from my point of view. This has to be worked out.

The last time I looked, Christmas is a week from Sunday. Time is a-wasting. We have fiddled all year long—all year long, one point-scoring bill after another, designed to fail, designed to divide us, designed to get no result, to give the President a talking point out on the campaign trail—and here we are, a few days before Christmas, and the silliness continues.

Now, my friend the majority leader is so convinced the House-passed bill cannot pass the Senate, I would say again, talk to the Speaker and work out something that can pass both the House and the Senate. Time is a-wasting.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Madam President, talk about a diversion—that is what we just heard. My friend the Republican leader has probably heard from the American people that Senators are kind of embarrassed or ashamed of what is in that bill? I would think so.

Mr. MCCONNELL. Madam President, I would say, speaking of embarrassment, it is that we are doing an omnibus again. The reason we are doing an omnibus again here on the eve of Christmas is because we have not passed our appropriations bills. We have had almost as many show votes in the Senate this year, roughly an equal number, roughly 30 votes, of something, all designed to fail, to go nowhere, to present a talking point for the President in his campaign—as we have had...
time. Finally, we were able to get that done. Then came the debt ceiling, and we spent 3 months on that—3 months of wasting time here in the Senate. Never have we done that. As I indicated and has been spread on the record by my many, many times, under Ronald Reagan, the debt ceiling was raised 18 times just like that.

Also, Madam President, anyone who understands Washington—and there are a lot more people who understand Washington than the people who are in this Chamber—my friend says: have him—me—go deal with the Speaker. Well, the issue is kind of stunning how my friend has said this: Go talk to the Speaker. Everyone knows the Speaker cannot move forward with any negotiations until this bill is defeated here, period. Obviously, that is the case. The Speaker cannot negotiate with me until this bill is killed.

So I repeat, the spending bill my friend the Republican leader complains about is the one we voted on. The issue facing the American people is whether they are going to have tax relief. The Democrats want to give them or whether they are going to face a shutdown that was first made very unpopular by Gingrich. And there is going to be another one that will be just as unpopular.

The ACTING PRESIDENT pro tempore. The original unanimous consent is still pending.

Is there an objection? Mr. MCCONNELL. I object. The ACTING PRESIDENT pro tempore. Objection is heard.

Would the Chair announce the business of the day.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business. Order of business will be decided by the majority leader and the Republican leader, and I would like to make two points here and then several subsidiary points.

We need to do two things before we leave: We need to fund the government in a reasonable and rational way, and we need to help the middle class get tax relief because the middle class is suffering. We need to do both. As Leader Reid said, to do both, you need both Democrats and Republicans to agree. If you try to do one without the other, you will not get anything done.

So last night Speaker Boehner sent a bill on middle-class tax relief that was such a Christmas tree that we knew it could not pass. And he knew it could not pass. We know why he did it. He did it because he could not get enough Republican votes in his caucus without all of these killer amendments to get it through. He could not get it through without them.

So the Republican leader says: Well, if we know it cannot pass, why don’t we start negotiating? There is one point here. We do not have to convince Speaker Boehner to start negotiating. We know we cannot. We need to convince the hundred votes in his caucus who do not believe we should give middle-class tax relief, who are wedded to these amendments that will kill the bill here in the Senate because they are so unpalatable. It is not 1 or 2 amendments; it is 10 or 12 or 15 amendments. We need to show those hundred that this bill cannot pass.

We have to give middle-class tax relief, and we have to fund the government. So why wouldn’t we vote on it now, dispose of it, and move on with the ultimate negotiations which will talk in tandem about funding the government long term and middle-class tax relief?

As. again, Leader Reid said—and he said it so well—we cannot pass the bills because they fear embarrassing defections from their own side—defections that would show once again how too many Republicans in the Senate do not want to extend middle-class tax relief no matter what is attached to it? That is not a good reason.

What are we waiting for? The House bill is on a road to nowhere, so let’s get the air out of the tires, and then we can move on. We all know how it is going to end—not with either Chamber imposing its will on the other but with a negotiation. So let’s remove this bill from the floor, give Speaker Boehner some of the time he needs to negotiate, and get this all done.

As, again, Leader Reid said—and he said it so well—we cannot pass the bills without both Democratic and Republican votes in the House and the Senate. Negotiating to come to an agreement makes ultimate sense.

I heard the Republican leader say: Well, the government runs out by Friday. Is there an easy way to deal with that, which Leader Reid asked for in a unanimous consent request, was rejected: fund the government for a short period of time.

So the logic here is to do three things: Vote on this bill. Put it aside. Fund the government for another short period of time. And then negotiate in earnest and produce both things America needs: an omnibus funding resolution that funds the government that has been worked on very hard by the Appropriations Committee—deal with the outstanding issues in that proposal. The other outstanding issues. Anyone who has been around here knows that issues such as Cuba and the environment and abortion in DC are not easy to settle and have not been settled yet.

So we kill the bill the House sent to us—we vote on it. It will die. We know it does not have the votes. It probably does not have even the unanimous support on the Republican side. I would bet that is pretty likely. We do a short-term CR. We fund the government for a period of time. And we have earnest negotiations that will produce both middle-class tax relief and a funding resolution for the government. We should negotiate the two measures together because, as the leader said, you cannot pass them without both Democratic and Republican votes in either Chamber. Obviously, in this Chamber, there are not 60 votes without Republican support. And in the other Chamber—because too many people are against even the agreement, too many on the Republican side are against the agreement we had for $1.04 trillion in spending—they will need Democratic votes.

Mr. MCCONNELL. If the Madam President, could I ask a question of the Senator from New York through the Chair?

Mr. SCHUMER. I would be happy to yield to my colleague.

Mrs. MCCASKILL. I am confused. The House passed a bill last night and has sent it to the Senate. Correct?

Mr. SCHUMER. That is correct. Mrs. MCCASKILL. This is a Republican bill?

Mr. SCHUMER. That is correct. Mrs. MCCASKILL. And we are ready to vote on it?

Mr. SCHUMER. We are. Mrs. MCCASKILL. And the Republicans will not let us vote on it?

Mr. SCHUMER. That is correct. Mrs. MCCASKILL. I am confused. Mr. SCHUMER. So are we all. Mrs. MCCASKILL. Why would the Republicans not let us vote on their bill?

Mr. SCHUMER. One of the theories is that there is dissent even on that bill among the Republican side, as there was on the first bill that had middle-class tax relief in it.

Mrs. MCCASKILL. That is why we vote, to determine whether there is dissent.

Mr. SCHUMER. AGREED. The Senator from Missouri is exactly correct. If we voted, it would move the process of both funding the government—very important—and getting middle-class tax relief—also very important—forward. Mrs. MCCASKILL. I am not sure. Mr. SCHUMER. If we voted, I am certain we would all vote. Mrs. MCCASKILL. I am not sure.

Mr. SCHUMER. The Senator from Missouri is, as usual, thoughtful, polite, and astute. But I do not think the middle moderate. It makes no sense to block it. It is holding up progress, particularly because the Republican House
has to be shown that this bill is not going to be the answer. The only way to both fund the government and provide middle-class relief is for Democrats and Republicans to get together, as the Democratic leader has said, almost until he is blue in the face.

Mrs. McCASKILL. With all due respect to my friend and colleague from New York, I thank him for the answers, because I was confused that the Republicans are keeping us from voting on a Rep. It is not the House we need anything. We have a tendency around here to get focused on the back and forth among ourselves. It is the American people we need to show that we are capable of standing up, casting a vote, seeing whether it passes or fails, and then negotiating and finding a way forward.

I would say to my colleague from New York, if the Republicans in the Senate are not willing to vote on their own legislation, then you have got to scratch your head.

I thank the Senator for the opportunity.

Mr. SCHUMER. Reclaiming my time, I would accept the modification of my argument made by the Senator from Missouri. The point, of course, we both agree on is we ought to vote. We ought to do it to show the world, whether it is the House, Senate, American people, or anybody else. That makes a great deal of sense.

I yield the floor.

The ACTING PRESIDENT pro tempore. Mr. DURBIN. Madam President, I thank my colleague from New York and colleague from Missouri for putting in context what we are today. But let’s take one step back and look at what is the issue. The issue is basic: Will the payroll tax cut that currently helps 160 million Americans continue after January 1? That is the underlying question.

After all of the back and forth and politics we believe it should. The President believes it should. Economists tell us that is the way to help us out of a recession and create more jobs. We have come up with a way to pay for it so it will not add to the deficit. Our proposal: a surtax on the wealthiest Americans, not on the first million dollars in income each year but on their second million dollars in income, a surtax.

Do we ask across America: Do you think that is fair to ask that sacrifice? Overwhelmingly, not just Democrats, Independents, Republicans, tea party Republicans believe that is fair. But, unfortunately, many on the Republican side are indentured political servants to a Washington lobbyist named Grover Norquist. They have signed an oath that they believe supersedes any other oath, to the Constitution or to the people they represent, that they will never, ever vote for a tax increase for the wealthy—not one penny. Not one penny.

So they wanted to stop the extension of this payroll tax cut for working families. They came up with a bill in the House of Representatives. The bill in the House of Representatives passed last night. It is so bad that the Senate Republicans will not let us bring it to the floor for a vote. They know what is going to happen. We saw it in the last vote we had. Our Presiding Officer can remember. Senator HELLER of Nevada put up a Republican alternative on the payroll tax cut, and on the first vote, out of 43 Republicans, 20 supported his measure, and out of the Republican leadership, only Senator McConnell voted for it. Clearly this is not a popular approach, even when it is written by Senate Republicans.

Now the House Republican approach is so unpopular they will not even call it on the floor—so unpopular. If anyone is wondering whether we are going to get home for Christmas, they should have listened to this exchange this morning, when the Republicans refused to even call their own vote.

I agree with the Senator from Missouri. We owe to it the American people to get to the bottom of this, and quickly, to assure them January 1 the payroll cut will continue for working families across America, to assure them we will maintain unemployment benefits for the 14 million unemployed Americans struggling to find jobs—4 unemployed for every available job. It is basic that we need to do this, and if we are going to get down to it, then I am afraid our Senate Republican colleagues are out of touch with reality.

There comes a moment for a vote. This is the moment, the vote on whether we are going forward to make sure that we extend the payroll tax cut for working families in a fair way. That is what is at hand.

BALANCED BUDGET AMENDMENT

Mr. DURBIN. Madam President, in almost 30 minutes we will have a rare chance on the floor of the Senate—it does not happen often. We will have consideration of two efforts to amend the Constitution of the United States. We all take this seriously. Each one of us, before we could exercise our responsibility as Senators, sworn to uphold and defend that Constitution. Now we are being asked to amend it.

How often have we amended the Constitution? In the past 220 years since adoption of the Bill of Rights, we have amended it 17 times: to abolish slavery, to give women the right to vote, significant historic decisions. What comes before us today are two amendments which, frankly, do not stand the test of whether they meet constitutional standards.

I am going to vote against both. I thank my colleague, Senator UDALL of Colorado, for offering a version. Senator McCONNELL, Senator HATCH have offered their own. I do not believe either one of them is right for America. Here is what it comes down to. If we pass either of these constitutional amendments, we will be forced to cut government spending at exactly the wrong moment in time when it comes to our economy. When our economy is in trouble, revenues are down, we step in with stabilizers to try to make sure that we keep families afloat during difficult times and restore our economy to prosperity. These stabilizers are threatened and endangered by these balanced budget amendments.

Secondly, the enforcement of these balanced budget amendments will be by our Federal courts. Can you imagine? Can you imagine that the day after we pass a budget, lawsuits spring up across America in the Federal courts challenging whether we have exceeded the constitutional requirement that no more than, say, 18 percent of the gross domestic product be spent, arguments that there has been a miscalculation? How long will that take to resolve in court and what happens to America in the meantime?

Then what remedies do the courts have? The Republican leadership have made it clear, because of their view, one of the remedies cannot be extending taxes on the wealthiest in America. They never want that to happen. Now they want to enshrine that theory in the Constitution. Turning to our courts for enforcement of spending is, in my mind, a direct violation of the spirit and letter of the law in the Constitution which gives to Congress exclusively the power of the purse. It is a bad idea. It is certainly not one we should support.

I also want to say that this approach is unnecessary. There comes a time—and we have reached it—when we need to have the political will, in a bipartisan fashion, to deal with our country’s problems, whether it is the tax cut, extending the government’s life into the next fiscal year, or dealing with our long-term deficit. It takes political will, maybe even political courage. It does not take a constitutional amendment.

Let’s defeat both of these amendments. Let’s show our respect for this Constitution that we have sworn to uphold and defend and not pass something that has not been thought through that may, in fact, harm America rather than help it.

I yield the floor and 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. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

BALANCED BUDGET AMENDMENT

Mr. GRASSLEY. Madam President, the need for a balanced budget amendment is very great. You know the national debt now is reaching a point where, if we don’t intervene with a constitutional requirement for a balanced...
budget, it is going to become unsustainable. Statutes have not controlled deficit spending.

I was an author of one of those statutes—former Senator Harry F. Byrd of Virginia and I as a Member of the House of Representatives. For 15 years that law was on the books, and never in those 15 years was there a balanced budget amendment. It makes it very clear that laws will not control deficit spending.

I concluded a long time ago, as I voted on previous constitutional amendments requiring a balanced budget that didn't pass, that a constitutional amendment is a must to provide Congress with the necessary discipline. The example right now in Europe of their fiscal and deficit situation is sobering. Nations that allow debt to grow out of control risk default. One of those countries is practically in default. If we don't take effective corrective action, the European future could be ours and sooner than we think.

Each generation of Americans has enjoyed a brighter future than the previous generation. The failure of Congress to tame the deficit and the debt threatens the American dream for our children and grandchildren. The Constitution was designed to secure the blessings of liberty not only for ourselves but also for our children. This makes balancing the budget not just an economic issue but a moral issue as well, and creates a moral obligation to take action. A constitutional amendment is not only a first step in that direction but it will make sure the discipline is binding in future years.

The balanced budget amendment will enforce a lower debt. Members taking an oath to adhere to its provisions guarantees greater fiscal discipline than what we have without that constitutional provision. They will take that oath seriously, just as is the case for the 46 State constitutions that contain requirements their State legislatures balance their budgets. We always say the State legislatures and States are the political laboratories for our system of government. We ought to take the results of those laboratories and put them to use at the Federal level. I am urging my colleagues to vote for the resolution before us, which is S.J. Res. 10.

There have been complaints this resolution would transfer to the courts the power of the purse, but that is a misreading of S.J. Res. 10. The amendment prohibits the courts from raising taxes. The doctrine of standing, the doctrine of ripeness, and the doctrine of political question will prevent courts from deciding cases under the amendment.

This is a lesson we should have learned. I think it was 1997—nearly 15 years ago—when this body failed by one vote, I am ashamed to tell you it was one Republican not voting for it—to enact such a constitutional requirement. But it didn't pass. If it had passed, we wouldn't be in the fiscal situation we are in right now. I urge my colleagues to vote for S.J. Res. 10. I yield the floor.

Mrs. BOXER. Madam President, I oppose this budget amendment. Before us, Senator HATCH's proposal would cap spending at 18 percent of gross domestic product, forcing deep cuts to Social Security and other critical programs. Senator Udall's alternative, while not as extreme, is still not a proposal I can support.

I have consistently opposed balanced budget amendment proposals because Congress doesn't need a constitutional amendment to balance the budget. We have done it before, at home, is still not a proposal I can support.

In the 1990s, during President Clinton's term, we not only balanced the budget, but we created surpluses and 23 million new jobs. We cut wasteful spending, made smart investments, and reassured everyone—in the developing world's wealthiest, paid their fair share.

In 1993, we passed a budget plan without a single Republican vote. By 1998, the budget had come into balance, and President Clinton was leaving office in 2001, budget analysts were predicting surpluses as far as the eye could see.

Unfortunately, the Bush tax cuts and two wars put on a credit card created huge deficits. To get our country back on a path to fiscal responsibility, we don't need a balanced budget amendment. That is why the Senate has voted down balanced budget amendments many times—most recently in 1995, 1996, and 1997. Instead, I believe the political will to come together and make responsible choices for our country's future.

Many economists believe that balanced budget amendments are bad policy because they limit the ability of the Federal Government to respond during times of economic crisis and recession.

Limiting our ability to make smart, job-creating investments is no way to set a foundation for our country's long-term economic growth.

Finally, while these proposals include exceptions for times of war, there is no exception for natural disasters. A minority of Senators or Representatives could block Federal assistance for any disaster, no matter how severe.

I urge my colleagues to join me in rejecting this balanced budget amendment and recommitting ourselves to our duty as a Congress to promote fiscal responsibility and economic growth.

Mr. CHAMBLISS. Madam President, I rise today in full support of a balanced budget amendment. I am proud to be a cosponsor of S.J. Res. 10, along with all my colleagues.

Shortly, the Senate will vote on two proposals for balancing the Federal budget. One of those proposals, offered by my colleague from Utah, Senator HATCH, will provide a strong and meaningful change to the way this Congress performs it spending function.

I thank the Senator for his continued hard work on trying to balance the budget, something he has been working on since 1995. Unfortunately, he, like all of the Members of this body, has seen the recent and disconcerting rise in debt.

It is appalling that we continue to head down a path to destruction and fiscal lunacy. The American people are fed up with this. How do we know that? Recent polls say that only 9 percent of the population believes in the spending path Congress has chosen.

For the fiscal year ending September 30, 2011, we had in excess of $1.3 trillion in deficit spending. In November of this year we surpassed $15 trillion in total debt. This rampant overspending will not end without a drastic change—without taking away the power to overspend.

Not only have the American people told us this, our financial markets have told us this as well. Unbearable debt in the European markets is depressing our domestic financial markets. If left unchecked our own debt will continue to lower economic outlook.

It is reprehensible that an issue of this magnitude and significance is subject to the partisan bickering and gamesmanship that often rears its head in politics.

I encourage my colleagues to give solemn consideration to the proposal before us, as it will turn us immediately away from our overspending.

We have to truly examine issues that are very difficult for a lot of us to deal with, and we have to make some very tough decisions.

Too frequently, we have engaged in political theater instead of earnest efforts to resolve these long-term budget issues. The American people expect and deserve an honest budget debate and an honest budget process. When we pass this legislation and it is ratified by the States, the American people will finally get an honest budget, and they will get it every year.

Many of my colleagues have noted, the idea of preventing a burden-some and crushing debt for future generations is a thing of the past. The time is now. The crisis is now. Congress has been shirking its budget responsibilities for so long that we are now the ones feeling the effects of the debt.

I would like to take a moment to talk about some of the things the Republican proposal accomplishes. The President will continue to submit his yearly budget proposal—a budget proposal that is not only balanced but limits the size of the Federal Government to 18 percent of GDP. By comparison, last year spending was at almost 24 percent of GDP.

Further, this legislation requires a supermajority to surpass the spending caps for things like emergency spending. We will end a longstanding budget gimmick of government spending in the name of emergency for things that are not truly emergencies.

The rules would be even stricter governing spending of money in times of
war instead of the general exemption we have now. This proposal will also force Congress to fix and save Social Security.

Finally, one of the most important parts of this proposal is that a two-thirds vote Amendments is required to increase taxes, helping prevent higher tax rates to pay for balancing the budget.

We can no longer allow the American people to suffer by not providing the economic basis for recovery and growth. The equation is simple: A balanced Federal budget that is free of excessive debt leads to a healthy economy and sustainable job-creation activities.

Mr. LIEBERMAN. Madam President, I rise today to speak about the two balanced budget amendment proposals currently pending before the Senate and to explain why I will vote against both even though I support a balanced budget and believe it to be necessary.

I fervently believe that the most pressing issue our country faces today is the need to gain control over the staggering Federal deficits and long-term debt that threaten our security. In thinking about the budget challenges we faced over the past year, I have often been reminded of something our second President said two centuries ago that remains hauntingly true today: “There are two ways to conquer and enslave a nation,” as President Adams put it. “One is by sword and the other is by debt.” President Adams’ words have been echoed in our time by former Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, who argued earlier this year that the national debt is the greatest long-term threat to our national security.

We can all agree that we must take on the challenge of addressing our deficit and debt. At the same time, as we have done and again over the past year, making tough choices is not an easy thing to do. Any responsible deficit reduction proposal will, by definition, be painful and unpopular because raising revenues and cutting benefits and favored Federal programs is painful and unpopular.

I am prepared to vote for a plan similar to that proposed by the Bowles-Simpson Commission, the Gang of 6, or the Rivlin-Domenici group because I believe the President put it. “One is by head-on. Also, I would support a balanced budget amendment, which would compel Congress to make tough choices to raise revenues as necessary, rein in spending, and balance our budget.

However, the two proposals we are considering today, in my opinion, are problematic and marred by extraneous and ill-advised provisions that should never be part of our Constitution. These votes say so loudly how dysfunctional Congress has become. I want to vote for a balanced budget amendment that says clearly that Federal Government spending cannot exceed revenues. Yet I can’t vote for either of these amendments because each contains a partisan part that does not belong in our Constitution.

I do not take the idea of amending our Constitution lightly. If we consider these amendments, let’s not forget that our Constitution is the supreme law of our land; it reflects America’s first principles and highest ideals, guaranteeing the fundamental rights that have been the cornerstone of our recovery from the depths of the American experience since our founding.

However, given the dire fiscal situation we face—coupled with the reality that time and again Congress has been unable to break away from its partisan gridlock to make the painful but necessary decisions that must be made to save our Republic—amending the Constitution may be the only way to compel a balanced budget.

I have come to this conclusion first because it is clear that our budget process is clearly broken. The truth is that in Congress we have failed to uphold our foremost constitutional duties: managing our budgeting process. Within the trillion-dollar deficit and our national debt increasing over $1 billion each day, this is no time for Congress to flout the very laws we established to keep our country’s fiscal health afloat and manage the budget process responsibly.

I am speaking in particular about the framework for our budget process which was first enacted into law in 1921 when Congress established the annual budgeting requirement and later in 1974 when the formal process for establishing a coherent budget was enshrined in law.

The failure to pass a budget resolution for the past 3 years is symptomatic of the deep problems we face with regard our budget, deficits, and debt. Likewise, statutory attempts such as pay-go have not produced the kinds of results we need. At the same time, as we have seen over the past several months, Republicans and Democrats cannot seem to agree on how to reform entitlements—the biggest driver of our debt and deficits—or reform the Tax Code to ensure that our tax system is fair for most Americans, less deferential to special interests, and able to sustain the financing of our country’s programs long term.

It is regrettable that it has come to this, but it seems that perhaps the only way to get Congress to balance the budget is to make it a constitutional requirement.

Unfortunately, both proposals before us today are marred by extraneous and, in my view, ill-advised and unnecessary provisions. The Republican version, for example, would require that total outlays for a fiscal year not exceed 18 percent of GDP and a two-thirds majority vote in both Chambers would be required to override this requirement. I believe it is unwise to impose, as part of our Constitution, an arbitrary spending cap that would handicap future Congresses without regard to future generations of Americans may face. Unless we can see into the future, we should not be in the business of pre- dicting what will be appropriate 25 or 50 years from now.

Furthermore, the Republican proposal prohibits any bill that increases Federal taxes from becoming law unless it is approved by a two-thirds majority in both Chambers. This provision essentially gives extraordinary constitutional protection to potentially egregious tax loopholes and revenue-draining tax expenditures—the same parts of the Tax Code we have been trying to reform.

Likewise, the Democratic balanced budget amendment is not without its own faults. A provision prohibiting Congress from passing any bill that provides a tax cut to millionaires during a time when we do not have a statement that needs to be part of our Constitution. Moreover, the Democratic alternative exempts Social Security, which would essentially prevent Congress from reforming the program, which I believe it is essential to ensure its solvency for generations to come.

On the whole, both the Republican and Democratic balanced budget amendments are short-sided for different reasons. Instead of focusing on the single task of providing a balanced budget requirement, ideological arguments abound in both proposals, making it virtually impossible to support either one.

As a result, I will not support either proposal. Instead, I encourage my colleagues from both parties to support a clean version of a balanced budget amendment that is worthy of inclusion in our Constitution.

If we work together to see beyond the fog of partisanship, it will become clear that there is not much disagreement about the basic and deeply troubling facts of our current fiscal crisis. For this reason, first and foremost, I hope Congress will step up and act on a specific and comprehensive proposal to reduce the deficit. In the end, process reforms will not allow us to escape the hard decisions we must face.

Mr. RUBIO. Madam President, Washington politicians do not live by the simple task of providing a balanced budget requirement. Ideological arguments abound in both proposals, making it virtually impossible to support either one.

But in Washington, money is routinely borrowed from Peter to pay Paul, or in America’s case, money is borrowed from China and others to pay for more government than we could ever afford. As a result, politicians look for allies that large and small businesses play by. It is your responsibility to balance your budget, spend no more than what is in your bank account, and have a plan to manage common expenses such as student debt and our loans.

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In Florida’s State government, we worked under a balanced budget amendment, and every year we worked tirelessly, had contentious debates, and made very tough choices to pass a balanced budget year after year. That responsibility and accountability is not unique to Florida, as practically every other State also works under a balanced budget amendment. We need to bring this same kind of fiscal restraint to Washington. And unless we enshrine strong balanced budget principles in our Constitution, Washington politicians will never stop. That is why it is critically important that the Senate approve a strong balanced budget amendment.

The national debt is now over $15 trillion. When I was sworn into office about a year ago, the debt was just over $14 trillion. That means that in just 1 year, Congress has allowed our debt to increase by more than $1 trillion. Virtually nothing could stop it from happening despite the fact that 2011 has given us a startling glimpse into our future as European nations face their day of reckoning for decades of reckless spending.

This year’s debt ceiling debate gave us an opportunity to get serious about controlling our debt and reform the way Washington spends money. But not enough people have been willing to come to grips with the reality that decades of reckless spending by both parties is leading us to a diminished future. As the Senate debates a balanced budget amendment this week, it is important to note that not all balanced budget amendment proposals are created equal. The version that I have joined all 47 of my Senate Republican colleagues in supporting, S.J. Res. 10, includes three elements I believe are key to truly handcuffing out-of-control politicians: a two-thirds supermajority to raise the debt limit, and a cap on all Federal spending at 18 percent of gross domestic product. The proposal put forth by Senator Mark Udall, S.J. Res. 24, contains no cap on spending, no taxpayer protections, and no strict mechanisms to ensure that the amendment is actually followed. Unfortunately, if ratified, this proposal would simply be another ineffective, disingenuous Washington move that would make it easier to raise taxes and still more for spending.

The idea of not spending more money than we have is common sense for working families and small businesses. We need to bring that common sense to Washington, and we need a strong balanced budget amendment that is truly worthy of being added to our Constitution. The Senate must seize the moment by passing a real balanced budget amendment.

Ms. MIKULSKI. Mr. President, I rise to oppose the balanced budget amendment proposals before us today. I support a balanced budget. But I cannot support these proposals. All year, we have been discussing and debating how to have a more frugal government. But while we are trying to be frugal, how can we also meet our responsibilities to national defense and maintain our social contract? To achieve that, we have to put politics aside, work together to find the sensible center. And the balanced budget amendment does not allow for that.

I am for cuts. But our approach must be balanced like a three legged stool with a strong emphasis on Federal spending cuts; revenue; and reform that strengthens Medicare and Medicaid. The balanced budget amendment does not allow for that.

Before we adopt a balanced budget amendment, we should know exactly what it is that we are doing. We need to know just how these programs are going to be affected. What cuts are going to be taken. How deep. What programs. And most importantly what the consequences to our health, safety, and security of the American people.

How would a balanced budget amendment affect seniors? It attacks economic security for senior citizens throughout the public and private security of the Medicare. It breaks the social contract.

Under the Republican plan, it cuts spending to 1965 levels before Medicare existed and when the average Social Security benefit was about $1,200 a year. Then, in 2016, when making $8,000 a year was considered a fantastic salary. Would you want to go back and make $8,000 a year? I do not think so. I do not think we want to go back to that. Do we really want to go back to having Medicare? Sure we need to reform and refresh Medicare, but do we want to end Medicare? I don’t think so.

How would a balanced budget amendment affect our ability to respond to natural disasters, when the 24-hour news coverage is over and people return to their regularly scheduled programs? States that are hit by disasters are just beginning the recovery process and depend on their Federal partners. Times of disaster are not for making choices between one State or another. Government must be there. We are all in this together. Just one snowstorm, wildfire, or devastating flood away from our own crisis. But the balanced budget amendment would force these terrible choices.

What about funding for America’s veterans in order to be able to meet their acute care, provide primary care connected to service-connected disabilities, and long-term care for those who bear the permanent wounds of war? What about funding for disability pensions for veterans? The balanced budget amendment makes funding for American’s veterans with service-connected disabilities vulnerable to mandatory budget cuts. How will a balanced budget amendment affect the next generation? It denies educational opportunity to young people and an opportunity structure to working families. The balanced budget amendment puts funding for Head Start, Pell Grants, and funding that helps schools comply with Title IX funding for job training on the chopping block. I believe we must keep the opportunity open, not slam them shut.

How will a balanced budget amendment affect our Federal workers and everyone who depends on their work? The State of Maryland is home to some of the shipyard groups and Defense Department and 130,000 hardworking Federal employees live in Maryland. Agents at the Federal Bureau of Investigation work to protect our safety. Employees at the Social Security Administration provide actuarial information on how to keep it solvent and make sure the checks are out there on time. At NASA’s Goddard Space Flight Center, they are scanning the universe for the secrets to life here on Earth. Medical centers and police agencies depend on Federal grants to function. The balanced budget amendment will require arbitrary cuts to the Federal workforce without certainty that the agencies will be capable of doing their job. These kinds of cuts are dangerous and harmful to the public.

The Founders did not include a provision requiring a balanced budget at all times. They did not include a provision limiting the size of government to an arbitrary percent of the size of our economy. Instead, in our Constitution, the Founders said that Congress would have the power to borrow on the credit of the United States and the responsibility to provide for the general welfare of the country.

Providing for the general welfare of the country means keeping the promise of our social contract to our seniors and our veterans. It means keeping the ladder of opportunity available to the next generation. And it means responding to natural disasters and maintaining a safe and secure homeland.

Make no mistake. We must balance the budget. But we must do it based on principles that preserve economic security for senior citizens, that provide opportunity for young people, and that ensure opportunity for working families.

I cannot and will not support any legislation that abandons these principles. Therefore, I will vote against this legislation.

Mr. HATCH. Madam President, in a short while, we will vote on two balanced budget amendments to the Constitution, at least one of which will be a true balanced budget amendment. One of those amendments, S.J. Res. 10, the amendment supported by every Senate Republican, addresses the fundamental crisis of our time; that is, the crisis of exploding debt caused by excessive spending. The other amendment does not address that crisis and, therefore, cannot put this country back on a sound fiscal footing.
The votes we cast today will tell the American people whether we honestly acknowledge the fiscal crisis posed by our $15 trillion national debt and whether we are serious about prescribing an effective cure.

Excessive deficits and skyrocketing national debt are symptoms of an addiction to overspending. A real solution must address the real cause of this crisis, not just its symptoms. Congress will not kick its overspending addiction alone but only if required to do so by the Constitution.

One of the amendments before us today, S.J. Res. 24, simply cannot be a solution because it does not address the overspending that causes this crisis. This amendment, offered by my colleague from Colorado, Senator Udall, on behalf of the Democrats, purports to require balanced budgets but, for purely political reasons, explicitly exempts significant portions of the very government spending that will most aggressively drive our future debt.

The Democratic alternative sets no overall limit on government spending, allowing Congress to continue spending with impunity. The Democratic alternative is to restrict the propensity of Congress and the President to raise taxes on families and businesses as a way of compensating for their failure to reduce spending and in order to fuel more spending in the future.

In fact, as my friend Senator Kyl pointed out yesterday, the Democratic alternative actually makes it harder to cut taxes. To top it off, the Democrats' amendment not only sets no limits on Congress raising taxes, but it appears to allow judges to raise taxes to balance the budget.

In other words, the Democratic alternative allows Congress to continue doing exactly what has caused this crisis in the first place. It allows for the use of tax-and-spend philosophy to continue sending the entire national debt when I introduced the first balanced budget amendment in 1979 and 10 times the entire national debt when I introduced my first balanced budget amendment in 1997.

Maintenance of this tax-and-spend status quo is the priority of those who support the Democratic alternative. Just listen to their criticism of my amendment, S.J. Res. 10, the one supported by all Republican Senators—every one of us. The Democrats criticize my amendment's requirement that Congress balance its books as too stringent. They criticize it for not allowing more stimulus spending, my gosh, and they criticize it for not allowing easy tax increases.

The people of Utah, and most Americans for that matter, would respond that these are the very restrictions Congress needs. They would say these restrictions are long overdue and would be positive additions to our Constitution. It is no wonder the advocates of the worn-out philosophy of tax and spend view the provisions of S.J. Res. 10, our constitutional amendment, as a threat.

They are a threat. Our amendment's provisions are a threat to those whose only plan is to sit on their hands while America descends into chaos. The strong balanced budget amendment offered by the Republicans directly addresses the real cause of our budget crisis and offers equally direct solutions. It requires supermajorities. That doesn't mean we can't do things. It just makes it highly unlikely Congress will desire to raise taxes. It means it requires wide bipartisan agreement for deficit or excess spending, as well as for raising either taxes or the debt limit.

I would note a supermajority to raise the debt limit was in the balanced budget amendment that passed the Senate back in 1982. I know because I was the one pushing it. It passed the Senate.

Our amendment limits both spending and the tax increases that fuel more spending. This is more than a balanced budget amendment. It is a fiscal discipline amendment or a constitutional amendment for limited government.

Much of the Western world now faces a debt ceiling that is nearly reaching the point of no return. The United States is closing in on that same point of no return with our total debt already equal to 100 percent of our entire economy—of our GDP. The national debt this year will be about $48,000 for every man, woman, and child in America. Interest payments alone on this debt are now greater than spending on most other Federal programs and would be even higher if interest rates were not at historic lows. Annual budget deficits are larger than the entire national debt when I introduced my first balanced budget amendment in 1979 and 10 times higher than when the Senate last voted on a balanced budget amendment in 1997.

More than two centuries ago, America's Founders warned of the dangers of debt. Before Jefferson, the forbearer of the Democratic Party, said public debt is the greatest of dangers to be feared. He would be aghast at what Democrats are trying to sell. Alexander Hamilton said there ought to be perpetual, anxious, and unceasing efforts to reduce debt as fast as possible.

John Adams said the experience of other countries that accumulate debt should prevent us from doing so ourselves. He might as well have been speaking about Europe today. He would be appalled at what we are doing around here.

Watching the failure of Congress and the President to get spending and debt under control, these Founding Fathers must be turning over in their graves, and I believe we continue to reject their wisdom at our peril.

Despite all the evidence, opponents continue to claim Congress will make the tough fiscal choices by itself; that Congress does not need any help. After so many years of failure, that amounts to fiddling while our fiscal house is burning to the ground. That is the argument they make. Closing their eyes, shutting their ears, and repeating the mantra that Congress does not need any help. It is no wonder the advocates of the worn-out philosophy of tax and spend continue to speak about Europe today. He would be aghast at what Democrats are trying to sell.

The Constitution is the way to get that help, and the Founding Fathers would have loved this amendment.

Think of S.J. Res. 10 as constituting a eraction. It will require not only that the Federal budget be balanced but that it be balanced in the right way. When we vote on these amendments, Senators will demonstrate where they stand on the great budget question of our time.

Voting for the Democrats' alternative—S.J. Res. 24—also endorses the status quo because it barely touches the symptom—budget deficits and debt—while ignoring the cause—government spending. Without covering all government spending and without setting real limits on spending and taxes, the Democrats' alternative does little more than put a bandaid on the problem. It isn't even a good bandaid that holds.

The only proposal before us that effectively responds to our budget crisis is S.J. Res. 10. It is the only proposal that addresses the real cause of the unbalanced budgets that are dragging us into fiscal quicksand.

This crisis threatens national security, economic prosperity, and maybe, most important of all, individual liberty. Congress will not solve this crisis by itself. S.J. Res. 10 is the only solution that addresses not only the symptoms of our fiscal crisis but the cause as well. These are the facts. These are simply the facts, and I encourage my colleagues to support S.J. Res. 10.

I heard the distinguished majority leader talking earlier, and just for a minute I think he was asking: Why do this. You know you can't win. We don't know we can't win. But even if we
can’t, some fights are worth fighting, especially when our national security, economic prosperity, and individual liberty are at stake. That is what we are living with right now.

The American people need to know whether we will ever do anything real or do something real about our addiction to overspending. That is the bankruptcy of our country right now—the addiction to overspending. Our amendment ends that addiction. It provides 5 years to get there, not impossible but within our reach. But it does force us to get there.

The Democratic amendment doesn’t even attack the real problem. It is there for political purposes. It is there so Democrats can say: We voted for a balanced budget amendment, even though it, basically, has little to do with balancing the budget.

I was enamored with the talk of the Democrat budget chairman yesterday, Senator Conrad from North Dakota. He would not address the problem we have and how deep they are and how problematic they are and what an addiction it is and all of that. Then he said we can do it by just doing what is right under the Constitution and forcing what is right to happen, and just balance the budget without a balanced budget amendment.

He couldn’t have made a better case for the balanced budget amendment because I have been here for 35 years, and I can say there hasn’t been a real effort except during the mid-1990s to do that. That was when the first Republican House of Representatives and Senate in over 40 years took place. It was when they did have a President, Bill Clinton, who recognized that the time had come to do something about spending.

I have to give him credit for that in contrast to our current President who just demands more taxes and more spending all the time. There isn’t anything many politicians wouldn’t tax if he could get away with it except those unable to pay any taxes at all, and nobody wants to tax them.

The fact is, I think the distinguished Budget Committee chairman made a tremendous case for our amendment. I can say we have been going on way too long.

Back in 1997, we came within one vote of passing this amendment. That was twice now. Remember, in 1992 we actually had a balanced budget amendment on the floor. O’Neill and the Democrats killed it in the House at that time. But in 1997 we came within one vote. I actually had the votes as I walked to the floor, and then one of our weak-kneed Republicans who was threatened by the unions, who had been high up on the endorsement list, who wanted to be seen every time we had a press conference on this issue, buckled and voted the other way and we lost. Had we won that amendment in 1997, we would have been in a different mess we are in today. Frankly, I, for one, hope we can get out of that mess, and the only way we are going to is through a constitutional amendment that does what this amendment we are presenting actually calls for.

I just do not believe our friends on the other side are ever going to quit taxing and spending, and I have 35 years to prove it—except when the first Republican Congress in over 40 years came into being, and they had a President who worked with them, a Democratic President, by the way. I wish we had a Democratic President here who would work with us. He would go down in history as one of the most popular Presidents in history as one of the most popular Presidents the American people have ever had.

But, no, he wants to tax and he wants to spend. Frankly, I am fed up with it, and I think a lot of people are fed up with it. The people out in the hinterlands are all fed up with it, and they realize we need to put some restraints on Congress it has to live up to.

That doesn’t mean we can’t get a supermajority to raise taxes or we can’t get a supermajority to raise the debt ceiling, but I want a supermajority to an undeclared war—to give a good reason why our friends on the other side might want to support this. But it does mean there will be restraints that will work and will keep this coalition from going on forever. I reserve the remainder of our time. I ask that any time be divided equally, and I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Madam President, I ask unanimous consent to reserve the remainder of our time but to permit the distinguished Senator from Colorado to utilize any time that is free for the day.

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

The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, I rise this morning to speak in favor of the legislation that I have authored to amend the Constitution to require that Congress, on behalf of the American people, balance the Federal budget.

Yesterday I spoke about the merits of a balanced budget amendment, and I appreciate the debate that has occurred on the Senate floor which was in the best traditions of the Senate. I particularly have enjoyed hearing Senator HATCH’s point of view. I think we have some disagreements about how we implement a balanced budget amendment, but we both agree that we need to put the Federal Government’s finances in balance. Perhaps if we both fall short today on these important issues, we can go back and work together in the best tradition of Senator HATCH and Senator Simon. Senator Simon, on our side, was a strong proponent in the 1990s of a balanced budget amendment. Senator HATCH referenced those efforts then.

Let me quickly summarize my arguments for why we need a balanced budget amendment. I start out thinking about Colorado common sense and apply it to the everyday finances, and there is a big dose of Colorado common sense in my proposal. It is aimed at finding common ground that both parties and a big majority of Americans can support, and it starts with the Constitution. It requires that Congress set the process to balance the budget. That is the heart of the issue. It is something on which many of us agree. But my proposal also asks us to avoid the mistakes of the last decade that have resulted in debt that is not only significant but it is exploding.

For example, it would prevent deficit-busting tax breaks for Americans who earn $1 million or more a year. Why should we continue to give additional tax breaks to the wealthiest among us during times when we are in these tough deficit situations?

I would also create a Social Security lock box to keep Congress from raiding the trust fund to hide the true size of our deficits. It also prevents using the Social Security fund as a slush fund to remedy our budgeting problems. That would end.

In sum, the proposal I brought forward is straightforward. It is simple, and it holds the principles. We should pay for our government in a responsible manner.

I think, looking at the Presiding Officer, in your home State most Americans agree to that, most New Yorkers do. Most Coloradans certainly do.

I also want to be clear, there are some important differences between my approach and my dear friend Senator HATCH’s approach. We will vote on his proposal today as well. He calls his proposal—this is in my estimation—goes far beyond balancing our books, and it is a balanced budget amendment only in part. That is because it includes some unrealistic limitations on our government that could prevent us from securing the retirement of hard-working Americans, undermine our national defense, and send the United States back to a time before Social Security, Medicare, and a host of other important programs were put in place to protect our middle class, the true heart of our country.

Even worse, it locks in some special interest tax breaks that do nothing to grow our economy or create jobs. It, in effect, would turn the Constitution into a document that protects every special tax break that has been successfully lobbied over the years. That is not what our constituents, hard-working Americans, expect from a balanced budget amendment.

On the other hand, my approach is straightforward. It requires us to pay for what we spend. It creates flexibility depending on the economic conditions that we face and the year in which we
find ourselves. But it wouldn’t lead to the erosion of seniors’ retirement security or it wouldn’t lock in special interest tax breaks.

So I say to all of my colleagues, it is time to put aside our political differences, check our ultimatums at the door, work across the aisle and challenge ourselves to put our country first through balancing the budget.

Our debt is $15 trillion and it is growing. The bipartisan cochairmen of President Obama’s commission on the debt have called our debt a cancer, and the former Chairman of the Joint Chiefs of Staff, Admiral Mullen, has said it is the single biggest threat to our national security. It is clear it is time to act. We have run out of time to act.

So, as I close, I just want to say the American people have demanded we get our fiscal house in order. As usual, they are a few steps ahead of us, and it is now up to us in the Congress to catch up. So I am asking my colleagues of both parties and both Chambers to support my proposal. This is the right approach. It will enhance our economic security. It will ensure that we keep faith with our children. We shouldn’t pass off this unsustainable debt to our children.

Madam President, I urge my colleagues to support this important proposal. I yield the floor, and I suggest the adoption of a quorum.

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

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tem. The quorum is now present.

Mr. HATCH. How much time do I have?

The ACTING PRESIDENT pro tem. There remains 45 seconds.

Mr. HATCH. I ask unanimous consent that I be able to complete these remarks. It might take a few seconds beyond.

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

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

The ACTING PRESIDENT pro tem. The quorum is now present.

Mr. HATCH. Madam President, I ask unanimous consent that I be able to complete these remarks. It might take a few seconds beyond.

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

Mr. HATCH. Madam President, critics suggest a vote for our balanced budget amendment is a waste of the Chamber’s time. That is pure bunk.

The same folks who say we should not be voting on the Republicans’ balanced budget amendment have also offered up their own amendment to show their constituents that they too want to balance the budget.

I can tell you now that it is the Democratic alternative that misses the point, for a number of reasons. One, it doesn’t address the true crisis. We have a crisis of spending. We are $15 trillion in debt, and the Democratic alternative does nothing to address it.

No. 2, it carves out massive portions of government spending from their definition of Federal outlays. No. 3, even its balance requirements, the most basic feature of any balanced budget amendment, are easily overridden. No. 4, there is no cap on Federal spending. And, No. 5, there is no supermajority requirement for tax increases. Put it all together, and this is what you get with the Democratic balanced budget amendment. You get a constitutional amendment that is going to force Congress to raise taxes on families and businesses to pay for out-of-control government spending. The Democratic alternative should be rejected. It might look good from a distance but up close it does not even begin to address our Nation’s fiscal crisis.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

PROPOSING AN AMENDMENT TO THE CONSTITUTION RELATIVE TO REQUIRING A BALANCED BUDGET—S.J. RES. 10—RESUMED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume the en bloc consideration of S.J. Res. 10 and S.J. Res. 24, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 24) proposing an amendment to the Constitution relative to requiring a balanced budget.

A joint resolution (S.J. Res. 10) proposing an amendment to the Constitution of the United States relative to balancing the budget.

The ACTING PRESIDENT pro tempore. Under the previous order, there is 5 minutes of debate equally divided prior to votes on passage of the measures.

The Republican leader is recognized. Mr. MCCONNELL. Madam President, yesterday and today my Republican colleagues here in the Senate have been coming to the floor one after another to deliver a simple, urgent message, one that I hear every time I am home in Kentucky: Washington simply must change course. The spending spree must end. We must put our Nation’s fiscal house in order before it is too late.

This is not a partisan message. Everyone recognizes that both parties played a role in getting us to this point. But let’s be clear, Republicans are the only ones in Congress right now who do nothing meaningful about fiscal restraint. The only way we will actually achieve it is by acting together on serious legislation such as the balanced budget amendment Republicans are voting on today—not through thinly veiled cover votes such as the one Democrats plan to hold this morning.

For nearly 3 years now, Republicans have stood up to the spending madness of this administration and pleaded with the President and Democrats in Congress to stop the spending spree—stop it—and work with us on a serious plan to put our Nation’s fiscal house in order.

For nearly 3 years we have met nothing but resistance. I even read this week that some Democrats in Congress actually view our insistence on fiscal responsibility as a good political issue for them. They say Americans have moved on, that they do not want to hear about fiscal restraint anymore. Apparently these Democrats are content to let this crisis continue to build and build until it pops up in the polls again.

It is clear that Republicans have been saying this week that we do not have that luxury. We cannot wait for a European-style calamity to happen right here to finally do something about our fiscal problems, nor should we want to. After all, there were not elected to get re-elected. We were elected to recognize the Nation’s problems and to face up to them with foresight and with courage.

That is why Republicans have kept up our call for a serious and effective balanced budget amendment. We have seen all the statistics—that Congress now borrows more than 40 cents for every dollar it spends; that interest payments on the debt alone will soon crowd out spending on things such as education and defense; that annual deficits under this President routinely double and triple the previous record.

We know where it has gotten us. Under this President, the national debt has rocketed from $10.1 trillion all the way up to 15.1 trillion, more than a 40 percent increase in the national debt under this President in a record time of less than 3 years, a run of fiscal mismanagement only matched in its recklessness by total unwillingness to correct it.

The President’s most recent budget was so irresponsible that not a single Member of the Senate voted for it, not one. The President’s budget was voted down unanimously here in the Senate. Unfortunately, the President and his predecessor for even asking the Congress to raise the Nation’s debt limit. He called it a failure of leadership. Yet earlier this year, as President
he demanded that Congress approve the single largest debt limit increase ever requested by a U.S. President—without any plan at all to cover the cost. It was this kind of fiscal recklessness that roused Republicans to recommit ourselves to the idea that, if we are going to preserve the American dream for our children, Congress has to stop spending more than it takes in, and it was the Democrats’ resistance to that idea that convinced us the only way to make sure that happens is through a constitutional amendment that actually requires it.

For too long, the politics of the moment or of the next election have been put ahead of Congress’s responsibility to balance the budget. Too many promises have been made that cannot possibly ever be kept, and now the time for serious action has come; we must prevent what is happening in Europe from happening here.

That is why what our balanced budget amendment would do. By permanently limiting Congressional spending to the historical norm of 18 percent of gross national product, and through a new three-fifths majoritarian veto, the two chambers of both House and Senate can raise the debt limit, the balanced budget amendment Republicans are proposing today would go a long way in preventing that day of reckoning from happening right here in America. Every single Senator should support it.

Democrats here in Washington know the American people want Congress to get its fiscal house in order. That is why they proposed a balanced budget amendment of their own. Unfortunately, they have no real intention of passing it. If they did, they would join us in supporting a bill that we know would lead to the kind of fiscal restraint the American people are asking for.

I ask my friends on the other side to join us. It is not too late. We are only going to solve this problem together. Republicans are doing our part. We need them to do theirs. The American people are asking us to act. Let’s do it. If this President will not take America’s fiscal problems seriously, Congress should do it for him.

I yield the floor.

The Acting President pro tempore. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, as I rise to ask for the yeas and nays on the amendment, I point out my amendment is not a cover amendment. It includes many of the principles and provisions the House considered in a balanced budget amendment they voted on recently, and it also contains many of the provisions and principles that this body in the 1990s considered as the proposal by Senator Simon and Senator Hatch and many others led on a balanced budget amendment proposal.

With that, I ask for the yeas and nays on S.J. Res. 24.

The Acting President pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Shall the joint resolution pass?

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 21, nays 79, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—21

Baucus  Feinste in  MciCaskill
Begich  Gillibrand  Nelson (NE)
Benn  Hagan  Nelson (FL)
Boren  Harkin  Tester
Brown (OH)  Klobuchar  Udall (CO)
Casper  Kohl  Wyden

NAYS—79

Akaka  Grassley  Murkowski
Alexander  Harkin  Paul
Ayotte  Hatch  Portman
Barrasso  Hoeven  Pryor
Bingaman  Hutchinson  Reed
Boxer  Inouye  Reid
Brown (MA)  Johnson (SD)  Risch
Burr  Johnson (WI)  Roberts
Cantwell  Johnson  Rockefeller
Cardin  Kemp  Rubio
Chambliss  Kirk  Sanders
Coats  Kyl  Schumer
Cooper  Landrieu  Sessions
Cochran  Lautenberg  Shelby
Collins  Leahy  Snowe
Cochran  Levin  Toomey
Corker  Lieberman  Udall (NM)
Cornyn  Lugar  Vitter
Crapo  McCaskill  Wicker
Dent  McConnell  Whitehouse
DeMint  Menendez  Wicker
Enzi  Merkley  Wyden
Franken  Mikulski  Wyden
Graham  Moran  Wyden

The Acting President pro tempore. On this vote, the yeas are 21, the nays are 79. Two-thirds of the Senate duly chosen and sworn not having voted in the affirmative, the joint resolution is rejected.

Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote on S.J. Res. 10.

Who yields time? The Senator from Utah.

Mr. HATCH. Madam President, this is the last chance to vote for a constitutional amendment that will truly do something, that will tie the hands of Congress so they have to live within fiscal constraints. We are taxing and spending this country into bankruptcy. We have a $15 trillion-plus national debt, growing to $20 trillion to $30 trillion. We don’t have any restraint around here.

People say: If we just live up to the Constitution and restrain ourselves, we can do that. They have been saying that for 35 years. The only time we have come to a balanced budget around here is when we had the first Republican Congress in over 40 years and we had a President who was willing to support it.

This is our chance to try to do something for our country that will stop the outrageous, out-of-control spending. We need to do it. This amendment is the only one that can do it.

The Acting President pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, I have actually voted for a balanced budget. Democrats in this Chamber and in the other Chamber voted for one and it passed. Not a single Republican voted for it. During the Clinton administration, we were able to balance the budget and start paying down the debt. A huge surplus was left to his successor and it was squandered by that administration.

We should not ensnare the extreme provisions in the current proposal in our Constitution. We should not make it more difficult for Congress to respond to economic and natural disasters. Proponents of this amendment say: Let’s put the courts make these decisions. Let us not transform our courts into budget-cutting bodies. They are not equipped to perform that role. Even Justice Scalia, testifying before our committee, laughed at the idea that they could do that.

The Hatch-McConnell proposal will do nothing to spur economic growth or ease the partisan gridlock in the Congress. It will do the opposite. It will ensure fiscal policy in the Constitution. A vote for this proposal is a vote for dramatic cuts in Social Security, Medicare, and veterans’ benefits.

Partisan efforts like this may be good bumper-sticker politics, but they are bad solutions. I wish those who say they revere the Constitution would show it the respect it deserves rather than treating it like a blog entry.

I urge Senators to oppose this radical and ill-considered proposal to amend our Constitution.

Mr. VITTER. Madam President, I ask for the yeas and nays.

The Acting President pro tem pore. Is there a sufficient second? There appears to be a sufficient second.

The question is, Shall the joint resolution pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—47

Alexander  Enzi  McConnell
Ayotte  Grassley  Moran
Barrasso  Harkin  Murkowski
Bingich  Hatch  Paul
Bommarito  Johnson (MA)  Portman
Blumenthal  Johnson (WI)  Portman
Boxer  Johnson (SD)  Portman
Brown (OH)  Johnson (WI)  Portman
Cantor  Johnson  Reed
Cardin  Kyl  Reid
Carper  Levin  Risch
Crapo  Lieberman  Roberts
Enzi  Lieberman  Toomey
Franken  Lieberman  Udall (NM)
Graham  Lieberman  Vitter
Heller  Lieberman  Vitter
Hawley  Lieberman  Wicker
Hagan  Lieberman  Wicker
Harkin  Lieberman  Wicker
Hoeven  Lieberman  Wicker
Hutchison  Lieberman  Wicker
Inouye  Lieberman  Wicker
Johnson (WI)  Lieberman  Wicker
Kirk  Lieberman  Wicker
Collins  Lieberman  Wicker
Corker  Lieberman  Wicker
Cornyn  Lieberman  Wicker
Crapo  Lieberman  Wicker
DeMint  Lieberman  Wicker

NAYS—53

Akaka  Conrad  Koli
Alexander  Cooper  Landrieu
Begich  Durbin  Lautenberg
Bennett  Feinstein  Leahy
Brown (OH)  Hagan  Lieberman
Bunning  Harkin  Lieberman
Boxer  Harkin  Lieberman
Brown (OH)  Harkin  Lieberman
Cantwell  Inouye  Lieberman
Carper  Johnson (SD)  Lieberman
Casse  Klobuchar  Menendez
Casey  Klobuchar  Menendez
Kerry  Klobuchar  Menendez
Kohl  Klobuchar  Menendez
Landrieu  Klobuchar  Menendez
Leahy  Klobuchar  Menendez
Manchin  Klobuchar  Menendez
McCaskill  Klobuchar  Menendez
Murray  Klobuchar  Menendez

The political scene has changed since the 1990s. Republicans are doing our part. We don’t have any restraint around here. Republicans are proposing today would—
MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business until 5 p.m., with Senators allowed to speak for up to 10 minutes each.

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

UNANIMOUS CONSENT REQUEST—H.R. 3630

Mr. DURBIN. Madam President, last night the House of Representatives passed a tax cut bill, one that is doomed in the Senate and that the President has made it clear he will not sign.

It is important for us to move beyond this stalemate on an important issue that will literally affect 160 million working Americans.

Currently those working families enjoy a 2-percent payroll tax cut. For the average family in Illinois with a $50,000 annual income, it means $1,000 a year or more in terms of a tax cut. So if we fail to continue this payroll tax cut, families across Illinois and across America are going to see an increase in their payroll taxes of about $100 to $125 a month. We cannot let that happen. These families are struggling paycheck to paycheck. We want to help them. We want to make sure we help this economy by putting more life into it, which creates more opportunity for profitability and new jobs.

We also need to maintain our unemployment insurance which we have provided during these difficult times for those families struggling to find work.

At this point it is clear we should move immediately—immediately—to consideration of the House tax cut bill, a bill which passed the House and should be taken up immediately in the Senate. There is no reason for delay. It has to be done before we go home. Let's not waste any more time. Let's bring it to a vote.

Therefore, I ask unanimous consent the Senate proceed to the consideration of the House tax cut bill, which has already been received from the House; that there be 2 hours of debate equally divided between the two leaders or their designees prior to a vote on passage of the bill; that no amendments be in order prior to the vote, and that the vote on passage be subject to a 60-affirmative vote threshold; further, that if the bill is not passed, it remain the pending business and the majority leader be recognized.

The PRESIDING OFFICER (Mr. FRANKEN). Is there objection?

Mrs. HUTCHISON. Mr. President, I object on behalf of our leader. This is a matter that needs to be decided between our two leaders. That has not been done. It has not been done. There needs to be some time. Certainly we hope in the future to vote on it at a time when the two leaders can agree.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Mr. President, I thank the Senator from Texas. I know her objection was on behalf of the Republican Senate leader. I would appeal to him and all Republicans on that side of the aisle, that we are in the business of extending this payroll tax cut for working families and maintaining the unemployment insurance to help millions of Americans. Let's get it done before we even consider leaving for this holiday season.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

KEYSTONE XL PIPELINE

Mrs. HUTCHISON. Mr. President, at a time when our economy is staggering and global unrest is making long-term energy supplies uncertain, we are going to eventually be able to take up a bill that has been passed by the House that would bypass the President's decision to postpone until 2013, after the elections next year, a domestic infrastructure project to create 20,000 immediate jobs, and 118,000 spinoff jobs, and provides a stable energy source from our trusted neighbor Canada.

After 3 years of unprecedented reviews by State and Federal agencies, the administration decided to delay the Keystone XL pipeline until after the 2012 election. Why? It would seem obvious that this is a decision that could now be made. The studies have been done. The jobs are needed. This is a privately financed, crude-oil pipeline project. It is truly shovel ready. It is not a temporary government stimulus program based on wishful thinking, looking for things that can be done around the country. It is ready to go and it is privately financed, so there are no taxpayer dollars involved.

The pipeline is our Nation's access to the estimated 170 billion barrels of recoverable oil in western Canadian tar sands. It provides a reliable trading partner and friend, lessening our dependence on oil from turbulent Middle East and North African countries and from dictators and terrorism-supporting regimes in South America.

This turmoil leads to price spikes and supply interruptions that threaten our economy and our national security. If we can go forward with the pipeline project, it would have a tremendous impact on our oil security. This project could stimulate $2.3 billion in new spending and generate more than $8 billion in new tax revenues just in my home State of Texas.

The pipeline construction would result in 700,000 additional barrels of oil per day being sent to refineries in Texas. Our State's 36 refineries account for more than 25 percent of the total U.S. oil production, which is approximately 5 percent of worldwide capacity. These refined capacity are of great benefit to the consumers of America. Oil is provided faster and more efficiently to domestic consumers and industry, bringing down the cost of energy to everyone in our country.

Last night the House approved this legislation. President Obama continues to threaten to veto any bill that comes to his desk that involves the Keystone pipeline. So I think it is fair to ask: What is his plan? The administration recently announced the President's 5-year blueprint for the future of America's energy resources. For example, the plan limits the offshore energy development to less than 3 percent of offshore areas.

The administration is decreasing our energy resources while other countries continue to increase their energy wealth, just off our coast in some instances, some as close as 25 miles from the U.S. waters. With their policies, the oil and gas industry could create 1.4 million new jobs and raise $800 billion of additional government revenue by 2030. That would come from people working. That would come from people in the economy buying things, creating new jobs, and paying taxes because they are earning money. That is the way we should increase revenue in this country, not by stimulus programs that add to our deficit and to the debt that is going to be inherited by our children.

The administration is determined to pursue policies that limit our utilization of our own natural resources. Most other countries in the world are trying to develop their natural resources, and we do not have natural resources and wish they did. America has them but we are not using them.

We could—with a single pipeline—do something that would lower the cost of energy and create new jobs and raise additional government revenue. The fact that we are debating this project today in the face of a frozen economy and rising energy insecurity is unthinkable. We do not need more Solyndra flasgos. We do not need to waste additional taxpayer dollars to support failed businesses that would not exist without federal subsidies.

This pipeline has not one taxpayer dollar in it. It is privately funded and will create private industry jobs that would be jobs that create more revenue for our country through the spending and the creation of still further jobs. We would be doing it with a trusted neighbor and ally, Canada. This is something we should do. I would love to see us do it in a bipartisan way in this Senate as the House has already done.
PAYROLL TAX CUT

Mr. CASEY. Mr. President, I rise to speak about the urgent need to prevent a tax increase in the year 2012 if the Congress does not act to extend the payroll tax cut from last year. This is fundamental when it comes to working families across the country. Some 160 million working Americans are depending upon the Congress to do its work, to do its duty, and conclude this year on a couple of matters.

The principal focus of most people's attention right now, in addition to making sure we have a budget in place for the next couple of weeks and months but also, most urgently, is to make sure we are doing everything possible to bring about a cut in the payroll tax again as we did last year. So we should be voting today. We should not be waiting. We know the House has acted. I would guess that what they passed in the House will not pass in the Senate, but we should vote. Vote today. Vote today.

When I talk to people in Pennsylvania, they say to me basically two things: Do something to create jobs or to create the environment or the condition that job creation will flow from and, they say, do it in a bipartisan way. Work together as we, meaning Americans back home, have to work together. They have to work together at home to meet a budget. They have to work together at their worksite to do something to create jobs or to create the environment. It is kind of a political game they are playing.

When I talk to people in Pennsylvania, they say to me basically two things: Do something to create jobs or to create the environment or the condition that job creation will flow from and, they say, do it in a bipartisan way. Work together as we, meaning Americans back home, have to work together. They have to work together at home to meet a budget. They have to work together at their worksite to be able to move a company or their agenda forward for an employer.

What we need is a very simple agreement on a very basic bill, and it should be a bill that would extend and, I would hope our friends on the Republican side would allow us to vote today on the Republican House bill. It is not going to pass, but it does provide clarity so that both sides can then sit down. They have rejected my compromise. Now the House version will come over here. But we will have some clarity about where both sides stand.

We can sit down and negotiate and get a payroll tax cut done, but we cannot do that until they let us vote on what the House did. We need to have that vote today. I don't know why the Republican side would want to hold it up in the Senate. We should vote on that. It is about take-home pay and also about peace of mind. I think a lot of Americans would like to know now that they can celebrate the holidays and move into 2012 with some peace of mind. We need to have some money in their pockets they might not have otherwise. It will have a tremendous impact on the economy.

I yield the floor.

December 14, 2011

CONGRESSIONAL RECORD — SENATE

We know that from the data and from what happened in the first few months of 2011. If the Congress fails to act, here is what it means for a State such as Pennsylvania. You can replicate this, I am sure, in other States. Mark Zandi, a respected economist on both sides of the aisle in Washington, looked at Pennsylvania and the impact of not extending the payroll tax cut for 2012. He would conclude that it would cost the State a $50,000 jobs in calendar year 2012—in a State, by the way, where in 2011 we created—or I should say the increase in jobs in Pennsylvania was more than 50,000 in 2011. That is not enough and we need to do more. But certainly when you are creating jobs at that rate—and possibly in 2012 it could go above 50,000 jobs created in Pennsylvania. But not to act on the payroll tax and reduce that 50,000 or more by 20,000 jobs—a—well! It is just not—is it? If you don't pass the payroll tax cut, that is the adverse impact on 1 State—20,000 jobs, according to Mark Zandi. That is a big mistake. We cannot afford to make those kinds of mistakes at this moment which is 1 of the things we need to do in our economy, just when we are getting some—although not enough—good news about the economy.

We need to kick-start, jump-start job creation across the country. We can do that in large measure—although not completely—by a payroll tax cut.

It is time to move forward and time to move on. We should get this vote done on the House version, and then we can go to the negotiating table and come up with a bipartisan way of some people here in Washington. This is the holiday season. We need to come together and do our job. We need to do together and compromise. I have compromised a couple of times in my legislation. I will not review that now, but I did that on my version of the payroll tax cut. We can all compromise more. We need to come together and put up roadblocks to voting on measures that will lead us to a compromise.

The simple message for today is this: Let's vote on the House bill. If that doesn't pass, then we can go to the negotiating table and come up with a bipartisan compromise to cut the payroll tax and put more take-home pay in the pockets of 160 million American workers.
With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

LIHEAP

Ms. KLOBUCHAR. Mr. President, I am here today to talk about the importance of sustained funding and support for the Low-Income Home Energy Assistance Program, better known as LIHEAP. I know it is something my colleague, the Presiding Officer, cares very much about as well.

LIHEAP helps households pay home heating costs and targets funds for those families with the lowest incomes and the highest energy costs. In 2010, nearly 165,000 families in Minnesota used this critical lifeline.

As the Presiding Officer knows, our home State may be known as the land of 10,000 lakes, but our tough winters can be downright dangerous to families struggling to pay their utility bills and trying to keep the heat on.

Even as Minnesota’s economy has weathered the recession better than most, we have seen a great increase in need for assistance with heating bills. From 2008 to 2010, there was a 30-percent increase in families who needed energy assistance. Without sustained funding for LIHEAP at current levels, we risk pushing these 300,000 families out into the cold.

This October, I joined with Members from many cold weather States, as my colleague did, in a letter that urged the Department of Health and Human Services to release LIHEAP funds as quickly and at as high a level as possible. We must follow up on this action by fully funding LIHEAP.

On October 28, the Department of Health and Human Services released $1.7 billion for LIHEAP. This is a start, but we need another $3 billion to ensure we sustain level funding from last year. Depending on how and what the final appropriations are for fiscal year 2012, it is important to recognize we will need more than $1 billion to fully fund LIHEAP.

I believe seniors should not have to choose between paying for medication and their heating bills; that families should not have to choose between putting food on the table or keeping their furnaces on at night, and children should always have a warm home to sleep in at night. LIHEAP is targeting those families who are most in need. In fact, the average household served by LIHEAP in Minnesota had an income of $38,281. Ninety percent of the homes served by LIHEAP included at least one senior, a person with a disability, or a child under the age of 18. These families are struggling. Now is not the time to pull the rug out from under their feet.

LIHEAP is supported by nonprofit organizations such as Community Action of Minneapolis, the Salvation Army, local government agencies, and a utility company. These organizations know the value this program has to ensure that families have the tools they need to stay safe during the coldest winter nights. They also see how it creates economic activity by maintaining household budgets. If this bill passes, budgets are under the greatest strain and may be forced to go without.

According to economists, LIHEAP is a smart investment. For every dollar in benefits paid, $1.13 is generated in economic activity. As a cosponsor of the LIHEAP Protection Act, introduced by Senator Jack Reed of Rhode Island, I want to commend my colleagues on their leadership on this issue, and I look forward to working with them to ensure this legislation is passed and that funding for the critical program is maintained.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

UNANIMOUS CONSENT REQUEST—H.R. 3630

Mrs. BOXER. Mr. President, I am going to grant unanimous consent to make an unanimous consent request. We have received our Republican friends to it. But before I do, I want to set the stage for why I am going to eventually ask we be allowed to go to H.R. 3630, which is at the desk, and that there be a debate and a vote on the Republican-passed payroll tax cut.

For the life of me, I don’t understand why, as we approach the end of this year, Republicans do not want, right now, to have a vote on their own bill. This is one they have a heart for but this one, they don’t really like.

Initially, Republicans said they didn’t want anything to do with this tax cut. They loved the tax cuts for the millionaires and billionaires. Oh, that one they have a heart for but this one, they don’t really like.

I think they took the heat back home, and good for the House Republicans. They then decided they had to pass it because if they didn’t pass it, working people were going to notice that $1,000 increase in their taxes.

So we are facing a very odd situation. Having served in the House for 30 years—I had left before Newt Gingrich became Speaker; I ran for the Senate. I know how things work over there. I can almost see—though I have no accuracy on this; it is simply my own feeling—the mindset: The President wants this tax cut so badly, let’s do it, but let’s load this up with things he is not going to be able to abide. Frankly, that is what they did.

Mrs. BOXER. Mr. President, I believe seniors should not have to worry about a child under the age of 18. These things cause cancer, and all of these things are dangerous to all of us, particularly to children and to pregnant women. So the EPA has crafted a rule—listen to this—that only goes after 5,500 of the 1.6 million boilers. Again, these are the filthiest and the dirtiest boilers.

In crafting this rule, they had peer review science that showed this rule would prevent 8,100 premature deaths every single year. That is because we are talking about mercury, lead, and arsenic. These are toxic things.

Now, not being able to abide by this, those in the House are standing with the dirtiest polluters, and they put a stop to that rule. To me, this is shocking, as chairman of the Environment and Public Works Committee. If I saw you were driving a car in a certain direction, Mr. President, and I said to you, if you continue to drive your car in that direction, you are going to hurt people; you are actually going to be responsible for the deaths of 8,100 people in the course of a year, you would turn that car around. But, no, they are barreling forward. I am not even citing the stats—because I don’t have them in my memory—on the number of missed school days, the number of asthma cases, and the lost schooldays, but it is in the tens of thousands in a year.

So they attached what I call a real poison pill to the payroll tax cut. But that wasn’t enough. Despite the objections from the Republican Governor of Nebraska, they pushed forward on the tar sands pipeline before the studies were done. By the way, the environmental impact report was done by a company that had ties to the developer. So before we rush to judgment on this colleague, we ought to have more information. But, no, they are going to jam that through.

So those are two environmental riders that are in the bill that are very dangerous for this American people. So it is sort of like, here is $1,000 for you with the payroll tax cut, but we have just increased your risk of getting asthma or perhaps dying of cancer or a heart attack. Maybe that is why they object to having a vote on this bill.

Now, in this bill, the worst thing we pay for things is unbelievable. They are so fearful of hurting the upper income people—those earning over $1 million a
year and paying for this payroll tax cut the way we do, with a small surtax on the millionaires and billionaires, which doesn’t kick in until they get past the $1 million mark—they go after the middle class. They raise premiums on Medicare by 25 percent of Medicare recipients who earn $80,000 a year, and they raise it 15 percent for some of them in this time of recession. They cut the number of weeks an individual can get unemployment insurance, which also, at this time, is just plain cruel to middle-class workers, such as Federal firefighters, veterans, nurses, air traffic controllers, FBI agents, and all Fed-

eral employees while they allow gov-

erment contractor employees to earn up to $700,000 a year.

Senator GRASSLEY is here, and I know he probably disagrees with some of what I said, but I know he agrees on the Federal contractor issue. In this particular bill, which the House craft-
ed, I understand they had middle-class workers, but the government contractor workers can earn up to $700,000 a year. To me, that is the only reason I can see why Republicans are objecting to having a vote on this so-called payroll tax bill—because it is so loaded with things that are going to hurt the American people.

So I think we ought to have that vote and kill this Christmas turkey, because it is a turkey. It is harmful to the middle class. It is literally going to cause an increase in premature deaths, in asthma cases, and it is literally going to hurt middle-class workers while it leaves the millionaires and billionaires alone. What kind of value system is that? Merry Christmas to the middle class. No, it isn’t.

So, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3630, which was just received from the House; that there be 2 hours of debate equally di-

vided, on the two leaders or their designees prior to a vote on passage of the bill; that no amendments be in order prior to the vote; and that the vote on passage be subject to a 60-affirmative-vote threshold; further, if the bill is not passed, it remain the pending business and the majority leader be recognized.

The PRESIDING OFFICER. Is there objection? The Senator from Iowa.

Mr. GRASSLEY. Reserving the right to object, but, I wish to make clear that the Senator from California understands I didn’t come to the floor to object to her request, but on behalf of the Republican leader I do object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Mr. President, I thank my colleague. We are buddies. We work together on a lot of good government issues. But the minority leader, the Re-

publican, she is objecting.

So in summing this up, as I leave the floor, I would ask rhetorically, why on Earth the Republican leader is afraid to vote on a Republican bill, other than the fact that that bill, in my view, exposes a set of values that are not con-

sistent with the American people.

I yield the floor.

The PRESIDING OFFICER. The Sen-

ator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for what time I might consume, but I wouldn’t expect it would be more than 30 min-

utes.

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

Mr. GRASSLEY. Mr. President, I have come to the floor to speak about the Fast and Furious investigation. But I would also like to follow up and have this portion of my remarks follow the Senator from California because I think my side has a legitimate position to take on some job creation things that are in the House bill that has come over here; that if people just hear one side of the story, they might mis-

understand we are not interested in creating jobs and we are only inter-

ested in putting stumbling blocks in the way of regulations or Presidential decisions that are made. But it is di-

rectly by rule by the EPA that the Senator spoke about, it is a fact that under this administration there is an explosion of regulations. A lot of those regulations, because of their cost, have led to the elimination of a lot of jobs or not creating jobs. Do not make a decision on that we shouldn’t build a pipeline from Canada down to Texas so we can im-

port more oil in a cost-effective way from our friend Canada—a reliable friend—instead of spending $830 million every day—every day—to import oil and paying that to countries that ei-

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that to you. In the cover letter that accompanied the documents, the Justice Department wrote that, in drafting their February 4 response, which had these falsehoods in it:

Department personnel . . . relied on information provided by supervisors from the components in the best position to know the relevant facts.

They were listening to supervisors because they only listen to supervisors. That is the problem with not answering the whistleblowers in a truthful way, to me, 5 days later after I handed them to the Attorney General. I will show that in just a minute.

Clearly, the Justice Department did not rely on those in the best position to know the facts, since the letter was withdrawn on December 2 due to its inaccuracies.

I don’t know how they can withdraw a letter that is in the public domain, but they just somehow withdraw the letter.

The whistleblowers were in the best position to know the facts. Frontline personnel—not supervisors—were in the best position to know the facts, not these senior bureaucrats or political appointees. Yet the Department failed to pursue the process for whistleblowers, people who know what is happening on a day-to-day basis, and other frontline personnel to provide information without fear of retaliation.

Employees simply do not believe they are free to report misconduct because they see what happens to those who speak out. They know it is a career killer because the ATF and the Justice Department culture protects those who retaliate against whistleblowers. Yet whistleblowers in this case spoke out anyway.

In other words, these whistleblowers were speaking out, taking a chance on their professional future in Federal Government because they knew something about the walking of guns. So they risked their career to make sure the truth was known.

The only crime committed by whistleblowers, generally, is the crime of committing truth. But when the Office of Legislative Affairs sought information to respond to my inquiries, it didn’t ask these brave whistleblowers what happened. Instead, it simply relied on self-serving denials of senior officials at ATF headquarters or the crimes were committed in DC or the U.S. attorneys in Arizona.

In other words, the Department took the word of the very officials the whistleblowers alleged had mismanaged the situation in the very first place, without getting both sides of the story.

The U.S. attorney has since admitted in testimony to congressional investigators he was too strident when he first heard these accusations. He claimed he didn’t know all the facts.

We can’t rely on the chain of command to be a whistleblower. By definition, whistleblowers emerge because the chain of command is broken. Whistleblowers come to Congress because they are unsuccessful in getting their supervisors to address fraud, waste, and abuse. Sometimes those supervisors attempt to cover tracks and paper over the problem. That is why we have to get the story straight from the whistleblowers, so that the facts be filtered through multiple layers of bureaucracy. After all, the bureaucracy is filled with the same supervisors who should have done something about the problem in the very first place before whistleblowers even knew it.

These problems are particularly prevalent in the Federal Government that is so very large it is virtually impossible for anyone to ever be held accountable for anything. So it is crucial that those investigating whistleblower allegations go straight to those on the ground level with firsthand knowledge of the facts. Their goal should be to understand the underlying facts of the whistleblowers, not to intimidate whistleblowers into silence. Instead, inquiries all too often focus on the whistleblowers themselves and what skeletons they have in their closets. The Department assumes what is wrong with the Federal Government and why it doesn’t function as efficiently as it can. Because if more whistleblowers were listened to and wrongs were brought to the surface and transparency required, there would be more accountability.

The focus should be on whether the accusations are true so the problems can be corrected. Too often, however, the focus is on finding out what information the Department can leak to protect those in the agency can circle the wagons and build a defense. That needs to change. If the Department is going to regain its credibility, it needs to provide straight answers, not talking points and spin.

The only way to provide straight answers is to make sure we get straight answers in the first place. That is one reason we have pushed in our investigation to be able to interview frontline personnel.

The Justice Department objected in a letter Tuesday night. In that letter, the Justice Department also objected to us talking to first- or second-level supervisors. This is exactly the sort of approach that prevents key information from getting to senior officials and to Congress and impedes Congress’s constitutional responsibilities to see that the laws are faithfully executed. In other words, we don’t just get the laws and the end of it. We have to pass laws to make sure we are a check on the executive branch of government and that means to do the constitutional job of oversight. That means ask questions. That means we are entitled to all information that anybody is trying to cover up something. When they are trying to cover up something in the bureaucracy, I always tell them: If you get stonewalled, eventually the truth is going to come out. Then the more truth that comes out, the more egg you are going to have on your face. Mr. Breuer is one of those who has tremendous egg on his face.

Justice cites the so-called line personnel policy for refusing to provide officials for voluntary interviews. The policy is based purely on nothing but the Department’s own preferences. This isn’t any law or statute or even case law. The Department has frequently been ordered to make exceptions.

For example, line attorneys gave transcribed interviews under oath to Congress in the 1992 Rocky Flats Nuclear Weapons Facility investigation. And currently an ATF line U.S. attorney Rachel Lieber, the line attorney responsible for the anthrax investigations, participated in an interview with PBS’s “Frontline.”

How can the Justice Department tell me or argue to Congress that Congress should not be allowed access to line attorneys when they give that same kind of access to the press? Those are the kinds of line personnel and individuals who have the actual answers. I kind of surmise that the reason the Justice Department will let a U.S. attorney or some FBI agents be interviewed on television is that some public affairs officer has looked at it and said: This is a good story. This is going to make us look good. But when Congress wants to interview line people, no, and we have a constitutional responsibility to do that.

I would like to suggest that the Justice Department let the public affairs people make a decision of who can talk to Congress because it might make them look a little better if they will let them talk to Congress or are they afraid we might find out something? It is irritating as heck.

In this case, had the Justice Department gone to the horse’s mouth before sending an inaccurate letter to me on February 4, they would have been able to get the story straight. The memo I have here I am not going to read, but I want to hold it up.

The memo is from an ATF line agent who substantiated the claims of the first ATF whistleblower.

I ask unanimous consent a copy be printed in the RECORD immediately after my remarks.

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

(See exhibit 1.)

Mr. GRASSLEY. It is dated February 3. The day before the Justice Department sent their letter to me. The memo was passed up his chain in response to investigators on my staff talking to him about Operation Fast and Furious. He accurately described the problems with Fast and Furious. What he said was consistent with the claims I had already heard from other whistleblowers. Information such as this is why I was skeptical days later when the Department sent its February 4 letter to me.

In other words, I had proof they were lying to us.

The agent wrote in the memo about being ordered by a Fast and Furious
case agent to hold back in their surveillances, so that they did not "burn the operation."

While watching straw purchasers hand off weapons to traffickers—violation of the laws of this country but encouraged by the very Justice Department—the case agent "told all the agents to leave the immediate area."

While a crime was being committed the agent said to the agents to leave the area immediately. The memo explicitly says:

The transaction between the suspects took place and the vehicle that took possession of the firearms eventually left the area without agents following it.

A crime is committed, U.S. agents there let them move on.

After the phone call to my staff, the ATF agent’s supervisor requested that he write this memo documenting what he had told my investigators. This passed down the chain all the way to the ATF leadership. We know that because there are e-mails attaching the memo sent to senior headquarters officials. However, the Justice Department has refused to provide copies of those e-mails and will only allow them to be reviewed at Justice Department headquarters.

The Department has also refused to provide a copy of this memo. My staff had to obtain it from confidential sources.

One of the questions yet to be answered is who in the Justice Department saw the memo and when. Either way, once the Justice Department got hold of it they tried to keep it under wraps by refusing to give me a copy. They made my staff go to the Justice Department to view it, even though the entire memo simply recounts information that was already provided to my staff. It is embarrassing to the Department because it shows that the truth was something knowable before the false denial was sent to Congress on February 4. If they had asked for firsthand documentation such as this memo when they first got my letter in January, we would not be where we are today.

The second point these documents establish is that main Justice had problems of its own. It was not all the fault of the ATF or the U.S. attorney. Mr. Breuer’s deputy, Deputy Attorney General Breuer, participated in drafting a false statement. The Justice Department’s February 4 letter read:

ATF makes every effort to interdict weapons that have been purchased illegally and prevent their transportation to Mexico.

Documents show that line originated in a memo dated February 1, 2011, between Justice Department legislative affairs assistant director Billy Hoover from ATF and Jason Weinstein from main Justice’s criminal division.

Like other ATF Attorney General Breuer, Mr. Weinstein knew that ATF had let hundreds of weapons walk in Operation Wide Receiver, which was an earlier, smaller scale case than Fast and Furious. In fact, in April 2010, he brought that fact to the attention of Mr. Breuer, his boss. April 2010 is 8 months before I got involved in this investigation. His e-mail to Mr. Breuer about Wide Receiver said:

As you’ll recall from Jim’s briefing, ATF let a bunch of guns into Mexico to get up-stream conspirators but only got straw, and didn’t recover many guns. Some were recovered in [Mexico] after being used in crimes.

It is ironic that is how Mr. Weinstein described Wide Receiver. He was one of the officials who authorized wiretaps in Fast and Furious. Therefore, he was in a position to know that exact same description applied to Fast and Furious. Yet he allowed the myth to be perpetuated that ATF would never do such a thing. Mr. Weinstein saw the Justice Department’s very first draft of the letter to Congress. In fact, as one of his Justice Department colleagues in the Deputy Attorney General’s office said, it was "CRM and OLA basically drafted it."

Mr. Weinstein knew the letter contained a blatantly false line. Yet he did nothing to correct it and that line thus remained in every successive draft of the letter.

On December 2 this year, the Justice Department’s latest spin was that its statement that “ATF makes every effort to interdict weapons that have been purchased illegally and prevent their transportation to Mexico” was easily knowable before the false denial was sent to Congress. That denial was sent to Congress on February 4. If they had asked for firsthand documentation such as this memo that was already provided to my staff, I was asking for simple facts.

A U.S. Border Patrol agent had died, and at the scene of his death were two guns from Fast and Furious. So his death was connected to the ATF operation. Whistleblowers were reaching outside of the chain of command because supervisors would not listen. Instead of treating these allegations with the kind of seriousness they deserved, the Justice Department resorted to damage control.

I do not know what else my investigators will uncover, but we are going to pursue it until we get to the end of it because my goal is to find out who at the highest level of government, in Justice or the White House, approved this, and get them fired; make sure that the Terry family gets all of the information about the death of their son—to this point they have had hardly anything—and, No. 3, to make sure a stupid program like walking guns, Fast and Furious, et cetera, never happen again.

This investigation will continue. People must be held accountable. The Justice Department must stop stonewalling today.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES,

Memorandum To: Special Agent in Charge, Dallas Field Division
Thru: Resident Agent in Charge, Lubbock Field Office
From: Gary M. Styers, Special Agent, Lubbock Field Office
Subject: Contact with Congressional Investigators

On February 3, 2011, at approximately 1500 hours, ATF Special Agent Gary Styers was contacted telephonically by Robert Donovan and Brian Downey, representing United States Senator Chuck Grassley and the Senate Judiciary Committee. Downey and Donovan after identifying themselves asked Special Agent Styers if he would be willing to answer some questions over the telephone. At that time Special Agent Styers spent on a detail to the Phoenix Field Division, Phoenix Group VII Office. Special Agent Styers said he would be willing to answer questions to the best of his knowledge.

Special Agent Styers was asked if he was familiar with the large firearms trafficking case in Phoenix Group VII and Special Agent Styers said he was. Downey and Donovan asked if Special Agent Styers knew the name of the case and he responded that it was ‘‘Fast and Furious.’’ Downey and Donovan then asked if Special Agent Styers knew who the case agent was and Special Agent Styers did not know. Special Agent Styers was also asked who the supervisor of the group was and Special Agent Styers said it was Group Supervisor David Voth. Downey and Donovan also asked who helped Special Agent Mcallister, Special Agent Mcallister had a Co-Case Agent from Immigration and Customs Enforcement (ICE) as well as an agent from Group VII. Downey and Donovan asked who was the Agent from ICE and Special Agent Styers told them it was Lane France.

Downey and Donovan asked Special Agent Styers if he knew what the agents were assigned to do on the investigation. Special Agent Styers explained a group of agents were assigned to the case and that since the case was in the stage of an active
wiretap, some agents were working within the group and Special Agent Styers was then asked about his general impression of the Fast and Furious case. Special Agent Styers stated that there was a systematic divide and isolated agents from the group. The case agent had solicited the advice of numerous experienced agents, including Special Agent Styers. Special Agent Styers had worked two wiretap investigations in his career. Special Agent Styers felt that his advice and opinions, as well as other agents' advice and opinions, were largely disregarded. Among other agents within the group, Special Agent Styers explained that he was no longer asked to assist with Fast and Furious and concentrated on his assigned cases and provided necessary assistance to fellow agents within the detail and group.

Downey and Donovan asked Special Agent Styers what he felt was incorrect about the way the Fast and Furious case was conducted. Special Agent Styers explained that first and foremost, it is unheard of to have an active wiretap investigation without full-time dedicated surveillance units on the ground. Special Agent Styers relayed that no agents in the group were assigned to surveillance on the Fast and Furious case. Special Agent Styers said that other agencies or task force officers may have been used to conduct surveillance and respond to calls of FFLs, but claimed that neither the case agent or Group Supervisor would poll the office for agents who were available to respond at short notice.

Secondly, Special Agent Styers said that it appeared odd to have a majority of ATF agents working on a wiretap investigation, who had never worked such a case. Especially, permanent Group VII agents had previous wiretap experience.

Special Agent Styers was provided with contact information for Downey and Donovan and the conversation was ended. Special Agent Styers contacted the Lubbock Resident Agent in Charge, Jim Luera at 1545 EDT for agents who were available to respond at short notice.

The question I am asking is, Why would the FCC do this? Of course, to get to the bottom of this question I asked the Federal Communications Commission for some documents—again, a simple question, a request for some information. The FCC, an agency with employees who are supposed to work for the American people, said no to my request. My staff was told the FCC would only release information on certain members—chairmen of committees—asked for them, but somehow 99.6 percent of the Congress has no right to this information. In other words, 99.6 percent of the Members of Congress cannot do their constitutional job of oversight of the Federal Communications Commission. To paraphrase a very popular slogan these days, I guess that makes me part of the 99.6 percent. My concern is not just specific to this document request. It is broader than that. In the future, any Member of Congress may request documents from the FCC. As the courts have put it, every Member has a voice and a vote in the process under the Constitution. Each one of us has the authority to request and receive information from the executive branch in order to inform those votes. That is what our court has said. That authority is inherent in each Member's responsibility to participate in the legislative process.

The creation of the committee system and the delegation of certain responsibilities to committee chairmen doesn't change that at all. Individual Members still have a right, as well as a responsibility, to inform themselves by requesting information directly from agencies. For Congress to have a complete view of how an agency works, we need to have access to documents. Turning off that flow of information should be one of the 99.6 percent of the Congress, these nominations are now stalled in the Senate. The question I would ask today of my colleagues and the President of the Senate is: Why? This is what has already happened and would likely provide these documents if certain members—chairmen of committees—asked for them, but somehow 99.6 percent of the Congress has no right to this information. In other words, 99.6 percent of the Members of Congress cannot do their constitutional job of oversight of the Federal Communications Commission. To paraphrase a very popular slogan these days, I guess that makes me part of the 99.6 percent.

Mr. GRASSLEY. Mr. President, I do not see another Member on the floor: Unless some staff person among the Republicans or Democrats tells me somebody is coming, I wish to take another 5 minutes, if I could.

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

Mr. GRASSLEY. Mr. President, more like 7 or 8 minutes.

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

FCC HOLDS—LIGHTSQUARED

Mr. GRASSLEY. Mr. President, the cornerstone of Congress's ability to effectively oversee the Federal Government is the free and open access to information. In other words, congressional oversight means that I was talking about in regard to Fast and Furious.

On another investigation 231 days ago, on April 27, I made a very simple request. I requested that the Federal Communications Commission turn over communications regarding its controversial approval of the LightSquared project. LightSquared is a company owned by a hedge fund called Harbinger Capital Partners that is seeking FCC approval to use its satellite spectrum to build a terrestrial wireless network. To accomplish its goals, LightSquared has already spent millions of dollars on lobbyists and made large political contributions.

The problem is that LightSquared's signals would, according to Federal Government tests, cause massive interference with the global positioning system, more commonly referred to as GPS. GPS, as you know, is a critical tool for anything from military drones and missiles to car and ship navigation.

LightSquared's initial plan, which the FCC conditionally approved, would have interfered with just about every single GPS user.

The surprising fact is that there is no evidence the FCC even tested LightSquared's plan before approving it. In fact, there was this waltz—what is estimated to be worth at least $10 billion to LightSquared—in a shortened comment period starting right around Thanksgiving, 2010. Giving a company a possible $10 billion windfall in a shortened comment period without doing any testing is very suspicious. Risking our Nation's GPS assets, including the role they play in defending our Nation to accomplish this goal, is downright dangerous.

The question I am asking is, Why would the FCC do this? Of course, to get to the bottom of this question I asked the Federal Communications Commission for some documents—again, a simple question, a request for some information. The FCC, an agency with employees who are supposed to work for the American people, said no to my request. My staff was told the FCC would only release information on certain members—chairmen of committees—asked for them, but somehow 99.6 percent of the Congress has no right to this information. In other words, 99.6 percent of the Members of Congress cannot do their constitutional job of oversight of the Federal Communications Commission. To paraphrase a very popular slogan these days, I guess that makes me part of the 99.6 percent. My concern is not just specific to this document request. It is broader than that. In the future, any Member of Congress may request documents from the FCC. As the courts have put it, every Member has a voice and a vote in the process under the Constitution. Each one of us has the authority to request and receive information from the executive branch in order to inform those votes. That is what our court has said. That authority is inherent in each Member’s responsibility to participate in the legislative process.

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world effects. The FCC’s decision to grant a waiver to LightSquared created uncertainty for GPS users, and that includes our own National Defense Agency, the Department of Defense, and other Federal agencies. Another one is the Food and Drug Administration, which claims that 800 people would die as a result of LightSquared’s initially proposed network. To the FAA, the FCC’s decision could have killed people.

The Department of Defense wrote a letter to the FCC saying that it was not consulted by the FCC. Press reports say that General Shelton—who heads up GPS for the Armed Forces—said that LightSquared’s interference would harm the military’s GPS. The FCC’s actions would have continued to increase air traffic wast ing time, fuel, and ultimately money for the flying public. For Americans who use precision agriculture to save time and money, the FCC’s actions would have made the accuracy and reliability of their equipment this again leads to wasted energy, lower crop yields, and higher prices for products such as wheat and corn. At the end of the day, the FCC’s actions would cost the American consumers money.

Does the FCC even care? I don’t know why certainly has not provided any evidence that it took any of this information into consideration. What we see today is an agency that is completely unaccountable and unanswerable to 99.6 percent of the Congress and, by extension, the American public. This is simply wrong, and I will continue to hold the FCC’s nominees until this attitude changes.

I yield the floor.

The PRESIDING OFFICER (Mr. Udall of New Mexico). The Senator from Rhode Island is recognized.

BENEFITS EXPIRATION

Mr. REED. Mr. President, I rise today to urge my colleagues to immediately extend the payroll tax cut and to fully continue jobless benefits for millions of Americans. In less than 3 weeks, 10 million Americans face an automatic tax increase and millions of out-of-work Americans will begin to lose their jobless benefits. In order to keep our economy on track, we must continue the payroll tax cut and jobless benefits for millions of out-of-work Americans.

My State of Rhode Island, in particular, has felt the economic downturn acutely. With four unemployed job seekers for every one job and middle-class families struggling to get by—the possibility that Congress would let the payroll tax cut and jobless benefits expire is unthinkable.

I have been on this side of the aisle and voted time and again to cut taxes for middle-class families, and each time our Republican colleagues have opposed the measure because they value tax breaks for the top one-tenth of 1 percent of income earners more than they do tax cuts for middle-class Americans. Republicans have even rejected our effort to provide tax cuts to businesses and provide them incentives to hire. So in response, Democrats narrowed the focus of the tax cuts to employe es. But, Republicans again refused to provide a tax cut for the middle class because it was paid for by asking the top one-tenth of 1 percent of Americans to contribute.

We have seen Republicans refuse to invest in America’s future, in broadband, schools, and in policies that will create jobs because Republicans cling to their belief that the wealthiest in our Nation should not have to share in the sacrifice every other American has made during these difficult economic times. Republicans have voted in favor of millionaires and billionaires five times, costing middle-class Americans tax cuts and the continuation of jobless benefits and other policies that would help our economy grow. Republicans are not putting forth serious proposals. The House Republican extenders plan that passed that body yesterday is the latest example of not only brinksmanship but their ideological rigidity. Instead of reaching a sensible compromise that works for all Americans, the House Republicans voted to slash the current unemployment insurance program nearly in half and eliminate targeted relief for the hardest hit workers. As long as even our job market is still weak and 14 million Americans are out of work. Republicans are in effect refusing to pass critical legislation, particularly with respect to continuing unemployment insurance. And instead of continuing unemployment insurance they are working to put an end to it by implementing aggressive waivers leading to block granting and creating artificial barriers to benefits—all with the long-term goal of dismantling the system. This would blunt one of the most effective countercyclical tools we have and ultimately throw it away.

At the core of the Republican Party’s effort to reduce jobless benefits is the terribly misguided belief that Americans don’t want to work. I say to my Republican colleagues—Americans do want to work. We have to create jobs or incentivize the private sector to create jobs so they can work. Instead of compromising and focusing on economic policies that will help create jobs and help the middle class, House Republicans focus on dead-on-arrival special interest pet projects such as the Keystone pipeline and further efforts to weaken the Clean Air Act.

The Republican plan ignores the reality and the challenges that face American families—to maintain their homes, to maintain their jobs, to provide for the future of their families and their children and their retirement.

For those who have lost their jobs in one of the worst economic downturns we have ever faced, unemployment insurance is a lifeline. It is also important for Main Street businesses that rely on these dollars. Grocery stores and drugstores—they all depend on people having some cash to come in and take care of the necessities of life. Without the extension of jobless benefits, consumers will pull back spending, hurt local businesses, and decelerate the progress our economy has made.

We have had 21 months of private sector job growth. This is not sufficient to satisfy the needs across the country, but the growth stands in stark contrast to the absolute collapse of employment in the last months of the Bush administration. This job growth has not been an accident. It has been the result of decisions that the President and Congress made, which include the Recovery Act and other programs that keep the economy moving—not fast enough—but keep it moving forward.

The Economic Policy Institute has estimated that failing to extend UI benefits could result in a loss of $72 billion of economic activity in 2012—$72 billion of lost demand, which would slow down the economy and slow down job creation.

These are challenging times for millions of Americans. We cannot afford to let Congress be sidetracked by marginal issues. The core issues are very clear: extend tax cuts for middle-class Americans, continue unemployment benefits to those desperately searching for work. We are facing a tough job market and we have to pass these measures. We have to pass a clean tax cut for millions of working middle class families, and we have to continue jobless benefits in order to help millions of out-of-work Americans looking for a job.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOOZMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

KEYSTONE XL PIPELINE

Mr. BOOZMAN. Mr. President, when President Obama was sworn into office, the Nation’s average price for a gallon of gasoline was $4.20. We know that is not the case today. In most parts of the country, gas remains well over $3 a gallon. In my home State of
Arkansas, the price of gas ranges anywhere from just under $3 to $3.50 a gallon. The reason it stayed at a steady price is because there is a decreased demand because of the poor economy.

Business owners will tell you that when the price of gas hits $3.50 a gallon, it truly does affect how decisions are made. When it hits the $4 mark, things start to shut down in terms of the economy because the average person's disposable income is going to the gas pump instead of local businesses.

Our country at this time lacks an energy policy. We are also faced with a jobs crisis of enormous magnitude. And our President is standing in the way of one project that can help address both of these problems: the Keystone XL Pipeline.

The proposed 1,700-mile pipeline would transport 700,000 barrels of oil per day from Canada to U.S. refineries in the Gulf coast. Canada's oil sands are among the largest oil reserves in the world, and for oil consumers and Canada increases production, the addition of the Keystone Pipeline will ensure that Americans benefit from reliable and secure oil from our largest trading partner and trusted ally.

The pipeline cost will be paid by the Keystone consortium and will fund nearly $1/2 billion in salaries.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

WITHDRAWAL FROM IRAQ

Mr. MCCAIN. Today the President of the United States traveled to Ft. Bragg, NC, to mark the end of the war in Iraq and to pay tribute to the more than 12.5 million men and women of all branches of the Armed Forces who have fought there since 2003. Those Americans deserve all of the praise and recognition they receive, for they have given up their comfort and safety. They have given up less demanding and more lucrative jobs. They have given parts of their bodies and cherished parts of their lives.

They have given the quiet little sacrifices that often go unmentioned but often hurt the most: the anniversaries spent alone, the first steps not seen, and the first words not heard. They have given all of that, and always they are prepared to give more. They deserve to be honored by us all. I know the President's words of praise and appreciation for our troops today were sincere and heartfelt. I have every reason to believe he will do all in his power to keep his promises to take care of our troops and their families at home and to never forget how those noble Americans have done far more than their share of the burden for the betterment of our Nation.

The President is a patriot and a good American, and I know his heart swells with the same pride and sense of awe all of us feel when we are in the presence of our men and women in uniform. These are humbling feelings, feelings of wonderment and gratitude, and they unite all Americans whether they supported the war in Iraq or not.

But let me point out a fact the President did not acknowledge today, which is this: Our men and women in uniform have been able to come home from Iraq by the tens of thousands over the past 3 years, and not just come home but come home with honor having succeeded in their mission for the simple reason that the surge worked.

All of this is possible because in 2007, with the war nearly lost, we changed strategy, changed the terrain in the field, and sent more troops. This policy was vehemently opposed at the time by then-Senator Obama and now President of the United States and his senior leaders right here on the floor of this Senate.

On January 10, 2007, the day the surge strategy was announced, then-Senator Obama said:

I am not persuaded that 20,000 additional troops in Iraq is going to solve the sectarian violence there. In fact, I think it will do the reverse.

On November 15, 2007, when it was clear to GEN David Petraeus and Ambassador Ryan Crocker and many of us that the surge was working, then-Senator Obama said:

The overall strategy is failed because we have not seen any change in behavior among Iraq's political leaders.

Finally, on January 28, 2008, when it was undeniable the surge was succeeding, he had this to say:

The surge in Iraq is working, when we know that's just not true.

At the time the President's preferred alternative was to begin an immediate withdrawal and have all U.S. troops out of Iraq by the end of 2009. I will let future historians be the judge of that proposed policy. All I will say is that for 3 years, the President has been harvesting the successes of the very strategy he consistently dismissed as a failure. I imagine this irony was not lost on a few of our troops at Fort Bragg today, most of whom deployed and fought as part of the surge.

The fact is, the President has consistently called for a complete withdrawal of all U.S. troops from Iraq at the earliest possible date, and he has never deviated from this position as President. Indeed, he always reaffirmed his campaign promise to end the war in Iraq and withdrawal of our troops. So perhaps it should not have come as a surprise when the President announced in October that he was ending negotiations with the Iraqi Government over whether to maintain a small number of U.S. troops in Iraq beyond this year to continue assisting Iraqi security forces.

I continue to believe this decision represents a failure of leadership, both Iraqi and American; that it was a sad case of political expediency triumphing over military necessity, both in Baghdad and in Washington; and that it will have disastrous negative consequences for Iraq's stability and our national security interests.

I sincerely hope I am wrong, but I fear that GEN Jack Keane, who is one of the main architects of the surge, was correct again when he said recently:

We won the war in Iraq, and we are now losing the peace.
Let me be clear. Like all Americans, I too am eager to bring our troops home. I do not want them to remain in Iraq or anywhere else for a day longer than necessary. But I also agree with our military commanders in Iraq who were nearly unanimous in their belief that U.S. forces, approximately 20,000, should remain for a period of time to help the Iraqis secure the hard-gained gains that we had made together.

All of our top commanders in Iraq, by the way, chosen by the President of the United States—all of our top commanders in Iraq—General Petraeus, General Odierno, General Austin, all of them believed we needed to maintain a presence of U.S. troops there, and they consistently made that clear to many of us during our repeated visits to Iraq.

On February 3, the commander of U.S. forces in Iraq, GEN Lloyd Austin, and U.S. Ambassador to Iraq Jim Jeffry testified to the Committee on Armed Services. For all of them, progress the Iraqi security forces had made in recent years—and it has been substantial—they still have critical gaps in their capabilities that will endure beyond this year. Those shortcomings included enabling functions for counterterrorism operations, the collection and fusion, training and sustainment of the force.

Our commanders wanted U.S. troops to remain beyond this year to continue assisting Iraqi forces in filling these gaps in their capabilities. Indeed, Iraqi commanders believed the exact same thing. In August, the chief of staff of Iraq’s armed forces could not have been any clearer. He said:

The problem will start after 2011. The politicians must find other ways to fill the void...

I say again, perhaps this outcome should not have been a surprise. It is what the President has consistently promised to do, and that decision makes good political sense for this President. But such decisions should not be determined by domestic politics. The brave Americans who have fought so valiantly and have given so much did so not for political reasons but for the safety and security of their fellow citizens, for their friends, for their families, for their children’s future, and for us.

This is a decisive moment in the history of America’s relationship with our friends and the future of the broader Middle East. This is a moment when the substantial influence we have long enjoyed in that part of the world could be receding—in fact, it is receding. We cannot allow that to be our Nation’s future. We must continue to lead. We must not let short-term political gains dictate our longer term goals. We need to continue working to shape a freer, more just, and more secure future for both Iraq and for people across the Middle East, for it is in our own national security interest to do so.

Over 4,000 brave, young Americans gave their lives in this conflict. I hope and I pray—regardless of these decisions made in large part for political reasons—that their sacrifice was not in vain. I hope their families will not mourn the day their sons and daughters went out to fight for freedom for the Iraqi people.

Unfortunately, it is clear that this decision of a complete pullout of U.S. troops from Iraq was dictated by politics and not our national security interests. I believe history will judge this President’s leadership with the scorn and disdain it deserves.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BLUNT. Mr. President, I ask unanimous consent that the order for the question call be rescinded.

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

KEYSTONE XL PROJECT

Mr. BLUNT. Mr. President, the House yesterday passed a bill that included an effort to move forward on the Keystone XL Pipeline project, and I wish to talk about that project for a while today and American energy generally.

The construction of the Keystone XL creation needs to be the No. 1 priority in Washington. One of the best ways to jump-start job creation is simply

through good energy projects. The shortest path to more American jobs is more American energy.

Unfortunately, the President and the administration have delayed one of the largest domestic, shovel-ready projects until after the election next year. This is a project that is ready to go. The States this project would go through have cleared the way for the project. There is no government money involved. This just takes a government OK, saying: Yes, it is all right to create these jobs and that occurs because of the short-term impact of creating the jobs that are created to build the pipeline but the long-term impact of all the economic activity that occurs because of this new North American energy to which we would have access. In delaying this program, the President is simply stalling the creation of thousands of jobs and postponing not only the growth in our economy but also a move toward more energy security.

Now, a few years ago, I don’t think one could say with a straight face that we need to do everything we can to create something that closely resembles energy independence. We are in a situation now with North American energy in places where, frankly, they don’t like us. The numbers on the Keystone XL project speak for themselves. This project would create 20,000 direct jobs during the construction phase. 20,000 jobs. That is why the labor unions in the company supports this project. Twenty thousand jobs to build the pipeline. It would generate $20.9 billion in new private sector spending. It would create around $5 billion in new State, local, and Federal revenue when this project is being built and when this project is completed. Nationwidely, the project would benefit 1,400 American job creators. The Keystone XL project would also help reinforce America’s energy security by diversifying our dependency on other parts of the world. With Canada, our largest trading partner, it is a miracle relationship, this large border that we don’t worry very much about, all the back-and-forth economic activity that occurs. In fact, for every $1 we would send to Canada for that energy, they would send 91 cents back. So this is $1 we are spending to get 91 cents back, to be more of an energy partner with our closest neighbor—we have cleared the border with Canada than we do with Mexico—to be an energy partner with our closest neighbor rather than to worry about energy in places where, frankly, they don’t like us very well. If they do like us, they don’t get the money back to us in the same way.

In fact, by comparison, of the 91 cents we would get back for every $1 we send to Canada for North American energy coming out of Canada, we get 49 cents back from Saudi Arabia. That doesn’t mean Saudi Arabia is a bad trading partner. It just means they are not as good a trading partner as the Canadians are. We get 33 cents back from Venezuela. So why would we want to send $1 to Venezuela or $1 to Saudi Arabia for energy if we could send $1 to Canada and almost all of that $1 comes right back to us?

Domestically, this project would help encourage the development of the Bakken formation in the Upper Great Plains. The Bakken formation—which I didn’t know about 15 years ago and I don’t know that anybody did—is thought to be the greatest new energy development since Prudhoe Bay in the 1970s. Another day that North Dakota has become the fourth or fifth energy-producing State in the country, passing Oklahoma. This is a great resource right at the incoming border of where this new pipeline and all this energy activity would be.

Regardless of the White House’s decision to delay this project, the Canadian oil sands will be developed. It is not a question of whether there is going to be a market; it is who gets the market. Unfortunately, the President has told them they should: If we don’t build a pipeline through the United States to the refineries in the Southern part of the United States, we are going to build that same pipeline in another direction. Then, the pipeline will go to the Pacific coast and then the energy goes to Asia.

Why would we want energy going to Asia from a trading partner where we get 91 cents back rather than energy going somewhere else? Why would we want to buy more energy from the Middle East and less energy than we could buy from our neighbor? Why would we think for a minute that the energy security of the country would be better served in any other way than this one?

So this is going to most likely go to Asia. If it doesn’t go to Asia, I guess it can go to the Atlantic coast and go to Europe. But what everybody believes is, if it doesn’t come here, they just turn it to the west instead of the south, and those oil sands, that great energy resource goes somewhere else rather than where it makes more sense for us to get it or more sense for them to send it.

This is as close to an energy no-brainer as I can think of. But the majority leader says this project is dead on arrival in the Senate. I don’t believe he meant just dead on arrival if it was part of a package that extended the payroll tax. I think the quote was: “It is dead and it is not going to go anywhere in the coming year, at a time when we need those jobs. Eventually, we all know as quickly as we can get it, we need to be more dependent on North American energy and less dependent on energy everywhere else.”

There have been many reports that say the administration’s timing is in consideration for the reelection effort. This appears to be about one American job instead of more American jobs, and we need to be concerned about more American jobs.

Some reports have noted that the President’s advisers “fear that a decision in favor of the project could dampen enthusiasm among volunteers needed for door-to-door campaigning in battleground States.” I thought that bus went to battleground States. That should be enough to get to battleground States. We shouldn’t have to worry about not having these volunteers because we choose to do what makes sense for us in the energy situation.

Others have noted that “the President decided to punt on this project in order to placate parts of the coalition that elected him in 2008.” Americans are looking for jobs, not more of the same from Washington. This isn’t time for politics. We need to jump-start the private sector economy. Again, I will say, the quickest road to more American jobs is more American energies.

For the better part of 60 years, we have used more energy than we could produce. The marketplace is there. The consumer is there. How do we connect that consumer with the energy needs they have?

According to a Gallup poll, the sharp decline in the workforce last month may have more of a reflection on the large number of Americans deciding to give up looking for work. Let’s do things that energize the economy and energize the American workforce.

I am glad to be a sponsor of the North American Energy Security Act. The House again pursued this week a similar policy as part of their effort to vote on a payroll tax extension, with this as an effort to create new jobs. Whether it is the Keystone Pipeline or the Utility MACT rule that slows down people’s decisions to make a job-creating decision or other EPA rules and permitting rules that make people think twice and three times and eventually enough times you don’t do it about job creation or what we need to do to get to the oil and gas shale reserves of the country or oil in the Gulf of Mexico, let’s do what is necessary for North America. Let’s make North American energy work for America. I don’t know a better way to do that at less government cost or less government involvement than the Keystone Pipeline.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PAYROLL TAX CUT

Mr. COONS. Mr. President, I rise to share a feeling that many in my home
State have expressed to me. I rise to share my frustration.

It is not just the frustration you may feel, as I have felt presiding over this body, when for hours at a time it is empty, when there is such precious and important work that we can and should be doing to get the people of this great country back to work, to strengthen our national security, to lay the groundwork for a strong recovery, to deal with the hundreds of issues this body should be dealing with. I am expressing my frustration at our inability to work together and to make real progress.

Today, I have had the blessing of being visited by a number of Delawareans for lunch, for business visits, for just some constituent catchup. As I do almost every day, I commuted down from Delaware this morning. As I have heard from folks on the train, as I have heard from folks in my office, as I have heard from folks who have written and called my offices in Delaware and in Washington, they are frustrated and they are frustrated. They don’t understand why we can’t move forward.

To paraphrase the good Senator from Missouri who just spoke, there is no brain trust of us, and it is the extension of the payroll tax cut. It is something that at least apparently has the support of both parties in both Houses. It is something a number of economists have said is an important component to the modest but steady economic growth that is helping pull America out of this terrible great recession.

So I ask: Why is it we sit here stalled, unclear on when we can proceed to a vote, to a consideration of a clean payroll tax cut? There have been a whole series of efforts to get us to the floor for a vote to an extension of the payroll tax cut. This is a simple enough matter.

Working Americans all over this country—I believe 160 million of them—will be hit with an increase in their payroll tax rate at the end of this month, just a few days now away, unless we act. My good friend Senator Casey of Pennsylvania has suggested several versions of a payroll tax cut that would build upon and strengthen the payroll tax cut that the President proposed and this body passed last year. The Casey compromise that has most considered and debated in this body would put up to $1,500 in the pockets of hard-working Americans all over this country and would contribute as much as 1.5 percent to GDP growth in the coming year. But in the last 2 weeks, we have seen our colleagues on the other side of the aisle four times block our efforts through filibusters and dilatory tactics to attempt to get to a payroll tax cut extension. The first Republican version was opposed by 26 Senate Republicans; the second by 25.

So on some level I have to ask, what are we doing? Since when do Republicans openly oppose tax cuts? I have been in this Senate just over 1 year. As you know, I was sworn in last November. In my freshman year, I have seen many moments when we have been unable to reach reasonable compromise, when we have been unable to move forward, and when we have flirted with the possibility of our Federal Government because we couldn’t reach an appropriate compromise with our colleagues on the other side of the aisle. Now we, once again, stand here this Wednesday, knowing that unless we can, we will shut down this government on Friday without a continuing resolution.

Last night, the House acted. They passed this payroll tax cut extension and sent it over to us, and I am puzzled as to why we are not moving to it on the floor today. I will tell you that when we get to move to it, I will vote against it, and I know many others here will as well. Why? Because H.R. 3630, which passed the House last night, is now in the payroll tax cut bill—in fact, far from it. It is loaded with a whole series of other policy riders, things that have nothing to do with the payroll tax cut extension which House leadership had to do in order to garner enough votes to pass it.

Today we should be considering this bill sent to us last night, the Speaker asking us to take it up, and it has a whole series of provisions which I suspect many here and at home don’t know about. I will briefly consider a few of them.

It undermines health care reform by punishing low- and middle-income families whose economic circumstances changed during the year. It cuts 40 weeks of unemployment benefits from the 99 weeks we would like to extend to 54 weeks. It overrides the President’s decisionmaking process on the Keystone XL Pipeline—in my view, simply to embarrass the President—and it mandates the effect to block EPA’s proposed rules on toxic air pollution from industrial boilers.

It would also freeze Federal pay and cut the House’s appropriation bills. There are so many important bills to which we must turn.

My sole question is, why, when we tried to proceed to this bill this morning, did the Republican leader object? I am just a freshman, but I represent a State that is deeply frustrated and puzzled. Since when do Republicans load up a tax cut extension with so many riders that they are afraid to even bring it to a vote on the floor of this Chamber? I am puzzled. I am frustrated.

With that, I yield the floor.

THE PRESIDING OFFICER (Mr. MERKLEY). The Senator from Wyoming.

THE KEYSTONE XL PIPELINE

Mr. BARRASSO. Mr. President, I would like to speak today in support of the Keystone XL Pipeline.

The Keystone XL Pipeline is one of the largest shovel-ready infrastructure projects in the United States. It would bring oil from North Dakota and from Canada to refineries along the Gulf coast and in the Midwest. The pipeline would strengthen America’s energy security and create tens of thousands of new jobs. These are good-paying jobs. But don’t take my word for it, just consider what representatives of organized labor have had to say.

The president of the Building and Construction Trades Department of the AFL-CIO said:

‘Any discussion of the Keystone XL project begins and ends with one word: Jobs.

He went on to say: Throughout America’s Heartland, the Keystone Pipeline represents the prospect for...
The general president of the International Brotherhood of Teamsters said:

The Keystone Pipeline project will offer working men and women a real chance to earn a good wage and support their families in this difficult economic climate.

Consider the remarks of the general president of the Laborers’ International Union of North America. He said:

... is not just a pipeline, but a lifeline for thousands of desperate working men and women.

House Democrats also recognize the importance of this Keystone XL Pipeline. This summer, 47 House Democrats voted in favor of the bill to require a decision on the pipeline by November 1. On October 19, 22 House Democrats wrote a letter to the President. This is what they told President Obama:

America... cannot afford to say no to this privately funded... jobs-creating infrastructure project.

They went on to say:

It is in our national interest to have a Presidential Permit issued for the Keystone XL Pipeline as soon as possible.

Senate Democrats also support the Keystone XL Pipeline. Senator Baucus of Montana said:

We need to put Montanans back to work and cannot afford further delays to the Keystone XL Pipeline.

Senator Tester, also from Montana, said:

The Keystone Pipeline will create Montana jobs and it should not have to wait 14 months for an up-or-down decision.

Senator Manchin of West Virginia said:

I’m for the Keystone Pipeline... all the trade unions, everyone’s for it. It creates thousands of jobs.

Senator Begich and Senator Lansing have also written in support of the pipeline.

Until recently, President Obama suggested that he too believed the pipeline to be in the interests of the United States. On April 6, the President held a townhall event in Pennsylvania. There, he received a question about Canadian oil sands production. In response, the President of the United States discussed the Keystone XL Pipeline. This is what he said:

... importing oil from countries that are stable and friendly is a good thing.

Let me repeat. The President of the United States said:

... importing oil from countries that are stable and friendly is a good thing.

However, on November 10, the President reversed course, and he showed a different side. After protests from environmentalists, the President decided to punt his decision on the pipeline until after the 2012 Presidential election.

Many in the press say the President delayed his decision so that environmental activists would turn out on election day to support him. If true, the President’s decision to delay the approval of the pipeline was not only political, it was also cynical—cynical because these environmental activists believe they can shut down Canadian oil sands production. They believe they can shut down the production by stopping construction of the Keystone XL Pipeline. It is not true, and the President knows it. But maybe the President does not want to be honest with these environmental activists. Maybe he just doesn’t want to disappoint them. He doesn’t want his political base to stay home on election day.

But don’t take it from me; consider what Austan Goolsbee had to say. Many Members of this Chamber know he is the former Chairman of the White House Council of Economic Advisers, this White House Council—President Obama’s Council of Economic Advisers. This is what he said:

It is a bit naive to think that the tar sands would not be developed if they don’t build that pipeline.

Eventually, it’s going to be built. It may go to the Pacific, it may go through Nebraska, but it is going to be built somewhere.

Again, Mr. Goolsbee was President Obama’s top economic adviser.

Why are the Canadian oil sands going to be developed? Because the oil sands are a huge national asset for Canada, and Canada will not allow that asset to be stranded.

Let’s consider the findings of the Canadian Research Institute. This is an independent, not-for-profit research entity that was established in 1975. Its mission is to provide relevant, independent, and objective economic research on energy and environmental issues.

This June, they released a report. It was entitled “Economic Impacts of Staged Development of Oil Sands Projects in Canada by 2025.” It was a 25-year future look. This report looked at a variety of scenarios, including one in which no new pipeline capacity is built. Under that scenario, the institute estimated that the total impact on Canada’s GDP would be about $2.3 trillion over those 25 years. It also estimated that the compensation for Canadian employees will reach almost $650 billion over this same period. It estimated that the direct, indirect, and induced employment in Canada will grow from 390,000 jobs to a peak of 490,000 jobs in 2020, just 9 years from now. It also estimated that the royalties to Alberta will go from approximately $3.6 billion in 2010 to a peak of $32.6 billion in 2020—in 10 years, from $3.6 billion to $32.6 billion in royalties to Alberta.

Again, the Canadian Energy Research Institute made all of these estimates assuming that no additional pipeline capacity will be built. What do these estimates mean? They mean Canada will go to market. It means the environmental activists trying to shut down oil sands production are naive at best.

It also means that the President, President Obama, is once again failing to lead, that he once again is failing to be forthright with the American people, and that he is unwilling and failing to make difficult decisions. The President is showing that he thinks his job is really the only job that matters.

Of course we all know Canada will not sit idly by. Canada will add additional pipeline capacity whether or not Keystone XL Pipeline is built.

Canada’s Prime Minister, Stephen Harper, has said that the decision to delay approval of Keystone XL Pipeline demonstrates “the necessity of making sure that we’re able to access Asian markets for our energy products.”

That is what the Canadian Prime Minister had to say. He was just in Washington last week. Alberta’s Premier, Alison Redford, said that the decision to delay approval of the pipeline “is a clear reminder about the strategic importance of diversifying our export markets.”

“...a clear reminder about the strategic importance of diversifying our export markets.” In other words, Canada has a tremendous amount of oil, and Canada will ensure that its oil is brought to market. It may go to the United States, it may go to China, it may go to another country, but Canada’s oil will be brought to market. Thus, the question for President Obama is very simple, very straightforward: Is it in America’s interests to reduce our dependence on oil from the Persian Gulf and Venezuela? Is it in America’s interest to create tens of thousands of new jobs at a time of 8.6 percent unemployment? The answer is abundantly obvious. The answer, of course, is yes, it is in America’s best interests to reduce our dependence on oil from the Persian Gulf and Venezuela. This is in America’s interest to create tens of thousands of new jobs at a time of 8.6 percent unemployment.

It is time that the President starts to say yes and stops saying no to jobs and to energy—yes to energy security, yes to tens of thousands of new good-paying jobs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. Laufenberg. Mr. President, I seek recognition in morning business. The PRESIDING OFFICER. The Senator is recognized.

PAYROLL TAX CUT

Mr. Laufenberg. Mr. President, we are at a time in the calendar that usually is a time of excellent anticipation. Christmas is coming. The holidays are coming. People are trying to
get their families in order, do the shopping, and all the things we have to do. It would seem this is a moment of fairly happy days and the holiday season is here. But these are not happy times for many Americans.

Across our country, families are fighting to keep their heads above water. Some parents do not know how they are going to put food on the table tonight, much less presents under the Christmas tree or during the Hanukkah holidays. That is why our side of the aisle is fighting to continue and expand a tax cut that has benefited millions of working families this year. This is a tax cut for people who need it—families who depend on a paycheck. With the payroll tax cut, the typical family in my State, the State of New Jersey, would receive an extra $40 a week, starting next year. That is what a typical household in the Northeast pays for gasoline or health care each week.

Mr. President, $40 a week adds up to $2,100 a year. For parents who are struggling—as many are—to make ends meet, an extra $2,100 goes a long way to help buy groceries or pay the electric bill or purchase medicines. It can help pay preschool, college or college tuition—the necessities that help ensure children succeed in life.

To make sure all working families continue receiving this much needed relief next year, we are asking America’s millionaires—people who make over $1 million a year—to pay their fair share of what the country needs to get ourselves back into reasonable balance. But the Republicans will not even allow us to vote on a bill that their co-leagues in the House approved last night.

I wish to just spend a minute here. The House passed a bill last night. It included tax relief for some and we should take it here and consider it. But the bill did not even bring up the bills that has passed in the House last night, and there is a question as to why. Why will they not let us do it? There is, obviously, a hidden meaning.

But what we see is, the Republicans are acting like Scrooges. This picture I have in the Chamber shows a mean-looking guy, as we see. That is what they want to do for Christmas.

For GOP Scrooges, this is not the season of giving; it is time to take things away. He said: No payroll tax cut for you this year.

They want to take away the tax cut for ordinary working families. The Republican Scrooges want to take away unemployment insurance benefits for 1 million workers, imagine people who are dependent on unemployment insurance at times when they are out of work, to help sustain their families, put food on the table, to try and just keep their heads above water. But that does not matter to our friends on the Republican side.

Today in America there is only one job available for every four unemployed people. This is not the time to cut unemployment benefits.

Republicans also want to weaken safeguards that keep our air clean—filling our atmosphere with poisons and endangering the health of our children. They want to weaken those safeguards.

To add insult to injury, the Republican Scrooges are also trying to ram through a massive pipeline that will carry toxic materials into our country—toxic materials. We are so conscious of what damage the toxic environment can do to our families, to our children. But they want to have a pipeline that will carry toxic materials into our country. They want to make it easier for coal-fired industrial facilities to foul the air, spew toxins into our neighborhoods.

It is hard to believe. Instead of gifts, the Republican Scrooges want lumps of coal in the stockings and coal pollution in our lungs. In many families, it is a tradition to teach children to welcome Santa Claus during the holidays. This year, we are going to tell our kids to hide away from the Republican Scrooges. We are not going to alarm our children and tell our kids to hide away. It may be even more difficult if some tax relief that is proposed for working-class families is not available to them.

The Republican priorities are different. They want to raise taxes on the middle class who work for a living—to protect luxuries for millionaires: nice boats, airplanes. I do not mind—they have made the money; it is what they buy with it—but at least carry their fair share of our financial needs in this country.

The Republican priorities say they are for lower taxes, but that only goes for the jet set. When it comes to cutting taxes for working families, the Republican mantra is: Hey, we have to take care of the wealthy. The CEOs—again, the CEOs of the largest companies are now paid an average salary of $11 million a year. Note that. The largest companies’ CEOs are now paid an average salary of $11 million a year. That is 343 times as much as the average worker’s salary of $33,000 a year. This comes in so handy. The CEOs of the largest companies have an average salary of $11 million a year, and the average worker’s salary is $33,000 a year. Where is the equity in this? When we send the people out to buy gifts on the corner, do the jobs, build the foundations, make sure the country is strong—$33,000 a year. That is tough.

Just a few decades ago, the pay gap between CEOs and workers was much more modest. The CEOs—again, the CEO, people at the top of these companies—were paid an average of 42 times as much as the average worker, as we see on this chart. The chart demonstrates that in the 1980s, the CEOs were paid 42 times the average worker’s pay. So the difference was not that obvious or that big. In 2010, CEOs made 343 times the average worker’s pay. There is no equity there.

I come from the corporate world, and I know what big salaries are. I have seen it in my own company. But the one thing you have to do is at least encourage the people who are working for you to understand that they have a chance in life to provide the things we talk—college education, the prospect of a decent job, the prospect of being able to take care of our own family.

The numbers make it clear: Our goal should not be protecting millionaires. They do not need our help. We should be focused on protecting Medicare, food safety, home heating for the poor, and Head Start for kids who have a first chance to learn—to learn—to understand education, to see how important it is to learn, to start reading before an early age, having conversations with their parents about what is going on in this world.

They want to take those children out of the Head Start facility—so many of them, 200,000: it has been proposed in some of the House budgets—take them out of the Head Start school.

But our Republican colleagues do not want to hear about that. They continue asking the poor, the middle class, the elderly, and our children to bear the entire burden of these tough times.

The Republicans now remind me of what accountants are like. They are people who are obsessed, obligated to deal with the bottom line. There is no soul, no humanity, no compassion—not around here—unless it is for the wealthy. They have compassion for themselves.

Let’s be clear: It does not hurt those of us who have been successful to pay our fair share. I remind those within my voice, who hear me, you have two wars going on. We have people paying a terrible price to serve our country’s needs—a terrible price. This is a time
for those who are fortunate enough to make above $1 million a year to say: Hey, I want to help carry this burden. I do not want to ask people who are scratching for a living—just trying to make ends meet—I do not want to ask them to do more without saying I want to do my share. I was lucky. I ran a very big company. I want to do my share. That is why I am here. That is what I am talking about. To those who make more than $1 million a year, I say: Look in the mirror. Ask yourself if you could succeed without help from anyone else or did your country help you achieve your prosperity. Was it people who built the buildings and built the infrastructure and manned the jobs all across the country—service jobs? They built the foundation upon which those who make $1 million a year build their futures, build their fortunes. That is what happens. But there is not the respect for the hard-working families that we like to see.

I ask our Republican colleagues, think about the true meaning of the holidays.

It is not Halloween, it is not trick or treat, because otherwise is what the game looks like. This time of the year is about coming together, caring about your fellow man. This should be a season of giving, not taking away the necessities from our country’s most vulnerable.

We should remember at the end of a “Christmas Carol” when Ebenezer Scrooge opened his heart and became a hero. We need the same kind of miracle here in Congress. We need the Republican scrooges to have a change of heart and work with us to help our fellow Americans this holiday season. We need them to help us continue and expand the tax cuts for working families. We need them to help us continue unemployment insurance benefits for the jobless and clean air safeguards for our children. We need them to explain to us and to your fellow Americans this holiday season. We need them to help us continue unemployment insurance benefits for the jobless and clean air safeguards for our children.

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I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

UNEMPLOYMENT INSURANCE

Mrs. MURRAY. Mr. President, there are no more important issues for middle-class families across America than jobs and the economy. This is what they want their elected officials to be focused on. It is exactly what I think we ought to be working on every single day. That is why I have come to the Senate floor again and again to urge my Republican colleagues to stop blocking our attempts to extend and expand unemployment benefits. So many of our families are counting on that. That is why I come to the floor once again today to discuss the urgent need to maintain Federal unemployment benefits for middle-class families across our country. This should be an easy issue.

Unemployment benefits provide a lifeline for millions of families, and it would be simply wrong to cut off this support while the economy continues to struggle and so many of our workers are having so much trouble finding work. Right now, there are more than four unemployed workers for every single job opening. If every opening were filled tomorrow, we would still have more than 10 million workers across the country without a job to even apply for.

Additionally, nearly half of all unemployed workers have been out of a job for 6 months or longer, which is higher than we have seen for more than 60 years.

So millions of Americans are unemployed today, not because they do not want to work and not because they do not have valuable skills but simply because the economy is not creating jobs as quickly as we need it to. Those unemployed workers are desperate to get back on the job. Unemployment benefits make all the difference for them and their families while they scour the want ads and pound the pavement and send out resume after resume after resume.

I recently sent a letter to my constituents asking for their stories about what these benefits actually mean to them and their families. The response to that was unbelievable. Within a few days, I received hundreds of e-mails. People sent me videos. They sent me pictures of their families. I received story after story from workers and families from across my home State of Washington who are fighting to make ends meet in this very tough economy and who cannot afford to have the rug pulled out from underneath them.

One of those stories came from a woman named Vicki, who lives in Maple Valley, WA. She was an unemployed single mom, lost her apartment, and told me she now has to share a room with her son in a relative’s home. Vicki told me she has made every effort—going to interviews, sending out her resume to hundreds of employers, still not able to find a job.

She understands that in this economy finding a job will not be easy, but she is going to keep trying, and the support she receives from unemployment benefits has kept her and her family afloat and made all of the difference. She said those benefits allowed her to put food on the table for her family and gas in her car so she could go to job interviews. She told me, “If I lose my unemployment benefits, I do not know what I will be able to do to provide for my son.”

She is not alone. I heard from older Americans such as Judy. She is a grandmother of five from Bothell, WA. Judy told me she had been working for 47 years before being laid off from her teaching job in 2009. She said over the last 12 years she has worked to teach adults the skills they need to move into jobs as bookkeepers and receptionists and schedulers. But in this economy, although she was an expert in her area, even she cannot find a job in those fields.

She wrote to me, saying:

I want to work, but nobody will hire older citizens no matter how much experience they have. I started looking for a job at the pay level I was at when I was laid off. But after being unemployed now for 2 years, I am even looking at jobs for less than half of that. Still I am told my experience does not match their requirements.

For Judy, unemployment benefits are not the solution. She wants a job. But they provide her with some critical support while she looks for that last job before she can retire.

I also heard from Sheila from Bellevue, WA. Like Judy, she is close to retirement, but she was laid off last year from an engineering technician job that she told me she loved and now she is desperate to get back to work. After applying for over 1000 positions, since then, she has had 4 interviews. In her e-mail to me, Sheila wrote:

I was devastated when I was laid off. I now look for work 7 days a week. I have worked hard my entire life. I do not want everything I have worked for to disappear.

She told me that is what would happen if her unemployment benefits run out now.

Finally, I received a video message from Scott in Olalla, WA. Scott told me that after working at the same company for 20 years, he was laid off in March and filed his first unemployment claim in the 30-plus years he has been in the workforce. He always thought unemployment insurance was for the other people, never thought he would be the one collecting it. Now he calls it a godsend for him and his family. In his video, Scott told me about the uncertainty his family would face if his benefits expired before he could get back on the job. If this happens, Scott said:

I cannot imagine what it would do to my family to lose our home. We spend our money wisely. We live well within our means. But if we lost our home, we would be just another statistic. The last thing I want to do is explain to my wife and my daughter what we have lost.

That is exactly what he said would happen if he loses his unemployment benefits in this tough economy.

Those are just a few of the many stories we have received. There are so many of them out there. Millions of the people across America, including about 100,000 in my home State of Washington, will stand to lose their benefits.
that they count on if Congress does not act by the end of this year, in a few short weeks. These workers are not looking for a handout. They do not want to be a burden, but they need support while they get back on their feet and back on the job and contributing to their communities once again.

I urge all of our colleagues to stand with the holidays approach, to maintain these unemployment insurance benefits that so many of our families are counting on, and to keep working to cut taxes for the middle class and get our economy moving again and put our country back on the job and contributing to their communities once again.

On that last point, before I finish, I want to join our majority leader and so many others who today called on Republicans to stop blocking their own bill and allow it to be brought up for an up-or-down vote. We know the Republican bill that passed the House yesterday is going to fail. It is bad policy, and many in their own caucus apparently do not support it. Their bill takes some of the policies we are fighting for to support the middle class, including unemployment benefits, water down, and then adds a whole bunch of tea party red meat to attract the Republican support it needed to pass the House.

I am focused on delivering the tax cuts that middle-class families need and deserve, so I will vote against the Republican bill if it is allowed to come up. But I cannot believe that our Republican colleagues are now preventing us from taking a vote on their own bill and thus not allowing us to come together, which we need to do in these last few days before the holidays, to get a bipartisan deal and get it to the American people. They expect us to do this job. That is what is holding us up.

I urge our colleagues to sit down, work out an agreement, so that we can all celebrate the holidays with our families, and the families out there who are counting on us will know we have done the job for them.

I yield the floor, and I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.
to be made 60 days from its enactment. So we could accelerate at least the period in which this decision could be made.

Why is that important? Because this project is going to go on one way or the other. If it is not built in this country, it will be shipped somewhere else around the world—perhaps China or another country—and the American workers and the American economy will suffer, and the American need that we have for energy will not be met. We are not short of energy in this country, but we are short of用的 environmental agencies in this country, the people who look at this project, the only one who have said this project is ready to go. We have labor organizations that are waiting and are saying this is important to getting people back to work. We have Democrats in Congress who have said this is important to them. In fact, there was a vote on this language in a freestanding bill in the House recently. There were 47 Democrats who came out in support of the Keystone XL Pipeline legislation. So we have 47 Democrats on record.

Mr. CONRAD. Madam President, I have some sympathy for the position I hear the Senator enunciating—that the issue of the pipeline ought not to be the thing that prevents us from moving forward. I personally think the pipeline is absolutely in America's interest. It will help us reduce our dependence on foreign energy—at least foreign sources that are hostile to our interests.

The big question is—at least for this Senator—would the language permit a rerouting of the line within the State of Nebraska so that the question of the Ogallala aquifer would not be addressed? Is it the Senator's understanding that the language that has come to us from the House would permit Nebraska to reroute the line to avoid the aquifer?

Mr. THUNE. Madam President, through the Chair, I would say to my colleague from North Dakota that my understanding is the legislation does permit that to happen, and that is why I believe the State of Nebraska, including the Governor and our colleagues here in the Senate from Nebraska, have now come out in support of this. It had been a matter of concern to some about the Ogallala aquifer. My understanding is the legislation allows for that issue to be addressed. And I have a statement here from the Governor of Nebraska expressing his support for this legislation. So it does strike me that at least should not be an issue that in any way deters consideration of this pipeline and that we shouldn't have to wait 18 months.

I am saying to my colleague from North Dakota—and I think he recognizes the value of this, as he is from North Dakota, and obviously his is a State that could be favorably impacted by the economic activity resulting from this pipeline—that if we don't do this, somebody else is going to benefit from it. This isn't going to wait around. There are vast oil sands reserves up in Canada, and they are looking for a place where they can get this to a refinery and get it refined. If the United States doesn't move forward, some other country is going to benefit from it. Mr. CONRAD. If I could just say to my colleague, Canada is going to develop this resource. This oil is going to be made 60 days from its enactment. So we could accelerate at least the period in which this decision could be made.

Why is that important? Because this project is going to go on one way or the other. If it is not built in this country, it will be shipped somewhere else around the world—perhaps China or another country—and the American workers and the American economy will suffer, and the American need that we have for energy will not be met. We are not short of energy in this country, but we are short of...
other country benefiting and our economy is even more dependent on foreign sources of energy.

So, Madam President, again, I don’t know what to say. This is a no-brainer, and so I hope the Senate will find its way before the Christmas holiday to enact this legislation that has been put forward that would enable this project to be decided. It doesn’t prescribe one way or the other what the President does; it just says the President either has to approve it or give a reason why it is not in the national interest.

I see the other Senator from North Dakota, Mr. Hoeven, is here as well. He has been a leader and involved in getting this legislation introduced. I think both my colleagues for recognizing its importance, and I hope we can move legislation that will get this project decided one way or the other.

In my view, an affirmative decision would be preferable and would allow us to move forward. Madam President, with that, I yield the floor.

THE PRESIDING OFFICER. The Senator from North Dakota.

ECONOMIC POLICY

Mr. CONRAD. Madam President, I wanted to come to the floor to discuss the question of extending the payroll tax cut and unemployment insurance, dealing with compensation for doctors who treat Medicare patients, and also addressing the question of the alternative minimum tax and, of course, the other tax extenders as well.

This is a key moment for the country. As I expressed earlier—as Senator Thune was addressing the body—I personally do not believe the Keystone Pipeline should hold us back. This is something upon which I think we could get broad agreement, especially if the language is as the Senator has represented and as Senator Hoeven has assured me—that it permits the State of Nebraska to reroute that line so that the Ogallala aquifer is not in danger. In my judgment, it is entirely in the national interest to get the Keystone Pipeline advanced. So that should not be the issue that hangs us up.

As we look at things that are holding back the economy, unemployment remains far too high, the housing crisis continues, consumer confidence and demand interest rate is at the heart of our ongoing economic weakness. Personal debt is still near record levels. We have tightened borrowing standards for businesses and consumers. I hear very often that even good businesses with good track records at paying back loans can’t secure the credit they need to expand. And we have State and local budget cuts that are continuing.

As we look at the private sector jobs picture, there is good news because we have now had many months of expansion of private sector payrolls. In fact, if we go back to 2010, in March of the year, ever since then we have seen private sector payrolls increasing to the tune of millions of jobs. So there is progress being made.

When we look at the reason there has been progress, I believe two of the most significant things the country gave us a background to understand why we are seeing this progress after one of the greatest financial debacles in our country’s history. Alan Greenspan, the former Chairman of the Federal Reserve, and Mark Zandi, who was an economic adviser to the McCain campaign, did an analysis of the Federal Government’s response to the financial crisis and the recession. Here is what they found, and they were speaking of TARP and the stimulus:

We find that its effects on real GDP, jobs, and inflation are huge, and probably averted what could have been called Great Depression 2.0. When you add up the financial and fiscal policies, we have seen moderate tax cuts, spending increases, but mostly they combine those in a way so that they said would dramatically expand job opportunities in this country and strengthen the economy. But we know what happened.

At the end of World War II, the financial and fiscal policies will have cost taxpayers a substantial sum, but not nearly as far as much as if policymakers had not acted at all. If the comprehensive policy responses saved the economy from another depression, as we estimate, they were worth their cost.

Madam President, we have a debate going on in this country about economic policy, and our friends on the other side believe that they have the answer, that they have the prescription. I thought there would just be those who might be listening that it was their policy and their prescription that led this country to the brink of economic collapse. They controlled the economic policy of this country for 8 years, and they put in place a series of policies that they said would dramatically expand job opportunities in this country and strengthen the economy. But we know what happened.

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Mr. CONRAD. Madam President, I ask unanimous consent for an additional 3 minutes.

Mr. CONRAD. I thank the Chair and I thank my colleagues. This is what JP Morgan Chase has said on expiring payroll tax cut and emergency unemployment benefits:

For 2012, the more important issue is what happens to expiring stimulus measures... Together, (the payroll tax cut and the emergency unemployment benefits) have lifted household disposable income by about $150 billion this year. If they expire as scheduled, consubstantially next year would be challenged... In our baseline view, the drop in tightening fiscal policy (including expiration of the payroll tax cut and emergency unemployment benefits) could subtract 1.5%-2.0% from GDP growth next year. Since GDP growth is only forecast at 2.5 to 3 percent, a reduction of 1.5 to 2 percent would be a dramatic reduction.

This is what Dr. Zandi, the chief economist of Moody's Analytics, said: If policymakers do nothing here, if Congress and the administration just sit on their hands and they do nothing, the odds are very high that we will recession early next year... We've had a payroll tax holiday, all of us... We'd be in recession right now without it... If they don't [extend] that, at the very minimum, we'll likely go into recession.

I hope very much that colleagues are listening. I hope very much that we are able to proceed to address this matter of extending the payroll tax cut and of extending unemployment insurance.

Mr. HOEVEN. I wish to begin by thanking my esteemed colleague from the great State of North Dakota. I appreciate very much his support for this important project as he has again expressed. This is something we worked on for a very long time. It is something we worked quite a bit of background and experience with, energy production and the infrastructure needs that go with it. Again, I express my appreciation to Senator Conrad for his support of the project, and also for expressing, and I think doing so in very eloquent terms and in terms that are very much appreciated, that he feels this is something that needs to advance; that he feels as we work forward in terms of determining how to handle the payroll tax cut holiday issue, this is something that can be helpful and constructive.

I am here to speak in support of the Keystone project. You might say, Why? Why is it important that we move forward with this project? Well, first and foremost, because it is a tremendous job creator, but also because it reduces our dependence on foreign sources of oil as well as improving environmental stewardship. I want to take a minute to talk about all three aspects of the legislation.

Together with my colleagues, I put forward the North American Energy Security Act of 2011. Essentially, that legislation clears the path to move forward with the Keystone XL Pipeline project.

For those who may not be familiar with the Keystone XL Pipeline, I brought this chart that actually shows the route it travels. It is a 1,700-mile-long pipeline which runs from Alberta, Canada, down to our refineries in the Gulf Coast region. As you can see, it is this blue line laid out on the chart. Right next to it we have this red line. This is the Keystone Pipeline. I will take a minute to talk about that, because I think it is important in the context of what we are trying to do with Keystone XL.

Prior to being elected to the Senate, I served the State of North Dakota for 10 years as Governor. At that time, we worked with many companies to develop pipeline infrastructure in North Dakota as we produced more and more oil for this Nation, but we also worked with our neighbors from the North who provide oil to our refineries here. That is in fact 2.2 million barrels a day, to move that product safely into our country.

The Keystone Pipeline, built by TransCanada, as you can see, tracks from Alberta, Canada, all the way down to Patoka, Illinois. So it is similar in that it brings Canadian crude into our refineries here in the United States, which is refined and reduces our dependence on other sources of oil. About 590,000 barrels a day flow through the Keystone Pipeline right now. So when we talk about the Keystone XL project, we are not talking about something which hasn't been done before. In fact, we just got done permitting this pipeline, which is almost identical, bringing oil from roughly the same place in Canada down to the refineries in the United States. That has already been approved by EPA and the Department of State. It went through the requisite NEPA and study processes, it went through the proper processes with the Department of State, and it has been approved, 590,000 barrels a day coming into our country to reduce our dependence on oil from places such as the Middle East and Venezuela right now.

So when we talk about Keystone XL, we are not talking about doing anything we haven't already done.

This pipeline—which would run a little bit to the west—again roughly starts up about the same place, Alberta, Canada, comes down further than the existing Keystone Pipeline down to our refineries. It is important to know that this isn't just about moving crude oil from Canada to the United States. This is also about moving oil within the United States.

In this part of our country, in North Dakota and in Montana, we are producing a tremendous amount of oil. My home State of North Dakota today is closing in on oil production of 500,000 barrels of oil a day. We will put 100,000 barrels a day of new production online each and every day. We are demonstrating at this hour. We are demonstrating that we are worthy of their trust. We are demonstrating that we are working in this country, one who was an adviser to the great State of North Dakota today is closing in on oil production of 500,000 barrels of oil a day. We will put 100,000 barrels a day of new production online each and every day. We are demonstrating at this hour. We are demonstrating that we are worthy of their trust. We are demonstrating that we are working in this country, one who was an adviser to the great State of North Dakota as we produced more and more oil for this Nation, but we also worked with our neighbors from the North who provide oil to our refineries here. That is in fact 2.2 million barrels a day, to move that product safely into our country.

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Again I go back to the point of my being here today, talking about this legislation, which is solutions-oriented legislation, problem-solving legislation. What it does is it creates jobs, it reduces our dependence on Middle East oil, and provides better environmental stewardship. So when I say it is solutions oriented, what do I mean by that? The issue, as I think most people who follow this issue will recall, the concern or the problem was in the Sandhills region of western Nebraska. Concern had been expressed about going through the Sandhills of Nebraska. That is an area where we have the Ogallala aquifer, and there was concern there that there might be an issue there should be any kind of breach in the pipeline. So that was the issue.

However, the State of Nebraska recently had a special session. In that special session, they have made that decision. That eliminates the problem. Now we don’t have an issue anymore in the Sandhills area of Nebraska.

The legislation we have written and that has now been incorporated into the House bill takes that very solution and incorporates it into the legislation. It says the Nebraska Department of Environmental Quality can work with EPA and the State Department to route the project in Nebraska so there is no longer an issue. We solve the problem. It is problem-solving legislation.

We say as to the entire project that the administration, with State, the EPA, and so forth, has to make a decision on whether to approve the project within 60 days. Is it in our national interest to make this decision within 60 days so the project can get started and we can start creating those construction jobs. But as to Nebraska, they are not bound by the 60 days. They have the time they need to incorporate the resolution from the State’s special session.

All we are saying is this project has been studied for 3 years. It has been studied for 3 years already. It has gone through the full EIS. State was ready to make a decision. It got held up because of Nebraska, and we specifically addressed that problem. Now it is time to go forward. That is why this is problem-solving legislation.

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Again, the whole focus of the legislation—I authored the bill. The whole focus in writing this bill was to say: How do we solve the problem? How do we deal with the concerns? How do we make sure we are being fair to people but that we move forward with real job creation, with producing more energy to increase our energy independence with our good friend and neighbor, our strongest ally—Canada? How do we continue to do more in terms of private investment, deploying technologies, creating better environmental stewardship? It is about problem-solving legislation.

We can see we have not only the U.S. Chamber of Commerce now supporting this legislation, because they want to see job creation, but we have all the large building and trade unions supporting it as well—AFL–CIO, International Brotherhood of Teamsters, International Brotherhood of Electrical Workers, National Electrical Contractors Association, United Brotherhood of Electrical Workers, International Union of North America, United Association, International Union of Operating Engineers. It is America’s workers who are clamoring for the expedited approval of this important project, so we don’t have to wait. Mark Ayers, president, Building & Construction Trades Department, AFL–CIO:
BALANCED BUDGET AMENDMENT

Mr. KIRK. Mr. President, too often we have set-piece speeches in the Senate without any resort to the traditional debate, where two sides are equally dividing time without a set script on a critical issue before our country, and I think to restart the true Senate tradition of debate with a debate with my colleague from Delaware, I will yield to him right now.

Mr. COONS. I am grateful for the Senator inviting me to join him in a real debate on the floor on an issue about which we disagree and about which we cast opposing votes earlier today. It is an issue of real import to our country. It is something that has been debated in the past and will be in the future but essentially whether we should have a balanced budget amendment.

Mr. KIRK. What I would like to do now, in sort of a chess clock style, is take 10 minutes, with unanimous consent, to be equally divided between me and the Senator from Delaware on the subject of the balanced budget amendment.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered. For 10 minutes, the Senator from Illinois and the Senator from Delaware may engage in a colloquy. The Parliamentarian will keep track of the time of each, to the best of our capability.

Mr. KIRK. Mr. President, the United States needs to adopt a balanced budget amendment to the Constitution. It was a good idea when Thomas Jefferson backed it and it is an even more important idea today. What we are seeing in Europe is a collapse of government finance because they have spent too much, taxed too much, and borrowed too much. Not only do they have a crisis of their government debt, but they have higher taxes and lower economic performance because of that philosophy.

We cannot repeat that mistake. That is why the Senate should have adopted a balanced budget amendment. I will speak in bipartisan fashion—any of the balanced budget amendments we considered today would have been better, rather than to subject our country to a rising tide of debt and an economic model which is already, we are seeing, falling in Europe.

Mr. COONS. I could not agree more that we need to be responsible; that the United States and this Senate need to face our serious and crippling national deficits and debt.

It was a good idea when Thomas Jefferson recognized that a balanced budget amendment was a bad idea. Thomas Jefferson actually, several years later, after supporting a balanced budget amendment, acted as President in ways that demonstrated he understood that real opportunities required extraordinary capabilities by the Federal Government.

I was a county executive. Others in this Chamber who were mayors or Governors lived with balanced budget requirements and it imposed great restrictions on us. It forced us to make tough decisions on annual timelines, so I understand why it is tempting to consider passing one of the balanced budget amendments that were before this chamber.

But there is a difference between the Federal Government and the State and local governments. Thomas Jefferson acted decisively to make the Louisiana Purchase possible and to finance the war of 1812. In a current economic downturn, if the Federal Government had not been able to borrow and invest in restoring growth to this country, we would not have had a great recession, we would have had a second depression, I am convinced of it, and it is one of the reasons I think, had the balanced budget amendment been in place, we would have been in even greater trouble than we have been over the last few years.

Mr. KIRK. What we see now, today, though, is that we are awash in $15 trillion in debt and that since the creation of the triple A credit rating by Standard & Poor's, the United States has now lost that rating.

When most Americans are born today, they already owe the Federal Government $40,000. So they will have a lower income and a higher tax burden throughout their working lives because of the debts put on them.

The biggest reason for a balanced budget amendment, though, is we have a structural inability to represent young Americans. They cannot vote until they are age 18. Yet the representatives of their parents can transfer tremendous burdens onto that young generation of Americans.

The essence of the American dream is that our children's lives will be better than our own. But given the weight of the debt we are now transferring onto the Federal Government and the State and Federal Government and the State and local governments, this young generation is in danger if we become indebted to China and other countries in ways that no previous generation of Americans have done.

This country has regularly amended the Constitution to fix inequities in our society, and the growing inequity we see today is debt and deficits, especially to other countries. Therefore, we should amend the Constitution to protect those who cannot yet vote from an economic fate that would otherwise befall them.

Mr. COONS. Mr. President, as the good Senator from Illinois suggests, we are, indeed, encumbering future generations with a debt that has risen above $40,000 per American. This is a central challenge of our time, one in which our national security leadership has cited as critical to ensuring our security and our liberty going forward. How do we, as a country, fix a budget amendment that was advanced through S.J. Res. 10 earlier today would compel immediate, and substantial reductions in the size of the national debt and that since the creation of the triple A credit rating by Standard & Poor’s, the United States has now lost that rating.

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Mr. KIRK. The job of each generation is to make sure the Constitution deals with critical problems facing the country, so we amended the Constitution so we could prohibit slavery. We amended the Constitution so we could grant women the right to vote. We should amend the Constitution to prevent one generation from encumbering the next generation.

America is the greatest experiment in self-government and, more importantly, the underlying principle of human dignity and freedom. Yet that is in danger if we become indebted to China and other countries in ways that no previous generation of Americans have done.

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Mr. COONS. Mr. President, how much time remains?

The PRESIDING OFFICER. On the Senator's side, 2 minutes 20 seconds; on the side of the Senator from Illinois, 1 minute 16 seconds.

Mr. COONS. Mr. President, as the good Senator from Illinois suggests, we are, indeed, encumbering future generations with a debt that has risen above $40,000 per American. This is a central challenge of our time, one in which our national security leadership has cited as critical to ensuring our security and our liberty going forward. How do we, as a country, fix a budget amendment that was advanced through S.J. Res. 10 earlier today would compel immediate, and substantial reductions in the size of the national debt and that since the creation of the triple A credit rating by Standard & Poor’s, the United States has now lost that rating.

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have not just a short-term, very negative impact on our current economy but a significant restructuring of the longstanding relationships between individual citizens and generations.

Yes, leaving a legacy of debt to the next generation is a terrible thing for us to load on the current system of the Constitution and the flag leaf of a constitutional amendment to avoid doing our responsibility—a job which the Senate is fully capable of doing—avoids that responsibility to the next generation.

I close with this question: As we say in the law, if there is a right, what is the remedy? If we were to pass this constitutional amendment, how would it be enforced if the Senate in the future were to fail to balance the budget? Would lifetime Federal judges around the country be imposing choices in terms of budget cuts, spending cuts, revenue changes? I think that would be no better—in fact, far worse—than the Senate writing its own job.

Today I voted against this balanced budget amendment because I think we have it within our power to show self-control and to secure the future for the next generation of Americans.

Mr. President, I call by saying the Senator and I agree. I think the Simpson-Bowles plan is the right way to go, and my hope is that we will go together on a bipartisan basis to reduce expected Federal borrowing by $4 trillion over the next 10 years, to take action on that bipartisan Presidential commission. But, unfortunately, the Simpson-Bowles plan is gathering dust. The supercommittee that was given procedural powers to possibly put that forward also collapsed. We have not been able to do our job, and we are now encumbering the next generation with even greater amounts of debt—historic amounts.

I think the Founding Fathers did not contemplate the ability to borrow as much as these other countries as we now have, and with the United States as the center of freedom and democracy around the world there is a lot riding on the credit of the United States.

My colleague from Delaware talks about a very vital future—especially for people like my own mother—of Social Security and Medicare, but I think she understands that a bankrupt country cannot support Social Security and Medicare. We have to defend the credit of the United States, and therefore I think a balanced budget amendment is essential to the long-term future of the United States.

With that, I thank my colleague.

Mr. President, we have just finished. I hope we do return to a tradition of actual debate, and I thank my colleague for the chance to carry out this debate.

Mr. COONS. I thank the Senator. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Louisiana.

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

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

TRIBUTE TO MAJOR GENERAL BENNY LANDRENAU

Ms. LANDRIEU. Mr. President, while we have a bit of quiet time on the Senate floor this evening, I thought I would make brief remarks about the extraordinary career of MG Benny Landreneau. General Landreneau recently retired as the most senior Adjudant General in the Nation, with nearly 14 years of service as head of the Louisiana National Guard, serving under three Governors, and nearly four decades of service to the State of Louisiana and our Nation.

Over many years, I have had the joy and pleasure of calling General Landreneau a friend and a colleague and I have worked closely with him and the 11,000 members of our Louisiana National Guard. Through the September 11 attacks on our country through Hurricane Katrina, Rita, Gustaf, and Ike and the recent BP oil spill—one of the largest environmental disasters in our Nation’s history—General Landreneau has proven his leadership to the people of Louisiana and our Nation time and time again.

Benny, as he is known by his friends, credits his father with inspiring him to serve in the National Guard. His father Joseph Audley Landreneau was a World War II veteran and engineering soldier and a combat veteran. Benny, who grew up in Vidrine, LA, chose to follow in his father’s footsteps and quickly rose through the ranks in the Louisiana National Guard. Through the September 11 attacks on our country: the Louisiana National Guard has performed in such an outstanding matter in accepting these new challenges of being a force and responding to the wars in Afghanistan and Iraq and deploying throughout the world when called on and, at the same time, being able to take up the work of their State emergencies.

Which have been too numerous to count—and being able to respond to the citizens of this State in an outstanding fashion.

This is due in part, I say, to his leadership and vision.

General Landreneau has also been instrumental in implementing one of the most phenomenal programs in our country: the Louisiana National Guard Youth ChalleNGe Program. It is part of the National Youth ChalleNGe Program. This is what I mean by off-the-battlefield expertise as well as on-the-battlefield expertise.

Some years ago—I think about 15—when General Conway was the general for the National Guard, he helped to start this program that now has graduated over 100,000 young people between the ages of 16 and 18 who are unfortunately drifting from the straight and narrow path. They haven’t ended up in prison yet, but they are headed that way. They have given up on themselves. They have gotten into a little bit of trouble and need a second chance. This program offers them that chance.

Under General Landreneau’s leadership, we run three of the dozen programs operating in the United States. I might say we run the best three, having been granted and acknowledged with awards in ceremonies for many years in Louisiana and having graduated the largest number of young people. This has been done because of General Landreneau’s extraordinary commitment to the citizens of our State.
and to the young people of our State and the respect he has of his rank and file for these men and women to go beyond their regular duties and responsibilities and step up and say: There is an epidemic in America. Our dropout rate is too high. What can the National Guard do, in addition to everything else they do both abroad and at home, to help? It is extraordinary.

His grandchildren and his children are proud of him. I know he is very proud of them.

He has assembled over the last 14 years arguably the most tested staff in the Nation. He is being succeeded as Adjutant General by GEN Glenn Curtis, who has served as General Landreneau’s right-hand man for the last 6 years. It is the hallmark of his leadership that General Landreneau leaves his staff ready to step up, ready to serve, and ready to continue the excellent service they have given to the people of our State and our Nation. Although General Curtis will bring his own brand of leadership to the National Guard, there is no doubt, as he has said to me many times, he has learned at the elbow of GEN Benny Landreneau.

In conclusion, I would like to personally, on behalf of the people of our State, thank GEN Benny Landreneau for his many years of service and dedication to the people of Louisiana and our country. I want him to know he has positively impacted our State in ways that will long be remembered. The people of Louisiana are grateful for his service and for his dedication, and we honor his admirable career in the National Guard.

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

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the assistant bill clerk proceed to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that Senator WURFENWRIGHT and I be permitted to engage in a colloquy.

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Mr. FRANKEN. Without objection, it is so ordered.

Mr. FRANKEN. Mr. President, I rise today to address an alarming trend that I see in our national discourse. As legislators, our decisions need to be rooted in fact. Science driven by data and rigorous analysis needs to inform our policymaking.

Scientists are the ones who made the United States the world’s innovator in the last century. Scientists are the people who gave us antibiotics, for example. Do you like being able to use antibiotics? Well, then, thank scientists.

Scientists put a man on the Moon—seven men, actually—and got him back safely. These are rocket scientists. Scientists made it possible for Americans to watch this speech on C-SPAN—the Cable Satellite Public Affairs Network—also rocket scientists.

Scientists also came up with such useful things as the Internet. A scientist from the University of Minnesota, a Noble Price-winning agronomist named Norman Borlaug, is credited with saving over 1 billion lives worldwide. He did this by using science to develop a high-yield, disease-resistant wheat that was planted in Pakistan, India, and elsewhere around the world.

By engineering our next-generation weapons systems, scientists ensure that our military will continue to be the most powerful in the world. We rely on science and scientists, and if we are to progress as a country, if we and future generations of Americans are to be healthy and prosperous and safe, we better put science right at the center of our decisionmaking. Yet, right now our foundations and think tanks funded by the tobacco industry are spreading misinformation about the integrity of climate science, much as think tanks paid by the tobacco industry used misinformation to cast doubt about the health hazards of smoking.

Ignoring or contradicting what climate scientists are telling us about the warming climate and the warming planet can lead to really bad decisions on natural energy and environmental policies here in Congress. So today Senator WHITEHOUSE and I want to take some time to talk about climate science and about the fact that a scientific consensus on climate change has been reached. Climate change is happening and is being driven by human activities.

From the National Academy of Sciences, to the American Meteorological Society, to the American Academy for the Advancement of Science, all of the preeminent scientific institutions agree that manmade greenhouse gas emissions are warming the planet and are a threat to our economy, to our security, and to our health, and so do the overwhelming majority of actively publishing climatologists.

This graph, taken from a study published by the National Academy of Sciences, shows responses to the survey question: Do you think human activity is a significant contributing factor in changing mean global temperatures?

What you see here is that as climate expertise goes up, so does the affirmation that climate change is real and is caused by human beings. Among the most expert pool of respondents, climate change is 97 percent certain, represented by this bar right here, the rightmost bar, 97 percent of that category of scientists answered yes. Of course, there are a few articles published by climate skeptics in peer-reviewed journals, but the vast majority—97 percent—of the peer-reviewed literature supports the notion that people are causing the Earth’s climate to change.

Are they peer-reviewed articles? Well, they are articles scientists write after conducting experiments. The experimentation is designed to test a hypothesis. If the hypothesis holds up, the scientist writes a paper describing the experiment and sends it to a professional journal. The journal then sends it to other experts in the field—peer reviewers—who see if they can tear any holes in the theory. They question the methodology. They check the math. Very often, they send the paper back with questions. And the researchers will make changes to satisfy the reviewers’ inquiries. If in the end the peer reviewers think the work is sound, they recommend the paper for publication. Then, after publication, other scientists in the field are free to read the paper and plug away and disprove it if they can. That is a peer-reviewed paper.

I repeat, the vast majority of peer-reviewed literature supports the notion that people are causing the Earth’s climate to change, and 97 percent of published climatologists say yes when asked: Do you think human activity is a significant contributing factor in changing mean global temperatures?

Mr. WHITEHOUSE. Mr. President, as Senator FRANKEN has pointed out, despite the efforts to mislead and create doubt, the jury is not out on whether climate change is happening and being caused by manmade carbon pollution; the verdict is, in fact, in, and the verdict is clear, as shown by this group of scientific organizations that signed a letter supporting our efforts to do something about carbon pollution in the Senate back in October of 2009: the American Association for the Advancement of Science, the American Chemical Society, the Geophysical Union, the Meteorological Society, the Natural Science Collections Alliance, the Botanical Society of America.

 Virtually every significant scientific organization accepts that these are the facts and that the verdict is in, and, indeed, there is some recent added support. The scientific community continues to examine this question.

A recent report by James Hansen and Makito Sato saying:

Climate change is likely to be the predominant scientific, economic, political and moral issue of the 21st century. The fate of humanity and nature may depend upon early recognition and understanding of human-made effects on Earth’s climate.

They continue:

Earth is poised to experience strong amplifying polar feedbacks in response to moderate global warming. Thus, goals of limiting human-made warming to 2 degrees Celsius are not sufficient—they are prescriptions for disaster.

Another recent report, “Climate Change and European Marine Ecosystem Research,” reads as follows:
There is no doubt that rapid global warming and ocean acidification are real, and very high confidence that both are forced by human activities and emissions of carbon dioxide. Other climate effects are especially evident in the oceans.

I will get into that later on in our colloquy a little bit further.

Levels of atmospheric CO$_2$ are accelerating.


Global energy-related carbon dioxide emissions reached 36.4 Gt in 2010, 5.3% above 2009, representing almost unprecedented annual growth. In the New Policies Scenario, our central estimate of accumulated CO$_2$ emissions continues to increase, reaching 36.4 Gt in 2030, and leading to an emissions trajectory consistent with a long-term global temperature increase of 3.5 degrees Centigrade.

What does that mean?

The expected warming of more than 3.5 degrees Centigrade in the New Policies Scenario would have severe consequences: a sea-level rise of up to 2 metres, causing dislocation of human settlements and changes to food production, human disease and mortality.

There are also iconic American companies that have made the considered business judgment that climate change is real and we need to prepare. But we can get more on that later in the colloquy.

Mr. FRANKEN. Yet, in spite of all of this—and these are all new reports on top of this 97 percent number that was established. Yet the conservative media and some of my colleagues in Congress seem to think it is just fine to ignore what these scientists are saying.

Let me illustrate this with an analogy. Say you went to a doctor and the doctor told you: You better start eating more sensibly and start exercising, because you are tremendously overweight. I see that you have a family history of heart disease, and your father died of a heart attack at an early age. You have to go on a diet and start working out a little bit.

You say: You know what. I want a second opinion. So you go to a second doctor and he says: OK, you have a family history of heart disease. Your father died of a heart attack at a young age, and you weigh over 300 pounds. You smoke three packs a day. Your cholesterol is out of control, your blood pressure is through the roof. It would be irresponsible of me as a doctor not to immediately send you to this place at the Mayo Clinic that I know. I think you have to go there.

You say: Thanks, doctor, but I want a third opinion. So you go to the third doctor and the third doctor reads the chart and looks at you and goes: Wow, I am amazed that you are still alive.

You say: You know what. I want a fourth opinion. And then you go to the fourth and seventh doctors. They are all saying the same thing. But you keep asking for more opinions.

Finally, you go to the 25th doctor. The 25th doctor says: It is a good thing you came to me, because all this diet and exercise would have been a complete waste. You are doing fine. Those other doctors are in the pockets of the fresh fruit and vegetable people. He says: You guys made me think it would be better if you want, keep smoking, and watch a lot of TV. That is my advice.

Then you learn the doctor was paid a salary by the makers of Twinkies, which don’t get the wrong, are a delicious snack food and should be eaten in moderation. Am I making sense here?

Mr. WHITEHOUSE. It is actually quite a good example, because we have some of the phony science that has attached the science of climate change, which is actually a pretty good comparison to what the Senator described.

Take, for instance, the bogus Marshall Institute, which was founded in 1984 by a physicist who had been the chief scientist of the tobacco industry’s campaign to convince Americans that tobacco is actually OK for you, and that there was doubt about whether it would actually do you any harm. A few years later, he organized something called the Oregon Petition, which denigrated that climate change was happening. They phoned up the Oregon Petition to look like official papers of the National Academy of Sciences. So the National Academy of Sciences had to take the unusual step of responding to that with a letter that condemned the letter as a "deliberate attempt to mislead."

Mr. FRANKEN. This is actually an interesting area. There is a well-established link between the scientists who have worked for think tanks such as George C. Marshall Institute, Heartland Institute, and other foundations, which were funded at first by tobacco money, and now by the fossil fuel industry. These scientists have been paid to spread misinformation in order to cast doubt. That is all they have to do—on a whole host of scientific issues—first, tobacco and acid rain, the hole in the ozone layer, and now climate change.

Take tobacco, for example. Scientists were paid to testify in court that there was no proof that smoking caused cancer or was addictive, even after the industry scientists knew darn well that cigarettes were addictive and did cause cancer and heart disease. In fact, the tobacco industry was found guilty in 2004 of plotting to conceal the health risks and addictiveness of cigarettes from the public. Then the judge found that the tobacco industry had "hatched and executed a scheme to defraud consumers and potential consumers about the hazards of cigarettes—hazards that their own internal company documents described as they had known since the 1950s."

The whole purpose of this scheme was to provide misinformation, to confuse the public, to manufacture doubt, and that is what is happening right now with respect to climate change. There is a flood of money from the Security and Exchange Commission and from charitable organization reports to the IRS showed that between 2005 and 2008, ExxonMobil gave away $9 million to groups linked to climate change denial, while foundations associated with the private oil company Koch Industries gave nearly $25 million. The third major funder was the American Petroleum Institute. All in all, the energy industry spent hundreds of millions of dollars, even billions, of dollars, against climate change legislation between 1999 and 2010, including a large spike in spending from 2008 to 2010.

Mr. WHITEHOUSE. And it is not enough that they have a stable of paid-for scientists to create doubt, to create phony science that raises the level of doubt; they also go out of their way to attack legitimate scientists. You would not think this would carry much weight in a proper debate, but amplified by the corporate money behind it, designed, as the Senator said, with the purpose not to win the argument but to create doubt so that the public moves on, it is actually worse.

One example of this attack on lifetime scientists has been the phony so-called Climategate scandal, which was an effort to derail international climate science and climate negotiations.

Mr. FRANKEN. Climategate. Sometimes the Senator and I refer to it as Climategate-gate. In fact, the real scandal here wasn’t what the scientists did; the real
Mr. FRANKEN. I thank my colleague for bringing this up. Let's talk about that. This is the leak of thousands of e-mails from scientists at the University of East Anglia Climate Research Unit back in 2009. It was done right before the Copenhagen conference, right?

Mr. WHITEHOUSE. I believe that is correct.

Mr. FRANKEN. OK. The conservative media—remember, this doubt is amplified in the conservative echo chamber. Talk radio, et cetera. You know what it is, the Wall Street Journal editorial page, Fox News, et cetera. Conserva- tive media pounced, taking quotes out of context, to sensational lies like this “scandal.” Most of the attacks were directed at an e-mail by Phil Jones, a climate scientist working with the East Anglia Climate Research Unit, in which he referred to the trick of adding in the real temps to each series for the last 20 years to hide the decline.” That sounds very bad, “trick” and “hide the decline.” That went viral in the conservative media—evidence that the scientific consensus on climate change was a giant hoax. We had a Member of this body who said the science behind this consensus “is the same science that, through climategate, has been totally refuted and no longer legitimate, either in reality or in the eyes of the American people and the people around the world.”

But it turns out that the trick being referred to in the e-mail is actually a technique to use the most accurate data available. Pre-1960, temperature data would include measurements from thermometers, tree rings, and other so-called temperature proxies. Post-1960—this is the trick—they excluded tree ring data from some specific kinds of trees that were widely recognized by the scientific community to be unreliable after 1960. So the decline refers—they refer to it as—it’s a decline in global temperatures, as the deniers claimed.

Since 1960, we have had pretty good measurements of temperatures around the world with things such as thermometers. They knew this tree ring gave an apparent decline in temperature, as measured by these specific kinds of trees that were known to be inaccurate. So they used all the data they had in order to have for measuring—and there are thousands and thousands and thousands and thousands of measurements of the temperature around the Earth every minute, every day.

So this was the “trick”—a technique to use the most accurate data available of global temperatures from things, again, called thermometers, and one that excluded data widely known to the scientific community to be inaccurate. That is what the “trick” was. That is all. That is what Phil Jones referred to in his e-mail. Ironically, he was trying to be precise.

Mr. WHITEHOUSE. And it provoked considerable review afterward because of the alarmist claims that were made in this phony attack on the climate science. A number of pretty respectable organizations took a look at this. One has the university itself, and the university itself reached the conclusion on the specific allegations made against the behavior of CRU scientists, “We find that their rigor and honesty as scientists are not in doubt. In addition, we do not find that their behavior has prejudiced the advice given to the policymakers. In particular, we did not find any evidence of behavior that might undermine the conclusions of the IPCC assessment.” That was the university review.

Not enough? The National Science Foundation also—

Mr. FRANKEN. The university could be biased.

Mr. WHITEHOUSE. That is why we go on to the National Science Foundation, which under the Clinton administration did an investigation. The Commons investigation concluded that the challenged actions by Professor Jones and others “were in line with common practice in the climate science community.” They went on to say:

Insofar as we have been able to consider accusations of dishonesty, we consider that there is no case to answer.

No case to answer. Finally, they said: We have found no reason in this unfortunate episode to challenge the scientific consensus as expressed by Professor Bennington that “global warming is happening and that it is induced by human activity.”

So the studies that looked at whether the climate science was phony or not, whether the climategate scandal was phony have all come down supporting the science and pointing out that climategate should properly be known as climategate-gate because it was the scandal that was phony.

Mr. FRANKEN. Now, let’s make a distinction between people who are climate skeptics and people who are climate deniers. This is kind of an important distinction. There is nothing wrong with skepticism. In fact, we love skepticism. But it’s scientific skepticism. If someone has a new idea, they need to prove conclusively that it is right before 97 percent of scientists will believe them. This has already happened for an overwhelming majority of climate scientists who have concluded, in agreement, that global warming is happening and that it is caused by mankind. But there are a small number of them who still have questions.

On the other hand, a climate denier is someone who would not be convinced by overwhelming evidence. And, as I pointed out, a lot of these deniers are being paid by polluters to say what they want.

Now, shortly after climategate, or climategate-gate, a physicist at the University of California Berkeley, Richard Muller, who was skeptical of the prevailing views on climate science, decided to test the temperature records. Muller was a skeptic, started the Berkeley Earth Surface Temperature Study to reevaluate the record and weed out scientific biases. This was gold to climate deniers. In fact, among the funders for the Muller study was Charles Koch, Foundation. But things didn’t work out the way the deniers had hoped.

In late March, Dr. Muller testified before the House Science and Technology Committee with his initial findings on temperature increases since the late 1950s. This is what he said:

Our result is very similar to that reported by the prior groups—a rise of about .7 degrees Celsius since 1857. This agreement with the prior analysis surprised us.

Because, as I say, they were skeptics. Muller basically recreated the blade of the so-called hockey stick graph, or the temperature graph, that had come under attack in climategate. This graph shows Muller’s estimates against the previous estimates. Muller’s Berkeley is black. You will see it is just identical, pretty much. This past October Dr. Muller’s group released its findings, and to the dismay of skeptics and deniers these findings further confirmed the prevailing science behind climate change and the work of the scientists attacked during climategate-gate.

We can see the results on the chart. This gray band indicates a 95-percent statistical spacial uncertainty. But it is exactly—and his line is the black line—exactly what the other scientists measured.

The summary of the findings begins by saying, bluntly, “global warming is real,” and goes on to say:

Our biggest surprise was that the new results agreed so closely with the warming values published previously by other teams in the U.S. and U.K.

Including East Anglia. This confirms these studies were done carefully and that potential biases identified by climate change skeptics did not seriously affect their conclusion.

So even though these claims that the consensus on global warming is a hoax have been refuted so convincingly—by a skeptic no less; funded by Charles Koch, no less—the line of the deniers keeps repeating it. The so-called global and climategate, or climategate-gate, was just a big distraction. So now let’s move on and figure out how we are going to attack the challenge of climate change.

Mr. WHITEHOUSE. The challenge of climate change being extremely real, one of the things that is so frustrating about this campaign of phony, manufactured doubt is that in real life we are seeing the predictions of climate science come true around us.

Climate scientists predicted the atmosphere would warm, and the atmosphere is warming. Climate scientists predicted...
predicted the ocean would absorb heat, and sure enough, the ocean has absorbed heat and ocean waters are warming. Climate scientists predicted the ocean would absorb CO₂, and that would then lower the pH level of our ocean waters. The ocean is more than 90% water. A few percent of the ocean’s heat has already changed the ocean’s chemistry. Warmer waters make it more difficult to absorb CO₂ and therefore, the ocean is not absorbing as much CO₂ as it used to. The ocean is now more acidic.

Climate scientists predicted glaciers and Arctic sea ice would melt and, sure enough, we are seeing record melting. We just saw that notorious leftwing fish, and the tiny creatures, such as phytoplankton, that make up the base of the entire oceanic food chain.

Climate scientists predicted weather-related natural catastrophes and record temperatures, both globally and in different regions of the world, provide further indications of advancing climate change.

Throughout the corporate world we are seeing this. Here is a list of companies that have gone public with the need for us to do something about climate change:


I am picking these at random, but these are not fringe organizations. These are the core of the American business community, and they recognize what is going on.

I want to single out one company, which is Coca-Cola. I was going to bring to the floor the new can of Coca-Cola as an exhibit to demonstrate this major international corporation—this huge American success story based in Atlanta—has taken probably the most iconic product in America—the Coke can—and has redesigned it to reflect the effects of climate change. Climate scientists predicted that the Arctic region—this huge American success story based in Atlanta—has taken probably the most iconic product in America—the Coke can—and has redesigned it to reflect the effects of climate change. Climate scientists predicted that the Arctic region—this huge American success story based in Atlanta—has taken probably the most iconic product in America—the Coke can—and has redesigned it to reflect the effects of climate change.

Mr. WHITEHOUSE. Explain why the bark beetle is doing this. What is happening and how does that relate to climate change?

Mr. FRANKEN. I am glad the Senator doesn’t mind, if I change elements from fire to water since I represent an ocean State, another place where climate change is creating dangerous consequences. TheSenator on the other hand have pointed to the extreme snowstorms—at least one of my colleagues said in the Northeast over the last several winters as evidence that global warming is happening. Again, this is completely misleading. Intensifying blizzards aren’t due to the Earth getting cooler; they are due to increased moisture content in the air. Warmer air holds more moisture.

But those things that we have seen due to increased moisture content in the air that we have not seen before are being driven by changes in the water cycle. The climate system is now in a new state. The climate system is now in a new state.

Climate scientists have said that a major contributing factor to the climate change is the loading of the dice for extreme weather events and climate disasters. If we change the climate, we are loading the dice for extreme weather events and climate disasters.

I wish to underscore that when we have discussions about important issues such as climate change, we are talking about the cost of inaction, not to mention the immeasurable cost of lives which are lost due to these fires.

Climate Change & European Marine Ecosystem Research says:

Close to one-third of the carbon dioxide produced by humans from burning fossil fuels and other sources has been absorbed by the oceans since the beginning of industrialization, and that has buffered the cause and effects of climate change. The resulting lowered pH and saturation states of the carbonate minerals that form the shells and body structures of many marine organisms makes these groups especially vulnerable. The growth of individual coral skeletons and the ability of reefs to remain structurally viable are likely to be severely affected. Continuing acidification may also affect the ability of the oceans to take up CO₂.

When carbon goes into the ocean, it acidifies it. It lowers the pH. A resulting lowered pH and saturation states of the carbonate minerals that form the shells and body structures of many marine organisms makes these groups especially vulnerable. The growth of individual coral skeletons and the ability of reefs to remain structurally viable are likely to be severely affected. Continuing acidification may also affect the ability of the oceans to take up CO₂.

So they will not be absorbing the one-third that they have absorbed any longer. It will stay in the atmosphere because the oceans have reached the limit of their capacity to absorb CO₂ by buffering the cause and effects of climate change.

The consensus on climate science is increasingly unequivocal—climate change is happening, and man-made greenhouse gas emissions are a crucial factor. The implications of climate change for our planet are profound and wide-ranging, with expected impacts on biodiversity, water resources, public health, and agriculture.

The number of weather-related natural catastrophes and record temperatures, both globally and in different regions of the world, provide further indications of advancing climate change.

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Growing human pressures, including climate change, are having profound and diverse consequences for marine ecosystems. These effects are globally pervasive and irreversible on time scales. Direct consequences include increasing ocean temperature and acidity, rising sea level, increased ocean stratification, decreased sea ice, altered patterns of ocean circulation, precipitation, and fresh water.

The context for this is a pretty astounding one; that is, when we look back through history, we don’t look at changes in terms of decades or even centuries. We look at changes in terms of millions of years.

There is a special issue of Oceanography with a feature on ocean acidification, and it is called “Ocean Acidification in Deep Time.”

We have now an atmosphere that already contains more carbon dioxide than at any time in the last 800,000 years of earth history and probably more than has occurred in several tens of millions of years.

We have had agriculture, as humans for about 10,000 years, to give you an idea of what 800,000 years or several tens of millions of years means. The report goes on:

There are no precedents in recent earth history for what will be the immediate and direct effect of the release of CO2 into the atmosphere and its concurrent dissolution in the ocean’s waters.

But we are playing with very dangerous effects when we ignore climate change at the behest of a tiny minority of special interests and their polluter industry funders behind them.

Mr. FRANKEN. There are folks who get the cost of inaction, and that includes the Department of Defense.

In its 2010 Quadrennial Defense Review—or QDR—theDoD identified climate and energy as among the major national security challenges that America faces now and in the future.

“Give to you a perspective on the significance of this, ‘Crafting a Strategic Approach on Climate and Energy’ was alongside other priorities laid out in the QDR with titles like, “Succeed in Counterinsurgency, Stability and Counterterrorism Operations,” and “Prevent Proliferation of Weapons of Mass Destruction.”

This is serious stuff. It matters forDoD because climate change is predicted to increase food and water scarcity, increase the spread of disease, and spur mass migration and environmental refugees due to more intense storms, floods, and droughts.

Mr. WHITEHOUSE. We had similar testimony in the Senate Intelligence Committee. The witness who testified before us released his testimony before the House Intelligence Committee and very much the same conclusion:

We judge that global climate change will have wide-ranging implications for U.S. national security interests over the next 20 years. The factors that would affect U.S. national security interests as a result of climate change would include food and water shortages, increased health problems, including the spread of disease, increased potential for conflict, ground subsidence—the Earth lowering—flooding, coastal erosion, extreme weather events, increases in the severity of storms in the Gulf of Mexico, disruptions in U.S. and Arctic infrastructure, and increases in immigration from resource-scarce regions of the world.

There are probably climate deniers who say: That is all part of the conspiracy. The Defense Department is in on it. All those companies are in on it. The White House is in on it. But if there is a hoax, what is more mainstream than National Geographic? Is National Geographic in on it too? They would have to be because they did a special report a few years ago on climate change and they showed a polar bear stranded on the melting ice. Here is what they said:

It’s here. Melting glaciers, heat waves, rising seas, trees flowering earlier, lakes freezing later, migratory birds delaying their flight south. The unmistakable signs of climate change are everywhere.

How do we know this? We know this because of the science. What do they say about the science?

How do we know our climate is changing?

Historical records, decades of careful observations and precise measurements

As the Senator said, with things such as thermometers—around the globe along with basic scientific principles.

If you think National Geographic is in on it and you can’t have faith in the Defense establishment and you can’t have faith in the corporate establishment and you can’t have faith even in National Geographic, perhaps you can have faith in the Pope, who said recently:

I hope that all members of the international community can agree on a responsible, credible, and supportive response to this worrisome and complex phenomenon, keeping in mind the needs of the poorest populations and of future generations

The press release from Catholic News Service then quotes one of his bishops, Cardinal Rodriguez, who says:

Our climate is changing. Urgent action is necessary.

He called on our political leaders around the world “to curb the threat of climate change and set the world on a path to a more just and sustainable future.”

Mr. FRANKEN. OK. Well, the Pope—I mean, didn’t the Catholic Church go after Galileo?

Look, between the science supporting climate change and the reality of the dangers that climate change brings, we have to ramp up our efforts to master this challenge, and that means wise investments in clean energy R&D and deployment. They are just a good place to start. Plus, these investments encourage the growth of domestic clean energy—a domestic clean energy economy that would create jobs—and has created jobs—grow our manufacturing base, and keep us competitive in global energy markets. That is so important because Germany, China, Denmark, and countries all over the world are winning this race.

One of the great parts about this job is spending half the time here and half the time home in Minnesota. Minnesota is a national leader in clean energy.

In 2007, Minnesota passed the highest renewable energy standard in the country at the time, and all our utilities are on track to meet the goal of 25 percent renewable by 2025.

Our largest utility, Xcel Energy, is on its way to 30 percent by 2020. We have universities such as the University of Minnesota Morris which is pushing the frontiers of innovation in greening its campus through a biomass gasification system which provides heating and cooling and electricity, wind turbines that produce power, and LEED-certified buildings. Our farmers are converting the country in biofuels, and our universities are leading R&D efforts for the transitions to cellulosic and other advanced biofuels.

By the way, the first commercial cellulosic plant that is scaled up to commercial levels is being built right now. St. Paul has the largest district energy system in North America. It is heating and cooling all of downtown St. Paul with woody biomass. SAGE Electrocromics is a manufacturing plant in Minnesota that has cutting-edge window glass technology that uses a new photovoltaic material and turn these—they these windows turn completely opaque and block out all UV during the summer. During the winter, they are these beautiful, huge windows that let in all the light. It isn’t like a Polaroid. It is an incredible technology.

The University of Minnesota has just received two grants from the Advanced Research Projects Agency at the Department of Energy, ARPA-E, that was patterned after DARPA, the Defense Advanced Research Projects Agency that created the Internet. But is it the State, businesses and cities are working together to make our buildings more energy efficient, using Minnesota-made technologies such as Marvin and Anderson windows. Minnesota, by the way, is the Silicon Valley of windows. We have 3M window films or McQuay heating and air-conditioning systems.

Just last month, I partnered with our cities and counties to launch the Back to Work Minnesota Initiative, aiming to break down barriers in financing retrofits, retrofitting public and commercial buildings across Minnesota. What is great about that, this pays for itself. You finance this and you retrofit a building; it puts people in the building trades to work who are in a depression, and it puts manufacturers that build energy-efficient materials and equipment, geothermal furnace systems and furnaces, heat exchange furnaces, pumps, and you save energy.
The energy efficiency pays for the retrofit in 4 or 5 years and you can capitalize this and we are finding innovative ways to do that. It pays for itself and you lower our carbon footprint. You use less energy, create jobs, save money. It is win-win-win-win. This is something we have to do. It is insane not to.

Mr. WHITEHOUSE. We are proud of what is going on in Rhode Island as well. We plan to meet 16 percent of our energy needs through renewable energy sources by 2020, and that is on top of a goal to cut energy use by 10 percent. So we will cut energy use by 10 percent and, of the remaining 90, get 16 percent of that out of renewable energy sources. Everybody is getting involved—utilities, towns, the State, the private sector. One of our cities, East Providence, is right now converting a brownfield which has been vacant for 40 years, nearly, into New England’s largest solar plant. As my colleague says, there will be a payback and they will earn money on that for their tax-payers.

Our State of Rhode Island has been the national leader at how you map and prepare for offshore wind development. In the State and Federal waters off the coast of Rhode Island we are positioned to lead the country in offshore wind siting, with all the jobs that building giant wind turbines and assembling them and erecting them offshore creates.

We have exciting companies such as BioProcess Algae, of Portsmouth, RI, which opened a spectacular facility in Iowa, which takes the exhaust from ethanol plants and runs it through algae farms and creates biofuels. They are at the cutting edge of that technology.

When you see these great technologies and these great opportunities—in this colloquy, we are ending on what I hope is a very strong, positive note for the economy. If we can pull away from the lies and the phony science and the polluter-paid nonsense and, away from the lies and the phony regulations, we can do this. We can pay for these investments by cutting expensive, outdated subsidies for oil companies that are making record profits. There is a lot more to be done if we are going to win this global clean energy race, but it is not going to be easy. It means unifying as a country and starting to do things differently than we have been doing them.

Albert Einstein said: We can’t solve problems by using the same kind of thinking we used when we created them.

I am convinced we can win this race. No other country is better positioned. But first people need to understand the stakes. Climate change is real, and failure to address it is bad for our standing in the global economy, bad for the Federal budget, and bad for our national security. We can do better than that for our children and our grandchildren and posterity.

Mr. President, I thank Senator WURZBACH. I yield the floor.

I suggest the absence of a quorum.

Mr. CARPER. Will the Senator withdraw?

Mr. FRANKEN. I take that back. The PRESIDING OFFICER. The Senator from Delaware.

BOILER MACT

Mr. CARPER. Mr. President, there is not the absence of a quorum, but I appreciate my colleague mentioning that. I said to him earlier today, maybe yesterday, Senator FRANKEN is a joy to have around here. Some of us know he brings a real special touch for trying to inject some life into this place again. He came up a year or two ago with the idea of a secret Santa exchange. We actually did it this year. I was not going to mention it tonight. My secret Santa turned out to be the Senator from Alaska, Senator MURkowski, that was done by the President’s Office. She gave me a most wonderful handmade gift that she and her staff created.

Delaware is the only State that doesn’t have a national park. What they did is they created, on a sheet of paper like this—only it was a firm sheet of paper, not a regular sheet of paper, but they literally—this was the State of Delaware and they created a national park so that everybody could visit a national park with a bus going around and our pictures riding along in the bus. I don’t care what else I get for Christmas, that is going to be the best Christmas present for this year. I don’t show up many more. It is wonderful to do.

But that provides not only some civility but also some levity in a place that could use both, so I thank the Senator for all his contributions, but especially that one.

On something more serious. What I want to do is talk about the regulation EPA has been working on for a while. It is called the boiler MACT. The idea is maximum achievable technology here. If you go back in time, go back to the Republican head of EPA, that was able to be signed—Richard Nixon actually signed—the Clean Air Act of 1970, a Republican President who had a Republican head of EPA. That was able to be passed and we had the Cuyahoga River up in Cleveland, OH, that actually was on fire. There were lots of terrible things happening in our environment in this country.

Better things started to happen. There is cleaner water treatment, and cleaner air, but it led in 1990 to the passage of the Clean Air Act Amendments of 1990. One of the requirements of the Clean Air Act Amendments of 1990 was in that legislation the Congress directed EPA to finalize regulations to reduce what are called air toxics from boilers by the year 2000. So the Clean Air Act was adopted in 1970. In 1990, 20 years later, the Clean Air Act Amendments were adopted and in the Clean Air Act Amendments of 1990 Congress said: EPA, we want you to finalize regulations to reduce air toxics from boilers by the year 2000. 10 years.

The year 2000 came and went without any action. The Bush administration, George W. Bush administration, finalized a rule, I think it was in the year 2004. But they excluded many industrial boilers from having to comply. As it turned out, there are a lot of boilers in this country. I was stunned to find out there are about 200,000 boilers in this country. A lot of them are fairly small—schools or churches or smaller buildings, hospitals. But a bunch of them are pretty good size.

In any event, the Bush administration in the year 2004 came up with a rule, proposed a rule, but they excluded many industrial boilers from having to comply. In fact, the rule may not have been just proposed, it might actually have been finalized.

But, as a result, the regulation was vacated in 2007, 3 years later, by the Circuit Court of Appeals right here in the District of Columbia. So, 2004, EPA
finally gets around to finalizing the rule that they were called to do some 14 years earlier by the Congress. And 3 years later the DC Circuit Court of Appeals knocks it down and vacates that ruling on boilers. It was on April 15, June of 2010—and that is a full 10 years after the congressional deadline for action—it was not until 2010 that the EPA issued a proposal for boiler air toxic rules that addressed all the major emitters.

As for the air pollution regulations these days, EPA was under court order to finalize the rule by a set date. The court had said to EPA: We want you to finalize the rule by a set date. That date was the beginning of this year, January of 2011.

During the public comment period, the EPA received thousands of comments and new information from, among others, industry. In fact, they received so much in the way of comments and new information, in December of last year, that was a month before the date set under the court order to finalize the rule—a month before that date was to occur, EPA asked the courts, a month before the January 2011 deadline, to extend the deadline for public comments. And the courts said: Yes, you can extend the deadline to April of next year, to April of 2012.

The courts said: No, don’t think so. They said: EPA, you have had enough time to finish. They allowed EPA only until January 21 of this year to go ahead and actually promulgate these regulations.

Even though EPA didn’t have a lot of time to process the comments, EPA was able to finalize a rule in February of this year that yielded the same benefits—I think this is pretty interesting—a rule that realized the same benefits in terms of reducing toxic emissions, mercury and arsenic, lead, that kind of thing—the same level of reductions as in the emissions as in the June 2010 proposal that they made, but they cut in half the cost of compliance.

That is pretty impressive, isn’t it? They cut in half the cost of compliance, got the same amount of reductions in emissions of these air toxic substances for half the cost. However, EPA did not stop there. Wanting to address industry’s concerns, the EPA opened public comment yet again to consider a reproposal of their regulations.

I know some people think EPA has been guilty of a rush to judgment in this regard. I think if you go through the chronology objectively, this is not a rush to judgment. I hope, if nothing else, to convey tonight that the EPA has moved deliberately, some say way too slowly, in order to address this. There are others who think way too fast, still too fast.

Anyway, last month the EPA proposed the boiler MACT regulations to try and address stakeholder concerns and I think they have done a workman-like job, a good job. In this new proposal, of the 1½ million boilers in the United States, less than 1 percent would be affected—less than 1 percent would be affected by these emission limits. I have a chart to show what it looks like. This is a good way to actually think of it.

The pie represents the 1.5 million boilers in the United States. Some are very small, and some are large industrial boilers. Less than 1 percent need the technology to meet the emission limits proposed. That is the red tiny slice here. About another 13 percent of the 1.5 million boilers in the United States would need to follow best practice standards in ensuring that the emissions from those boilers are in order. And the rest—1.3 million boilers or a vast majority of boilers, a little over 85 percent—are not affected by the rules.

Not everybody likes the fact that less than 1 percent of the boilers are affected by these rules, and some of our friends in the environmental community understand that we have been very unhappy with how slowly this whole thing has proceeded.

The last thing I want to mention here—maybe a little more things—in terms of moving forward. How long would these less than 1 percent have to comply with the regs that have finally been promulgated? I am told the sources would have to up to 4 years to comply. The EPA is still talking public comment and hopes to finalize this regulation by late spring.

The bottom line is that we have delayed long enough. Only 1 percent of our largest sources will need to clean up. The EPA has certainly tried to address many problems—maybe not all the problems but most problems—and they are still taking public comments. I am not sure we need to delay this boiler MACT any further.

There are a lot of people who sneeze during the course of their lives, as I have just done here on the floor. That was just a coincidence, but a lot of people in this country suffer because of the quality of our air. We have made great improvements in cleaning up the quality of our air. We still have too many people who suffer from asthma and other respiratory diseases. The kinds of problems and emissions we are talking about here deal less with asthma and respiratory diseases; we are talking about substances that can kill people. In the case of the substances we are talking about here, they have the ability to kill more than 8,000 people a year.

We don’t have many large towns in Delaware. In Wilmington, we have about 75,000 people. In Dover—the central part of our State—we have about 30,000 people. And if you take 8,000 people, that is about as many people as live in any of—the well, Newark, where we have the governor of Delaware, has about 30,000 people. But other than that, we don’t have a lot of large towns. For us, 8,000 people could be the fourth or fifth largest town in my state. That is a lot of people. At the end of the day, even if these rules are fully implemented, we are not going to save all of those 8,000 people, but a lot of those lives will be saved in the coming years, and we need to do that.

The last word I would add is that I think the idea that we have to choose one over the other is a false choice. We don’t have to do that. We can have a cleaner environment and we can have jobs. If you look at the growth of our Nation’s economy since 1970, when the Clean Air Act was adopted, or 1990 when the Clean Air Act amendments were adopted, we have seen dramatic growth in our budget. We have seen growth in our economy, and we have seen the quality of air become a lot cleaner over that period of time. So one does not preclude the other.

While some serious concerns have been raised about the earlier proposals by the EPA, a lot of those concerns have been addressed. I think we need to get on with it.

With that, Mr. President, I think we are going to wrap it up here around 7:30, which is in another 10 minutes or so. I am looking around, and I don’t see anybody else waiting to speak, so I will note the absence of a quorum and bid you good night.

I yield the floor. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. CARPER. Mr. President, I ask unanimous consent that the period for morning business be extended until 8:30 p.m., with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO LIEUTENANT GENERAL PATRICIA D. HOROHO

Mr. INOUYE. Mr. President, today I rise to congratulate LTC Patricia D. Horoho on becoming the U.S. Army’s 43rd Army Surgeon General. This is a momentous time for military medicine, with two historic firsts for the U.S. Army and for the Department of Defense. On December 5, 2011, General Horoho became the first woman and the first nurse to assume command of the U.S. Army’s Medical Command. Then, just 2 days later, she became the Army’s 43rd Army Surgeon General, making history again by becoming the
first woman and the first nurse in the Department of Defense to be sworn in as Surgeon General.

Lieutenant General Horoho earned her bachelor of science degree from the University of North Carolina at Chapel Hill in 1982. She received her masters of science degree in nursing from the University of Pittsburgh. Her military education includes graduating from the Army’s Command and General Staff College and the Industrial College of the Armed Forces, where she earned a second master of science degree in national resource strategy.

Lieutenant General Horoho has earned numerous civilian and military awards and recognitions throughout her distinguished career. Her civilian accolades include recognition in 1993 as one of the top 100 nurses in the State of North Carolina. She was selected as the USO’s Woman of the Year in 2008. Most recently, the University of North Carolina School of Nursing selected her as the Alumna of the Year on November 30, 2011. Some of Lieutenant General Horoho’s previous military assignments include Deputy Surgeon General; Chief of the Army Nurse Corps; Commander of the Western Regional Medical Command in Fort Lewis, WA; Commander of the Madigan Army Medical Center in Tacoma, WA; Commander of the Walter Reed Health Care System in Washington, DC; and Commander of the DeWitt Health Care Network in Port Belvoir, VA.

Lieutenant General Horoho brings extensive leadership, education, and experience to her new position as the 43rd Army Surgeon General. I applaud the many accomplishments which have brought her to the highest level of rank and responsibility in military medicine, and I wish her success as she begins her new position.

**RECOGNIZING THE NATIONAL GUARD**

Mr. BROWN of Massachusetts. Mr. President, today I would like to congratulate the National Guard on 375 years of service.

It was on December 13, 1636, in Massachusetts that our Nation’s military heritage was born. It was the members of the Massachusetts Bay Colony who stood and founded an organization to protect and defend the people of the Bay Colony. They provided watch to ensure the security of their fellow settlers in Massachusetts, and they drilled to ensure they were prepared to fight if called upon.

From these grassroots origins comes today’s National Guard: the most prepared, best equipped, and most mobile National Guard our Nation—or any nation—has ever had. Like the guardsmen of the first days of this Nation, today’s guardsmen continue to answer the call to duty. They serve as leaders in our homeland defense response and disaster relief, and over the past 10 years, our guardsmen have served with courage and honor in Iraq and Afghanistan, right alongside our Active-Duty Forces. They are fighting on many fronts overseas and fulfilling many different missions.

Sometimes they are coming home with devastating injuries. When they return, these citizen soldiers and airmen face the challenges of recovery, readjustment, and finding jobs. The unemployment rate of today’s National Guard remains well above the national average. To ensure that we honor the service of these guardsmen and veterans, I introduced the Hire A Hero Act which gives a tax credit to small businesses that hire veterans and members of the National Guard and Reserves, and I am pleased to say that the legislation has become law.

I have also pushed to ensure that all our National Guardsmen receive fair housing allowances. I introduced an amendment included in this year’s National Defense Authorization Act that makes certain every guardsman who gets deployed will receive the housing allowance they need and deserve. When a guardsman is ordered to Active Duty for a contingency operation, the housing allowance for that guardsman can currently revert back to his or her home-of-record status rather than the current housing allowance of his or her present duty station, despite any significant loss of income. Basically, the guardsman is punished financially for being deployed to a war zone. My amendment to this year’s National Defense Authorization Act will rectify this inequity.

Also included in this year’s National Defense Authorization Act is a monumental provision recognizing the significance of today’s National Guard. As a 32-year member of the Massachusetts National Guard and a member of the Senate Armed Services and Veterans’ Affairs Committees, I am proud to have cosponsored the amendment to make the Chief of the National Guard Bureau a full member of the Joint Chiefs of Staff. It is a long overdue measure that gives the National Guard the recognition and respect that it deserves. I am proud to have supported it, and I look forward to its final passage.

Today our National Guardsmen continue the tradition of service begun by the militia of 1636, and I want to pay special tribute to the guardsmen of the 26th Yankee Brigade serving overseas and to their families for their service and sacrifice. Massachusetts’s own 26th Yankee Brigade is currently serving in Afghanistan. When asked, they answered the call to duty. This summer while I was in Afghanistan, I was fortunate enough to see firsthand the selflessness, courage, and professionalism of “The Nation’s First.” They are a credit to the State of Massachusetts, the National Guard, and to this Nation.

Congratulations to the National Guard for its 375 years of service to this Nation and to all the guardsmen who are prepared to support and defend this great Nation in its times of need.

**KEYSTONE XL PIPELINE**

Mr. LEAHY. Mr. President, the House Republicans have sent us a payroll tax bill that is more of a political campaign commercial than a piece of serious legislation. Extending this tax break for ordinary Americans evidence has been at the center of the other, unlike the eagerness found there for even more tax relief for the very wealthy. Among the many unrelated, controversial provisions they have attached as sweeteners is one that would force the President to approve the Keystone XL tar sands oil pipeline. Proponents of this tar sands project provision argue that it belongs on this bill because building the pipeline would create jobs.

Construction projects create jobs. We could create thousands of jobs by investing in clean solar and wind energy, as the Chinese have done. And people can disagree about building the Keystone Pipeline, but there is a lot more to it than the jobs it would create, and trying to jam it through Congress on this bill in the waning hours of the session is little more than a political stunt.

It was about 15 months ago that I first learned about the plan to build a pipeline to transport crude oil from tar sand strip mines in Alberta across the U.S.-Canada border and down through the Midwestern United States to refineries and ports in Texas.

Tar sands are a particularly dirty source of petroleum, from extraction to refinement. As I looked into this issue I saw some of the photographs of the boreal forest area where it is extracted, and I was shocked. Anyone who is interested in this issue, whether or not you think building the pipeline is a good idea, should look at the photographs. They depict an extraordinarily beautiful landscape that has been ravaged by heavy machinery, vast ponds filled with polluted water and sludge, and a scared wasteland where forests used to be. It is one of the more graphic examples of how our collective, insatiable thirst for oil has pillaged the fragile environment of this planet. Our demand for fossil fuels will continue to grow exponentially unless we come up with a comprehensive, national energy plan and have the will to implement it.

We all know that the extraction of oil, minerals, timber, and other natural resources often harms the environment. But there are degrees of harm. Removing the tops of mountains and dumping the refuse in rivers and across an international boundary is more of a political stunt than a piece of serious legislation. Under the law, the State Department has the responsibility to approve or disapprove the pipeline because it crosses an international boundary. More than a year ago, I and 10 other Senators sent a letter to the State Department raising concerns about the
proposed pipeline and the impact of tar sands oil on global warming and asking a number of questions about the Department’s decisionmaking process. Eight months later we received a response, which answered some of our questions and raised others.

And other Senators sent two additional letters to the Department about the pipeline, most recently about reports of a possible conflict of interest between the contractor that performed the environmental review, Cardno/Entrix, and the energy company, TransCanada.

There have also been e-mails indicating a less-than-arm’s-length relationship between a State Department official at the U.S. Embassy in Ottawa and a lobbyist for TransCanada. And a month ago the State Department’s inspector general announced the beginning of an investigation into whether conflicts of interest tainted the environmental review process.

What we get is a series of questions and fundamental concerns about the pipeline has evolved into a significant controversy regarding the impact the pipeline will have upon our Nation’s energy policy and continuing dependence on fossil fuels, the irreversible harm to the environment and the acceleration of climate change, and the potential for oilspills that could contaminate a key aquifer underlying an area of critical agricultural importance that hundreds of thousands of midwesterners depend on for irrigation and drinking water.

From the beginning, I have expressed misgivings about the State Department’s ability to conduct a thorough, credible investigation of a project of this complexity that involves issues about which it has limited expertise. There are reports of inexperienced staff handling the lion’s share of the work, and it is not surprising that the Environmental Protection Agency and the Department of Energy have raised concerns and identified flaws in the State Department’s analysis.

It is my impression that the State Department, from the outset, approached this with a sense of inevitability. What they did not anticipate was the strong reaction of Members of Congress of both parties, including several from Midwestern States that have been coping with multiple oilspills from the original Keystone Pipeline that company officials have treated as inconsequential. They also did not anticipate the strong opposition from ordinary Americans who pay close attention to environmental and energy policy issues, for whom tar sands oil is particularly repugnant.

Concerns about the consequences of this project have united not only those living along the proposed route but people across the Nation, including in Vermont, as well as in Canada, who care about the environment, both in this country and in Canada, and who understand the need to wean our Nation from oil and other fossil fuels and to invest in renewables and energy efficiency.

Every President since the 1970s has spoken of the need to reduce our dependence on fossil fuels and particularly foreign oil. But despite all the speeches, years, and the more than a century of the finite, polluting sources of energy than ever before.

Today, energy companies are spending staggering amounts of money in search of new sources of oil and gas in some of the most vulnerable places on Earth, where its extraction involves great risks to the people involved, the environment, and endangered species. We even send our young service men and women halfway around the world to fight wars, in part to ensure our continued access to a ready supply of oil. It has become a national security priority.

We have lost valuable time, and there are no quick fixes. No matter what we do today, later this week, or later this year, the Keystone XL Pipeline will be built by TransCanada and its supporters extol the virtues of the Keystone XL Pipeline, as the minority leader and others have done, simply by reducing waste we could eliminate entirely the need for the energy produced from the oil that would flow through the pipeline.

I come from a State that shares a border with a country whose wife’s family is Canadian. I have a great fondness for that “giant to the north.” But this issue is not about U.S. relations with Canada. We are inseparable neighbors, friends, and allies. There are strong views about this pipeline, pro and con, in both countries. As Americans, we have to do what is right for our country’s energy future, for the environment, for our citizens.

Some have argued that if this pipeline is approved, TransCanada will simply build a pipeline to the coast of British Columbia and export the oil to China. But there are significant obstacles and no indication that such an alternative route is a viable option. Others maintain that the carbon emissions from extracting and refining this oil would not appreciably exceed those from oil shipped by tanker from the Middle East, but they do not address the environmental harm and pollution caused by the strip mining and separation processes.

TransCanada has flooded the media with dire warnings about the American jobs that will be lost if the pipeline is rejected, which our Republican friends have echoed, trying to turn this into a campaign issue. But most of these are construction jobs that will disappear once the pipeline is built. And the choice is not between jobs or no jobs. They do not mention the tens or hundreds of thousands of American jobs that could be created by investing in other cleaner, renewable sources of energy, which, unlike tar sands oil, will not be used up in a few short decades.

Last month, in response to concerns about the sensitive and crucial aquifer that the pipeline would traverse in the Midwest, the White House announced that the State Department will consider alternative routes through Nebraska and that this would delay a decision on the pipeline until 2013. This is positive, but it ignores the many other reasons to reject this project altogether.

It is my hope that on further reflection, the President will treat the decision on the Keystone XL Pipeline as an opportunity to draw a line between our past and future energy policies.

Fossil fuels are finite, inefficient, and dirty. The cost we pay at the gas pump bears no resemblance to the true cost. We spend staggering amounts of money in the farthest reaches of the globe for every last drop of oil, regardless of how dangerous or harmful to the environment.

Will the Keystone XL tar sands oil pipeline have the catastrophic consequences that some of its opponents predict? No one can say for sure. If anyone had asked officials at British Petroleum on April 9, 2010, about the probability of a disaster like the one that occurred the next day when the Deepwater Horizon exploded in the Gulf of Mexico, they likely would have dismissed it as farfetched. It turns out they were violating multiple safety regulations.

Are we going to change the pipeline’s route to avoid the aquifer, only to continue to act as if global warming is nothing to worry about, that we can continue to burn more and more fossil fuels, emitting more and more carbon into the atmosphere, and destroying the landscape while we’re at it? This pipeline would perpetuate a costly dependence that has gone on for a century, for which we all share in the blame. Keystone XL would once again do nothing to address the problems associated with fossil fuels. It could virtually assure amore oilspills, it would do nothing to promote conservation and reduce waste, and it would do...
nothing to spur investment in clean energy alternatives.

Most important, it would provide yet another excuse for once again puniting the urgent, national security imperative of developing a sustainable energy policy for this country. That is what the decision about the Keystone XL tar sands oil pipeline has come to represent regardless of what route it takes.

RECOGNIZING GOLDEN VALLEY, MINNESOTA

Mr. FRANKEN. Mr. President, I want to take this opportunity to honor the 125th Anniversary of the incorporation of Golden Valley, MN. As a child growing up in St. Louis Park, I have many fond memories of time spent in my neighboring town to the north, Golden Valley. As next-door neighbors, our cities shared a commitment to civic engagement, strong families, and a tight-knit community that worked for the wellbeing of all its citizens. We can see the results of those values today.

On its 125th birthday, Golden Valley has much to be proud of, a high quality education system, high living standards, a business community thriving from Fortune 500 companies to family-owned small businesses. Clearly, Golden Valley is doing something right.

As a representative of the great people of Minnesota, I can see that it’s cities like Golden Valley make our State the best in the country. My colleagues here might get tired of hearing how our State consistently does things better, but I will never get tired of telling those stories. Congratulations to the residents of Golden Valley.

ADDITIONAL STATEMENTS

REMEMBERING GIL CHAVEZ

Mr. BENNET. Mr. President, today I come before you with a heavy heart to honor the life of Gil Chavez. Mr. Chavez died on November 30, 2011, of injuries sustained in a car accident outside of West High School in Denver, CO. He was 63 years old.

Mr. Chavez was a true community leader in every sense of the word. After graduating from Denver’s West High School in 1967, Mr. Chavez spent the next 30 years of his life giving back to the school through teaching, coaching, and counseling. He was always there for his students, so much so that after retiring, he came back to volunteer coach for the wrestling team beside his son, Gil Junior, the current head coach at West. Mr. Chavez’s family continues his legacy of always striving for excellence in all that they endeavor.

Gil Chavez was a committed educator and coach who was a role model to the students he worked with. He was a sincere motivator, and he backed up his words with promises that he kept to his students. Mr. Chavez was always there for those who needed him with an ear to listen, with help figuring out classes or locating a tutor, and always believing in those who needed it most.

To Mr. Chavez’s entire family, I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be replaced by your pride in Gil’s life and by your knowledge that his community will never forget him. His memory will live on in the team, the school, the community, and all those he has touched along the way.

TRIBUTE TO COLONEL WILLIAM M. VOIGT

Mr. SESSIONS. Mr. President, today I wish to praise an exceptional man, COL William M. Voigt.

Colonel Voigt has been one of the foremost civil and military leaders in Birmingham and in my State of Alabama for around a half century now. I was proud to join Colonel Voigt recently in Birmingham when he accepted his well-deserved award as the 2011 National Veteran of the Year.

I have had the pleasure to know Bill personally for many years and to observe his devotion to his country. His patriotism is unsurpassed.

Colonel Voigt served his country with 30 years in the Alabama Air National Guard and another 5 years of service with the U.S. Air Force Reserve. He has achieved not only a baccalaureate degree from Auburn University and a master’s in business administration from the University of Alabama in Birmingham but has also graduated from the Air War College, the Industrial College of the Armed Forces, the Air Command and Staff College, and the Squadron Officer School.

In addition to his own education, COL Bill Voigt has given his time and efforts to an impressive and exhaustive list of nonprofits and service organizations. On top of this, he has served for over 20 years as the president of the National Veterans Day organization.

Birmingham is the birthplace of Veterans Day. The very first Veterans Day celebration was held in Birmingham by this very organization in 1947. It was only in 1954, 7 years later, that Congress agreed to the value of this wonderful event and made Veterans Day the national holiday it is today.

The National Veterans Day celebration is believed to be not only the oldest but also the largest in the country. The day includes a parade and a large awards dinner. The entire effort is a monumental planning exercise. For 20 years Bill Voigt made it happen.

This year’s dinner was a very special one. The organization’s president, James A. Holt, Congressman Spencer Bachus, Congresswoman Terri Sewell, and others took part in the excellent program. I was honored to be a part of the program also. The superb keynote speaker was RADM Tom Steffens (retired), a U.S. Navy SEAL for 34 years. It was a special program indeed, but the remarks all revolved around Colonel Voigt. I know he and his wonderful family were most proud.

Colonel Voigt represents the model for the type of person we should push our youth to emulate. He is a man who has proven time and time again that he is willing to serve his country, his community, and his fellow veterans who have fought for the ideals and goals of the United States of America.

Mr. President, it is my honor to pay tribute to this great man in Birmingham by extension this wonderful annual Veterans Day event.

RECOGNIZING SOUTCENTRAL FOUNDATION

Mr. BEGICH. Mr. President, I wish to recognize Southcentral Foundation, an Alaska Native-owned, nonprofit health care organization serving nearly 60,000 Alaska Native and American Indian people. Southcentral Foundation received the 2011 Malcolm Baldrige National Quality Award, an award administered by the Baldrige Performance Excellence Program to honor the country’s most innovative organizations. The Baldrige Award is the only formal recognition of the performance excellence of both public and private U.S. organizations given by the President of the United States. Southcentral Foundation is the Alaska’s first health care organization to receive this award.

Southcentral Foundation was established in 1982 to improve the health and social conditions of Alaska Native and American Indian people, enhance culture, and empower individuals and families to take charge of their lives. They employ over 1,500 people, of which 53 percent are Alaska Natives or American Indians. As mayor of Anchorage and now as Senator, I watched the growth of this excellent nonprofit from a small outpatient facility to the beautiful, culturally designed campus encompassing many buildings to serve their customer-owners.

Southcentral Foundation’s innovative Nuka system of care combines medical, dental, behavioral, and traditional practices and creates relationships that focus on supporting wellness instead of just treating illness. This system has received national and international attention for its successes in health outcomes, operational efficiencies, and customer and employee satisfaction. It is a truly exemplary health care system that is one of the best in the country.

The award will be presented by President Barack Obama in April, 2012.

IN RECOGNITION OF MR. BILL VANDERWENDE AND MR. DAVE BAKER

Mr. CARPER. Mr. President, today I wish to recognize Mr. William “Bill” Vanderwende and Mr. David “Dave” Baker for their leadership, vision and commitment to Delaware’s agriculture
community through their roles as Chairman and Vice-Chairman, respectively, of the Delaware Nutrient Management Commission. Both have dedicated their lives to Delaware and its farming communities, benefitting and protecting our State’s environment. Their strong working relationships with the Delaware Department of Agriculture, the Delaware Department of Natural Resources and Environmental Control, the U.S. Environmental Protection Agency, Delaware’s Congressional delegation, and with Delaware’s Governor and the State’s General Assembly has contributed to the implementation of on-the-ground solutions for nutrient management that encourage environmental stewardship and have positive benefits to agriculture and its farmers.

As the Chairman and Vice-Chairman of the 19-member Delaware Nutrient Management Commission since its inception in 1999, Bill and Dave have led the Commission through years of development—made up of innovation, labor and compromise—that resulted in Delaware’s premier Nutrient Management Program—one that serves as a model for other States. Moreover, Bill and Dave helped guide Delaware through U.S. Environmental Protection Agency approval of the State’s controlled animal feeding operation regulations, helping to preserve our State’s rich agricultural resources, while protecting farmers and their livelihood for generations to come. When I was Governor of the State of Delaware, I worked closely with both Bill and Dave on the development of the Delaware Nutrient Management Program and know well their passion and loyalty to doing what is right for the First State’s agricultural community, as well as for our environment and our communities.

The Delaware Nutrient Management Program was established in June 1999 as a result of the Delaware Nutrient Management Law. The mission of the Delaware Nutrient Management Program is to manage those activities involving the generation and application of nutrients in order to help maintain and improve the quality of Delaware’s ground and surface waters and to help meet or exceed federally mandated water quality standards, in the interest of the public welfare. The responsibilities of the Delaware Nutrient Management Commission include: considering the establishment of critical areas for voluntary and regulatory programs; establishing Best Management Practices to reduce nutrients in the environment; developing educational and awareness programs; considering incentive programs to redistribute excess nutrients; establishing the elements and general direction of the State Nutrient Management Program; and, developing nutrient management regulations.

In 2001, under the team’s leadership, the Delaware Nutrient Management Commission outlined a Memorandum of Understanding with the Delaware Department of Agriculture, the Delaware Department of Natural Resources and Environmental Control, and the chief executives of all poultry companies operating in Delaware—an agreement that was the first of its kind. This Delaware/Northeastern Egg & Poultry Association agreement had the potential to impact the thousands of farmers and citizens who rely on our state’s priceless natural resources.

In addition to his role of Vice-Chairman of the Delaware Nutrient Management Commission, Dave is Chairman of the Commission’s Planning and Personnel subcommittees. Moreover, Dave’s agricultural acumen and outstanding leadership in the field of agriculture has been recognized by Delaware and well beyond our borders. Most recently, he received the 2010 Secretary’s Award for Distinguished Service to Agriculture given by the Delaware Department of Agriculture. During my term as Governor, Dave was the Chairman of the Nutrient Management Advisory Committee, the organization responsible for drafting Delaware’s ground breaking nutrient management statute. He is also a past president of the Delaware Council of Farm Organizations. Nationally, he has served on the American Egg Board and the Poultry Advisory Committee for the Farm Bureau, and regionally, he is a past chair of the Egg Clearinghouse and the Northeast United Egg Producers.

Delaware is fortunate to have such an outstanding team led by Bill Vanderwende and Dave Baker to carry on a legacy of farming values that shape, honor and preserve our State’s treasured agricultural heritage. Bill and Dave’s leadership to the Nutrient Management Commission reaches those not just in our agricultural community, but in our State, the millions of Americans who are impacted by Delaware’s decisions on nutrient management. The continued leadership of these two men will keep our farming industry prosperous, while protecting our natural resources for generations to come. It is with a genuine sense of honor and pride that I rise today to extend the heartfelt congratulations and thanks of our entire Congressional delegation to our friends and outstanding Delaware residents, Bill Vanderwende and Dave Baker.

RECOGNIZING ORONO MIDDLE SCHOOL

Ms. COLLINS. Mr. President, today, I commend Orono Middle School of Orono, ME, on being named a 2011 National Blue Ribbon School of Excellence. This prestigious recognition of high accomplishment was bestowed by U.S. Secretary of Education Arne Duncan.

Created in 1982, the Blue Ribbon Schools award is considered the highest honor an American school can obtain. Schools singled out for this national recognition reflect the goals of our Nation’s education reforms for high standards and accountability. Specifically, the Blue Ribbon Schools Program is designed to honor public and private schools that are either academically superior in their States or that demonstrate dramatic gains in student achievement.

This award recognizes that Orono Middle School students achieve at the highest level academically. Orono Middle School is a top-performing school.
on State-required assessments, and staff at the school use assessments throughout the academic year as a tool for improving and customizing instruction. The school also involves students in extracurricular activities, which helps forge a strong school community where students feel connected and encouraged to pursue their interests.

I applaud not only the students but also the teachers, staff, administrators, and parents of Orono Middle School. Together, they are succeeding in their mission to generate confidence and momentum for learning. They are making a difference in the lives of their students, helping them reach their full potential as independent, responsible learners and citizens.

I am pleased that the U.S. Department of Education has selected Orono Middle School for this well-deserved honor, and I congratulate the entire community for this outstanding achievement.

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**RECOGNIZING COOL AS A MOOSE**

- Ms. SNOWE, Mr. President, across the country the holiday shopping season is in full swing. For many, holiday shopping can be a stressful time, as picking out the ideal gift can often be overwhelming. Luckily, my home State of Maine has several small businesses which offer gift solutions in a fun and festive setting. Today I wish to commend and recognize one of these small businesses, Cool As A Moose, whose retail stores offer unique and creative gifts for the holiday season and throughout the year.

Cool As A Moose opened its doors in 1986 in the coastal town of Bar Harbor. Whether a customer longs for a moose hat or an adorable stuffed animal lobster, this small business offers customers an array of clever products and creative apparel. The company, now owned by Maine resident Kip Stone, has expanded to include stores in Freeport, Portland, and most recently Brunswick. The retailer also has an online presence and two licensed locations in Halifax and Quebec City, Canada.

The establishment of a store and headquarters in Brunswick this past May was critical, as it brought jobs to an area of Maine that recently struggled after the closure of the Brunswick Naval Shipyard. Kip’s tireless search for an ideal location lasted 2 years, as he sought to find an environment that would allow him to open both a store and have space for his other company, Artforms, which supplies many of the designs for the retail store. Kip selected the Old Grand City post office and storefront for the flagship store. With this purchase and renovation, Kip furthered a critical mission by helping to revitalize the Brunswick downtown area.

As can be seen from this small company’s expansion, since its founding, this store’s friendly customer service and engaging atmosphere have led to tremendous success. Most recently, Cool As A Moose was honored as the 2011 Merchant of the Year by the Maine Merchants Association. This honor is richly deserved as this small business consistently strives to improve each community it serves through volunteering and supporting area non-profits.

Small businesses such as Cool As A Moose are the heart of the economy, and this holiday season I hope Americans will gather with me in supporting these local businesses during tough economic times, this small firm’s willingness to expand and continually strive to put local communities first is especially refreshing. I am proud to extend my congratulations to Kip Stone and everyone at Cool As A Moose for their tremendous efforts and offer my best wishes for continued success.

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**TRIBUTE TO OFFICER JAMES BONNEAU**

- Ms. STABENOW, Mr. President, on behalf of myself and Senator LEVIN, I wish to pay tribute to James “Jim” Bonneau, a member of the Jackson Police Department in Jackson, MI, who was posthumously awarded the Congressional Badge of Bravery.

Officer Bonneau was born in Canton, MI to Marc and Amy Bonneau. Growing up he always wanted to help others and become a police officer. After graduating from Canton High in 2002, he earned a degree in criminal justice from Eastern Michigan University. In 2007, he followed his dream and joined the Jackson Police Department, which put him through Lansing Community College’s Mid-Michigan Police Academy.

Bonneau excelled at the academy and graduated at the top of his class. He was well liked by the faculty and his fellow classmates. Even though he was new to the department for two short years, his excellence on the job and connection with the community he served made a difference and touched many lives.

On March 9, 2010, Officer Bonneau and Blackman Township Public Safety Officer Darin McIntosh responded to a domestic disturbance call. The suspect fired multiple shots at both officers wounding Officer Bonneau in the chest and Officer McIntosh in the leg. Though mortally wounded, Officer Bonneau showed bravery and determination while he relayed critical information to central dispatch regarding the incident. His actions ensured that the responding officers knew what to expect upon entering the home. Tragically, he later died from his injuries.

Officer Bonneau’s exceptional acts of bravery and presence of mind while in the line of duty earned him a well-deserved nomination and award of the State and Local Law Enforcement Congressional Badge of Bravery.

On behalf of the City of Jackson and the State of Michigan, we express our gratitude to Officer Bonneau and his family for his bravery and commitment to law enforcement. He made the ultimate sacrifice so that others may live in safety.

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**MESSAGES FROM THE HOUSE**

At 10:35 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3630. An act to provide incentives for the creation of jobs, and for other purposes.

At 2:38 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

S. 384. An act to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 313. An act to amend the Controlled Substances Act to clarify that persons who enter into a conspiracy within the United States to possess or traffic illegal controlled substances outside the United States, or engage in conduct within the United States to aid or abet drug trafficking outside the United States, may be criminally prosecuted in the United States, and for other purposes.

H.R. 2767. An act to designate the facility of the United States Postal Service located at 8 West Silver Street in Westminster, Massachusetts, as the “William T. Franke Post Office Building”.

H.R. 3266. An act to designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the “Specialist Peter J. Navarro Post Office Building”.

At 7:25 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1540) to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

At 7:54 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2105. An act to provide for the application of measures to foreign persons who transfer to Iran, North Korea, and Syria certain goods, services, or technology, and for other purposes.
The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4292. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Final Flood Elevation Determinations” ((44 CFR Part 67)(Docket No. FEMA–2011–0002)) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–4293. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Final Flood Elevation Determinations” ((44 CFR Part 67)(Docket No. FEMA–2011–0002)) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–4294. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Updated Statements of Legal Authority to Reflect Continuation of Emergency Declared in Executive Order 13418” (RIN0750–AX47) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–4295. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, a report relative to a vacancy announcement within the Department; to the Committee on Banking, Housing, and Urban Affairs.

EC–4296. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled “Updated Statements of Legal Authority to Reflect Continuation of Emergency Declared in Executive Order 13418” (RIN0750–AX47) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–4297. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Northeast Skate Complex Fishery; Secretarial Emergency Action” (RIN0648–BB32) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4298. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program” (RIN0648–AB58) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4299. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 15B” (RIN0648–BB55) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4300. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Framework Adjustment 46” (RIN0648–BB08) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4301. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species; North and South Atlantic Swordfish Quotas” (RIN0648–BA90) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4302. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “List of Fisheries for 2012” (RIN0648–BA76) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4303. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Amendments to the Export Administration Regulations (EAR) Pertaining to the Adoption of the Comprehensive U.S. Sanctions Against Syria Pursuant to the Syria Accountability and Black Sea Sanctions Act of 2013” (RIN0694–AF29) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4304. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Shipping and Transportation; Technical, Organizational, and Conforming Amendments” (RIN1205–AB7)(Docket No. USCG–2011–0618) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4305. A communication from the Assistant Secretary, Office of Electricity Delivery and Energy Reliability, Department of Energy, transmitting, pursuant to law, a report entitled “Five-Year Program Plan for Fiscal Years 2008 to 2012 for Electric Transmission and Distribution Projects” (RIN0648–AX99) received in the Office of the President of the Senate on December 12, 2011; to the Committee on Energy and Natural Resources.

EC–4306. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, a report entitled “Findings and Recommendations of the Hydrogen and Fuel Cell Technical Advisory Committee (HTAC) during Fiscal Years 2008 and 2009”; to the Committee on Energy and Natural Resources.

EC–4307. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a semianual report relative to the status of the Commission’s licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–4308. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Administration’s fiscal year 2011 Agency Financial Report; to the Committee on Homeland Security and Governmental Affairs.

EC–4309. A communication from the Acting District of Columbia Auditor, transmitting, pursuant to law, a report entitled, “District of Columbia Agencies Financial Report for the Fiscal Year 2010 Small Business Enterprise Expenditure Goals”; to the Committee on
Homeland Security and Governmental Affairs.

EC–3410. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's Semiannual Report to Congress on Audit Follow-up for the period of April 1, 2011 through September 30, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3411. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2011 through September 30, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3412. A communication from the Chairman of the Broadcasting Board of Governors, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of April 1, 2011 through September 30, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3413. A communication from the Deputy Assistant Administrator of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled “Chemical Mixtures Containing Listed Forms of Phosphorous and Change in Application Process” (RIN1117-AA66) received in the Office of the Secretary of the Senate on December 12, 2011; to the Committee on the Judiciary.

EC–3414. A communication from the National Executive Secretary, Navy Club of the United States of America, transmitting, pursuant to law, a report relative to the national annual statement of the organization, and national staff and convention minutes for the year ending July 31, 2011; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

Mr. ROCKEFELLER. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting, to save the expense of reprinting the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

National Oceanic and Atmospheric Administration nominations beginning with Benjamin M. Lacour and ending with Brian D. Preston, which nominations were received by the Senate and appeared in the Congressional Record on December 5, 2011.

By Mrs. BOXER for the Committee on Environment and Public Works:

Rebecca R. Wodder, of Virginia, to be Assistant Secretary for Fish and Wildlife.

By Mr. HARKIN for the Committee on Health, Education, Labor, and Pensions:

*Deepa Gupta, of Illinois, to be a Member of the National Council on the Arts for a term expiring September 30, 2016;

*Christopher Merrill, of Iowa, to be a Member of the National Council on the Arts for a term expiring January 20, 2016;

*Stephanie Orlando, of New York, to be a Member of the National Council on Disability for the remainder of the term expiring September 30, 2011;

*Stephanie Orlando, of New York, to be a Member of the National Council on Disability for a term expiring September 17, 2014;

*Gary Blumenthal, of Massachusetts, to be a Member of the National Council on Disability for a term expiring September 17, 2013; and

*Wendy M. Spencer, of Florida, to be Chief Executive Officer of the Corporation for National and Community Service.

Mr. HARKIN. Mr. President, for the Committee on Health, Education, Labor, and Pensions I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

Public Health Service nominations beginning with Jose G. Bal and ending with Kendra J. Vieira, which nominations were received by the Senate and appeared in the Congressional Record on November 8, 2011.

Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. BLUNT (for himself, Mrs. McCollum, Mr. Courtney, and Mr. Emmer):

S. 8. 1988. A bill to amend the federal Power Act to require the Federal Energy Regulatory Commission to establish a private land ownership and private use of land in issuing hydroelectric licenses, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself, Ms. Snowe, Mr. Bingaman, Mr. Kerry, Mr. Nelson of Florida, Mr. Menendez, Mr. Sanders, Mr. Crapo, Mr. Brown of Massachusetts, and Ms. Collins):

S. 889. A bill to amend the Internal Revenue Code of 1986 to make permanent the minimum low-income housing tax credit rate for unsubsidized buildings and to provide a minimum 4 percent credit rate for existing buildings; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. Blumenthal, Ms. Collins, Mr. Budge, Mr. Akaka, Mr. Tester, and Ms. Landrieu):

S. 990. A bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act; to the Committee on Commerce, Science, and Transportation.

By Mr. WHITEHOUSE:

S. 991. A bill to establish the National Endowment for the Oceans, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN of Ohio (for himself, Mr. Wyden, and Mrs. Shaheen):

S. 992. A bill to provide flexibility of certain transit functions to local entities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NELSON of Florida (for himself, Ms. Collins, Mrs. Gillibrand, and Mr. Schumer):

S. 993. A bill to posthumously award a Congressional Gold Medal to Mary Lou Roybal in recognition of her achievements and contributions to American culture and the civil rights movement; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. Cardin, and Mr. Leahy):

S. 994. A bill to prohibit deceptive practices in Federal elections; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. Kyl, and Mr. Blumenthal):

S. 995. A bill to enhance Food and Drug Administration oversight of medical device recalls, to provide for the conditional clearance of certain medical devices, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 3411. At the request of Mr. Pryor, the names of the Senator from Texas (Mrs. Hutchison), the Senator from Delaware (Mr. Coons), the Senator from Iowa (Mr. Harkin), the Senator from Rhode Island (Mr. Whitehouse), the Senator from New Jersey (Mr. Lautenberg), the Senator from West Virginia (Mr. Manchin), the Senator from Maine (Ms. Collins), the Senator from Texas (Mr. Cornyn), the Senator from North Dakota (Mr. Hoeven), the Senator from Nebraska (Mr. Nelson) and the Senator from Mississippi (Mr. Wicker) were added as cosponsors of S. 341, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the establishment of the Nation's first Federal law enforcement agency, the United States Marshals Service.

S. 506. At the request of Mr. Casey, the name of the Senator from West Virginia (Mr. Rockefeller) was added as a cosponsor of S. 506, a bill to amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

S. 534. At the request of Mr. Kerry, the name of the Senator from New Jersey (Mr. Menendez) was added as a cosponsor of S. 534, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 547. At the request of Mrs. Murray, the name of the Senator from West Virginia (Mr. Rockefeller) was added as a cosponsor of S. 547, a bill to direct the Secretary of Education to establish an award program recognizing excellence exhibited by public school system employees providing services to students in pre-kindergarten through higher education.
S. 1355
At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1355, a bill to regulate political robocalls.

S. 1494
At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1494, a bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act.

S. 1544
At the request of Mr. TESTER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1544, a bill to amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act.

S. 1961
At the request of Mr. REED, the name of the Senator from Maryland (Ms. MUSKULSKI) was added as a cosponsor of S. 1961, a bill to provide level funding for the Low-Income Home Energy Assistance Program.

S. Res. 347
At the request of Mr. REID, his name was added as a cosponsor of S. Res. 347, a resolution recognizing the 40th anniversary of the National Cancer Act of 1971 and the more than 12,000,000 survivors of cancer alive today because of the commitment of the United States to cancer research and advances in cancer prevention, detection, diagnosis, and treatment.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. LIEBERMAN (for himself, Mr. BLUMENTHAL, Ms. COLLINS, Mr. BURR, Mr. AKAKA, Mr. TESTER, and Ms. LANDRIEU):
S. 1927
At the request of Mr. HATCH, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1927, a bill to modify the criteria used by the Corps of Engineers to dredge small ports.

S. 1880
At the request of Mr. BARRASSO, the name of the Senator from Wyoming (Mr. CASSIDY) was added as a cosponsor of S. 1880, a bill to regulate a certain class of securities.

S. 1746
At the request of Mr. BROWN of Ohio, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1746, a bill to amend the Immigration and Nationality Act to stimulate international tourism to the United States.

S. 161
At the request of Mr. AKAKA, Mr. BURR, Mr. CASSIDY, and Ms. LANDRIEU:
S. 1990
A bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act; to the Committee on Commerce, Science, and Transportation.

Mr. LIEBERMAN. Mr. President, I rise to introduce legislation that would guarantee the jobs of Transportation Security Officers, TSOS, who are called to active military duty, putting them on the same playing field as every other civilian employee called up to serve their nation in the uniformed services in times of need.

I want to thank my cosponsors for their support of this measure, including my colleague from Connecticut, Senator RICHARD BLUMENTHAL, and the Ranking Member of the Homeland Security and Governmental Affairs Committee, Senator SUSAN COLLINS. Other cosponsors include Senators BURR, AKAKA, TESTER, and LANDRIEU.

This is a simple and straightforward bill that would close a loophole in the law that leaves Transportation Security Officers called to full time military service vulnerable to dismissal from their jobs upon return to civilian life.

The jobs of all other non-military public and private sector employees called up to active duty are protected under the Uniformed Services Employment and Reemployment Rights Act of 1994. USERRA, USERRA entitles a reservist, a member of the National Guard, or a veteran who is called to duty to return to their civilian jobs once their service is complete. The service member must meet certain basic requirements, such as providing advance notice to their employer of their impending service and missing no more than 5 years of work under any one employer due to their service.

According to the law itself, the purpose of USERRA is to ‘‘encourage non-career service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service.’’

The law also minimizes the disruption to those who are called up to service by providing for their prompt reemployment when they return to civilian life and protects them from discrimination based on their active duty in the uniformed services.

This is simple fairness to those with the courage, determination, and love of country to serve in the uniformed services beyond any required service or normal tour of duty, and certainly at an age older than most soldiers.

TSOs, however, are not statutorily protected against dismissal from their jobs upon return from military service. In the aftermath of 9/11, when Congress moved with lightning speed to strengthen the safety of air travel, we provided the Transportation Security Administration with the broad authority it would need to hire and deploy
tens of thousands of new workers in a matter of weeks. TSOs became a select category of federal employees who were considered vital to the national security, and because of the unusual circumstances and broad authority given to TSA, they were exempted from both labor laws.

The Aviation and Transportation Security Act, ATSA, passed in November 2001, gives the TSA Administrator authority over all terms and conditions of a TSO's employment. Specifically, Section 111(d) of ATSA states: "notwithstanding any other provision of law, the Undersecretary for Transportation Security may employ, appoint, discipline, terminate, and fix terms and conditions of employment . . . as the Undersecretary determines to be necessary."

The Transportation Security Administration employs 3,500 reservists and another 15,000 veterans. The agency frequently recruits veterans, reservists, and members of the National Guard and benefits from their employment. We should make it easier for TSA to attract the best and brightest to its ranks, by ensuring these men and women have the job protections they need and deserve.

TSA has said that it complies administratively and voluntarily with USERRA. But without the force of law, reservists and National Guard members cannot count on redress if they believe TSA has violated USERRA.

According to the Veterans of Foreign Wars, at least two TSOs so far have tried to appeal TSA actions based on perceived violations of USERRA. Both were thwarted in their efforts when the Office of Special Counsel and the Merit System Protection Board ruled that Section 111(d) of ATSA bars TSA from USERRA coverage.

TSOs find themselves in a clearly unjust and inadvertent position. Therefore, the legislation my colleagues and I are introducing today would simply require USERRA, providing TSOs the statutory protection of reemployment to which every individual . . . as the Undersecretary determines to be necessary."

I ask my colleagues for their support and I am introducing today would simply require TSA to comply with USERRA, providing TSOs the statutory protection of reemployment to which every individual . . . as the Undersecretary determines to be necessary."

Both were thwarted in their efforts when the Office of Special Counsel and the Merit System Protection Board ruled that Section 111(d) of ATSA bars TSA from USERRA coverage.

TSOs find themselves in a clearly unjust and inadvertent position. Therefore, the legislation my colleagues and I are introducing today would simply require USERRA, providing TSOs the statutory protection of reemployment to which every other type of worker, in the private or public sectors, is eligible.

I ask my colleagues for their support to right this unintentional wrong.

Mr. President, I ask unanimous consent that the text of the bill be printed into the Record.

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

8. 1900

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

SECTION 1. APPLICABILITY OF THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT TO THE TRANSPORTATION SECURITY ADMINISTRATION.

(a) In General.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44905 note; Public Law 107-71) is amended—

(i) by striking “Notwithstanding” and inserting the following:

“(1) GENERAL AUTHORITY.—Except as provided in paragraph (2), and notwithstanding; and

(ii) by adding at the end the following:

“(2) UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT.—In carrying out the functions authorized under paragraph (1), the Under Secretary shall be subject to the provisions set forth in title 38, United States Code.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1462. Mr. REID (for Mr. KERRY (for himself and Mr. LUGAR)) proposed an amendment to the bill H.R. 515, to reauthorize the Belarus Democracy Act of 2004.

SA 1463. Mr. REID (for Mrs. FEINSTEIN (for herself and Mr. CHAMBLISS)) proposed an amendment to the bill H.R. 1892, to authorize appropriations for fiscal year 2012 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

TEXT OF AMENDMENTS

SA 1462. Mr. REID (for Mr. KERRY (for himself and Mr. LUGAR)) proposed an amendment to the bill H.R. 515, to reauthorize the Belarus Democracy Act of 2004; as follows:

On page 6, line 19, strike “and” and insert “expanded its visa ban list, imposed additional financial sanctions on certain state-owned enterprises, and initiated preparations to freeze the assets of several individuals in Belarus. The arrival of the".

On page 10, line 9, strike “continue to”.

SA 1463. Mr. REID (for Mrs. FEINSTEIN (for herself and Mr. CHAMBLISS)) proposed an amendment to the bill H.R. 1892, to authorize appropriations for fiscal year 2012 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2012”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; Table of contents.
Sec. 2. Definitions.
TITLE I—INTELLIGENCE ACTIVITIES
Sec. 101. Authorization of appropriations.
Sec. 102. Classified Schedule of Authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM
Sec. 201. Authorization of appropriations.
TITLE III—GENERAL PROVISIONS
Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Annual report on hiring of National Security Education Program participants.
Sec. 304. Enhancement of authority for flexible personnel management among the elements of the intelligence community.
Sec. 305. Preparation of nuclear proliferation assessment statements.
Sec. 306. Cost estimates.
Sec. 307. Updates of intelligence relating to terrorist activities of detainees held at United States Naval Station, Guantanamo Bay, Cuba.
Sec. 308. Notification of transfer of a detainee held at United States Naval Station, Guantanamo Bay, Cuba.
Sec. 309. Enhanced procurement authority to manage supply chain risk.
Sec. 310. Burial allowance.
Sec. 311. Modification of certain reporting requirements.
Sec. 312. Review of strategic and competitive analysis conducted by the intelligence community.
TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY
Subtitle A—Office of the Director of National Intelligence
Sec. 401. Intelligence community assistance to counter drug trafficking organizations using public lands.
Sec. 402. Application of certain financial reporting requirements to the Office of the Director of National Intelligence.
Sec. 403. Public availability of information regarding the Inspector General of the Intelligence Community.
Sec. 404. Clarification of status of Chief Information Officer in the Executive Schedule.
Sec. 405. Temporary appointment to fill vacancies within Office of the Director of National Intelligence.
Subtitle B—Central Intelligence Agency
Sec. 411. Acceptance of gifts.
Sec. 412. Foreign language proficiency requirements for Central Intelligence Agency officers.
Sec. 413. Public availability of information regarding the Inspector General of the Central Intelligence Agency.
Sec. 414. Creating an official record of the Osama bin Laden operation.
Subtitle C—National Security Agency
Sec. 421. Additional authorities for National Security Agency security personnel.
Subtitle D—Other Elements
Sec. 431. Codification of Office of Intelligence and Analysis of the Department of Homeland Security as element of the intelligence community.
Sec. 432. Federal Bureau of Investigation participation in the Department of Justice leave bank.
Sec. 433. Accounts and transfer authority for appropriations and other amounts for intelligence elements of the Department of Defense.
TITLE V—OTHER MATTERS


SEC. 503. Strategy to counter improvised explosives.

SEC. 504. Sense of Congress regarding the priority of railway transportation security.


SEC. 506. Technical amendments to title 13, United States Code.

SEC. 507. Budgetary effects.

SEC. 508. Technical amendments to title 18, United States Code.


SEC. 5010. Budgetary effects.

SEC. 5011. Technical amendments to title 18, United States Code.


SEC. 5013. Technical amendments to title 13, United States Code.

SEC. 5014. Budgetary effects.

SEC. 5015. Technical amendments to title 18, United States Code.


SEC. 5017. Technical amendments to title 13, United States Code.

SEC. 5018. Budgetary effects.

SEC. 5019. Technical amendments to title 18, United States Code.


SEC. 5021. Technical amendments to title 13, United States Code.

SEC. 5022. Budgetary effects.

SEC. 5023. Technical amendments to title 18, United States Code.


SEC. 5025. Technical amendments to title 13, United States Code.

SEC. 5026. Budgetary effects.

SEC. 5027. Technical amendments to title 18, United States Code.


SEC. 5029. Technical amendments to title 13, United States Code.

SEC. 5030. Budgetary effects.

SEC. 5031. Technical amendments to title 18, United States Code.


SEC. 5033. Technical amendments to title 13, United States Code.

SEC. 5034. Budgetary effects.

SEC. 5035. Technical amendments to title 18, United States Code.


SEC. 5037. Technical amendments to title 13, United States Code.

SEC. 5038. Budgetary effects.

SEC. 5039. Technical amendments to title 18, United States Code.


SEC. 5041. Technical amendments to title 13, United States Code.

SEC. 5042. Budgetary effects.

SEC. 5043. Technical amendments to title 18, United States Code.


SEC. 5045. Technical amendments to title 13, United States Code.

SEC. 5046. Budgetary effects.

SEC. 5047. Technical amendments to title 18, United States Code.


SEC. 5049. Technical amendments to title 13, United States Code.

SEC. 5050. Budgetary effects.

SEC. 5051. Technical amendments to title 18, United States Code.


SEC. 5053. Technical amendments to title 13, United States Code.

SEC. 5054. Budgetary effects.

SEC. 5055. Technical amendments to title 18, United States Code.


SEC. 5057. Technical amendments to title 13, United States Code.

SEC. 5058. Budgetary effects.

SEC. 5059. Technical amendments to title 18, United States Code.


SEC. 5061. Technical amendments to title 13, United States Code.

SEC. 5062. Budgetary effects.

SEC. 5063. Technical amendments to title 18, United States Code.


SEC. 5065. Technical amendments to title 13, United States Code.

SEC. 5066. Budgetary effects.

SEC. 5067. Technical amendments to title 18, United States Code.


SEC. 5069. Technical amendments to title 13, United States Code.

SEC. 5070. Budgetary effects.
an element of the intelligence community in such department, to excepted service positions as the Director of National Intelligence determines necessary to carry out the intelligence community and such element, and "(B) establish new positions in the excepted service within an element of the intelligence community in such department, if the National Intelligence Director determines such positions are necessary to carry out the intelligence functions of such element.

"(2) An incumbent occupying a position on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2012 selected to be converted to the excepted service under this section shall have the right to refuse such conversion. Once such individual no longer occupies the position, the position may be converted to the excepted service.

"(3) In this subsection, the term ‘covered department’ means the Department of Energy, the Department of Homeland Security, the Department of State, or the Department of the Treasury.’’

SEC. 305. PREPARATION OF NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by section 304 of this Act, is further amended by adding at the end the following new subsection:

‘‘(w) NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS INTELLIGENCE COMMUNITY ADDENDUM.—The Director of National Intelligence, in consultation with the heads of the appropriate elements of the intelligence community and the Secretary of State, shall provide to the President, the congressional intelligence committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate an addendum to each National Intelligence Assessment statement accompanying a civilian nuclear cooperation agreement, containing a comprehensive analysis of the country’s export control system with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-relevant technologies.

SEC. 306. COST ESTIMATES.

(a) In GENERAL.—Section 506A of the National Security Act of 1947 (50 U.S.C. 413a–1) is amended—

(1) in subsection (a)(2)—

(A) by inserting ‘‘(A)’’ after ‘‘(2)’’; and

(B) by adding at the end the following new subparagraph:

‘‘(B) For major system acquisitions requiring a service or capability from another acquisition or program to deliver the end-to-end functionality for the intelligence community end users, independent cost estimates shall include, to the maximum extent practicable, all estimated costs across all pertinent elements of the intelligence community. For collection programs, such cost estimates shall include the cost of new analyst training, new hardware and software for data exploitation and analysis, and any unique or additional costs for data processing, storing, and power, space, and cooling across the life cycle of the program. If such costs for processing, exploitation, dissemination, and storage are scheduled to be executed in other elements of the intelligence community, the independent cost estimate shall accommodate such costs for such other elements accordingly.’’;

and

(2) in subsection (e)(2)—

(A) by inserting ‘‘(A)’’ after ‘‘(B)’’; and

(B) by designating by striking ‘‘associated with the acquisition of a major system,’’ and inserting ‘‘associated with the development, acquisition, procurement, operation, and sustainment of a major system across its proposed life cycle,’’;

and

(C) by adding at the end the following:

‘‘(B) In accordance with subsection (a)(2)(B), each independent cost estimate shall include all costs required across elements of the intelligence community for data processing, acquire, procure, operate, and sustain the system to provide the end-to-end intelligence functionality of the system, including—

‘‘(i) for collection programs, the cost of new analyst training, new hardware and software for data exploitation and analysis, and any unique or additional costs for data processing, storing, and power, space, and cooling across the life cycle of the program; and

‘‘(ii) costs for processing, exploitation, dissemination, and storage scheduled to be executed in other elements of the intelligence community.’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 307. UPDATES OF INTELLIGENCE RELATING TO TERRORIST RADICALIZATION AND RECIDIVISM OF DETAINED HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

(a) UPDATES AND CONSOLIDATION OF LANGUAGE.—

(1) In GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506H the following new section:

‘‘SUMMARY OF INTELLIGENCE RELATING TO TERRORIST RADICALIZATION AND RECIDIVISM OF DETAINED HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

SEC. 506H. IN GENERAL.—The Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Director of the Defense Intelligence Agency, shall make publicly available an unclassified summary of—

‘‘(1) intelligence relating to recidivism of detainees currently or formerly held at the Naval Detention Facility at Guantanamo Bay, Cuba, by the Department of Defense; and

‘‘(2) an assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.

(b) UPDATES.—Not less frequently than once every 6 months, the Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Secretary of Defense, shall update and make publicly available an unclassified summary consisting of the information required by subsection (a) and the number of individuals formerly detained at Naval Station, Guantanamo Bay, Cuba, who are convicted of a terrorism offense, or a terrorism offense-related offense, as provided in section 4106(d)(3) of title 41, United States Code, or an evaluation factor, as provided in section 3306(b)(1) of such title, relating to supply chain risk; or

(1) the consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply involving either a performance specification, as provided in section 3306(h)(3)(B) of title 41, United States Code, or an evaluation factor, as provided in section 3306(h)(1) of such title, relating to supply chain risk; or

(2) any contract action involving a contract for a covered system or a covered item of supply where such contract includes a clause establishing a requirement relating to supply chain risk;

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the Intelligence Authorization Act for Fiscal Year 2009 is amended by inserting after the item relating to section 506H the following new item:

‘‘Sec. 506I. Summary of intelligence relating to terrorist recidivism of detainees held at United States Naval Station, Guantanamo Bay, Cuba.’’

SEC. 308. NOTIFICATION OF TRANSFER OF A DETAINED HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

(a) REQUIREMENT FOR NOTIFICATION.—The President shall submit to Congress, in classified form at least 30 days before the transfer or release of an individual detained at Naval Station, Guantanamo Bay, Cuba, as of January 24, 2009, to the country or the freely associated State to which such individual is to be transferred or released.

(b) DEFINITION.—In this section, the term ‘‘freely associated State’’ means the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(c) CONSTRUCTION WITH OTHER REQUIREMENTS.—Nothing in this section shall be construed to supersede or otherwise affect the following provisions of law:


(2) Section 8120 of the Department of Defense Appropriations Act, 2012.

SEC. 309. ENHANCED PROCUREMENT AUTHORITY TO MANAGE SUPPLY CHAIN RISK.

(a) DEFINITIONS.—In this section:

(1) COVERED AGENCY.—The term ‘‘covered agency’’ means any element of the intelligence community other than an element within the Department of Defense.

(2) COVERED ITEM OF SUPPLY.—The term ‘‘covered item of supply’’ means an item of information technology (as that term is defined in section 3306(d)(3) of title 41, United States Code) that is purchased for inclusion in a covered system, and the loss of integrity of which could result in a supply chain risk for covered system.

(3) COVERED PROCUREMENT.—The term ‘‘covered procurement’’ means—

(A) a source selection for a covered system or a covered item of supply involving either a performance specification, as provided in section 3306(h)(3)(B) of title 41, United States Code, or an evaluation factor, as provided in section 3306(h)(1) of such title, relating to supply chain risk;

(B) any contract action involving a covered system or a covered item of supply where such contract includes a clause establishing a requirement relating to supply chain risk; or

(C) any contract action involving a covered system or a covered item of supply where such contract includes a clause establishing requirements relating to supply chain risk.

(b) COVERED PROCUREMENT ACTION.—The term ‘‘covered procurement action’’ means any of the following actions, if the action takes place in the course of conducting a covered procurement:

(A) The exclusion of a source that fails to meet qualifications standards established in
objective of reducing supply chain risk in the acquisition of covered systems.

(a) COVERED ENTITY.—The term ‘covered system’ means a national security system, as that term is defined in section 3542(b) of title 41, United States Code.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall consult with the congressional intelligence committees and the Director’s Senior Advisory Group based on the appropriate actions the intelligence community can take to assist such agencies in responding to the threats from covered entities that are currently or have previously used public lands in the United States to further the operations of such entities.

(c) CONSULTATION.—The Director of National Intelligence shall consult with the heads of the Federal land management agencies on the appropriate actions the intelligence community can take to assist such agencies in identifying and protecting public lands from illegal drug grows and other activities and threats of covered entities, including through the sharing of intelligence information.

(d) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term ‘covered entity’ means an international drug trafficking organization that is responsible for drug trafficking generally.

(2) FEDERAL LAND MANAGEMENT AGENCY.—The term ‘Federal land management agency’ means—

(A) the Forest Service of the Department of Agriculture;

(B) the Bureau of Land Management of the Department of the Interior; and

(C) the National Park Service of the Department of the Interior;

in accordance with the requirements of section 3311 of title 41, United States Code, for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) in determining an appropriate level of security for the contractor or subcontractor under any other provision of law. The authority under this section shall not be con-

strued to alter or effect the exercise of any other provision of law.

(f) EFFECTIVE DATE.—The requirements of this section shall take effect on the date the President makes a determination under subsection (a) that the implementation of this Act and shall apply to contracts that are awarded on or after such date.


SEC. 310. BURIAL ALLOWANCE.

(a) AUTHORIZATION TO PROVIDE.—

(1) IN GENERAL.—The head of an agency or department and the intelligence community may pay to the estate of a decedent described in paragraph (2) a burial allowance at the request of a representative of the estate in accordance with the laws of the State.

(b) USE OF BURIAL ALLOWANCE.—A burial allowance paid under subsection (a) may be used to reimburse such estate for burial expenses, including recovery, mortuary, funeral, or memorial service, cremation, burial costs, and costs of transportation by common carrier to the place selected for final disposition of the decedent.

(c) AMOUNT OF BURIAL ALLOWANCE; RELATIONSHIP TO OTHER PROVISIONS.—A burial allowance paid under subsection (a) shall be—

(1) in an amount not greater than—

(A) the maximum reimbursable amount allowed under Department of Defense Instruction 1344.08 or successor instruction; plus

(B) the actual costs of transportation referred to in subsection (b); and

(2) in addition to any other benefit permitted under any other provision of law, including funds that may be expended as specified in the General Provisions section of the classified annex accompanying this Act.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Personnel Management, the Secretary of National Intelligence, the Secretary of Labor, and the Secretary of Defense, shall submit to Congress a report on the feasibility of implementing legislation to provide for burial allowances at a level which adequately addresses the cost of burial expenses and provides for equitable treatment when an official of a Federal agency or department dies as the result of an injury sustained in the performance of duty.

SEC. 311. MODIFICATION OF CERTAIN REPORTS.

(a) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 1041(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 463(b)(1)) is amended by striking paragraphs (3) and (4).

(b) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—Section 904(d)(1) of the Intelligence Authorization Act for Fiscal Year 2003 (50 U.S.C. 463(b)(1)) is amended by striking “on an annual basis”.

(c) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 809 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. App. 2130(b)) is amended—

(1) in subsection (a), by striking “report referred to in subsections (a) and (b)” and insert-
(D) the Fish and Wildlife Service of the Department of the Interior; and
(E) the Bureau of Reclamation of the Department of the Interior.

3. The term ‘public lands’ means land under the management of a Federal land management agency.

SEC. 402. APPLICATION OF CERTAIN FINANCIAL REQUIREMENTS TO INSPECTOR GENERAL OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

For each of the fiscal years 2010, 2011, and 2012, the requirements of section 3515 of title 31, United States Code, to submit an audited financial statement shall not apply to the Office of the Director of National Intelligence if the Director of National Intelligence determines and notifies Congress that audited financial statements for such years for such Office cannot be produced on a cost-effective basis.

SEC. 403. PUBLIC AVAILABILITY OF INFORMATION REGARDING THE INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

Section 103I of the National Security Act of 1947 (50 U.S.C. 403–3h) is amended by adding at the end of such section the following new subsection:

‘‘(o) INFORMATION ON WEBSITE.—(1) The Director of National Intelligence shall establish and maintain on the homepage of the publicly accessible website of the Office of the Director of National Intelligence information relating to the Office of the Inspector General of the Intelligence Community including methods to contact the Inspector General.

‘‘(2) The information referred to in paragraph (1) shall be obvious and facilitate accessibility to the information related to the Office of the Inspector General of the Intelligence Community.’’.

SEC. 404. CLARIFICATION OF STATUS OF CHIEF INTELLIGENCE OFFICER IN THE EXECUTIVE SCHEDULE.

Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Chief Information Officer, Small Business Administration the following new item:

‘‘Chief Information Officer of the Intelligence Community.’’

SEC. 405. TEMPORARY APPOINTMENT TO FILL VACANCIES WITHIN OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Section 103 of the National Security Act of 1947 (50 U.S.C. 403–3) is amended—

(1) by redesignating subsection (e) as subsection (f); and
(2) by inserting after subsection (d) the following new subsection:

‘‘(e) TEMPORARY FILLING OF VACANCIES.—With respect to filling temporarily a vacancy in an office within the Office of the Director of National Intelligence (other than that of the Director of National Intelligence), section 3345(a)(3) of title 5, United States Code, may be applied—

‘‘(1) in the matter preceding subparagraph (A), by substituting an element of the intelligence community, as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 404(a)(4)), for ‘such Executive agency’; and

‘‘(2) in subparagraph (A), by substituting ‘the intelligence community’ for ‘such agency’.’’.

Subtitle B—Central Intelligence Agency

SEC. 411. ACCEPTANCE OF GIFTS.

Section 403a of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a(1)) is amended—

(1) in subsection (a)—
(A) by inserting ‘‘(3)’’ after ‘‘(a)’’; and
(B) by striking the second and third sentences and inserting the following:

‘‘(2) Any gift accepted under this section (and any income produced by any such gift)—

‘‘(A) may be used only for—

‘‘(i) activities described in paragraph (1);

‘‘(ii) purposes relating to the general welfare, education, or recreation of employees or dependents of employees of the Agency or for similar purposes, or

‘‘(iii) purposes relating to the welfare, education, or recreation of an individual described in paragraph (3); and

‘‘(B) the circumstances in which such a gift (and any income produced by such gift) may be used for operational purposes.

(2) by inserting after subsection (d) the following new subsection:

‘‘(3) An individual described in this paragraph is an individual who—

‘‘(A) is an employee or a former employee of the Agency who suffered injury or illness while employed by the Agency that—

‘‘(i) resulted from hostile or terrorist activities;

‘‘(ii) occurred in connection with an intelligence activity having a significant element of risk; or

‘‘(iii) occurred under other circumstances determined by the Director to be analogous to the circumstances described in clause (i) or (ii);

‘‘(B) is a family member of such an employee or former employee; or

‘‘(C) is a member of an employee of the Agency who died in circumstances described in clause (i), (ii), or (iii) of subparagraph (A).

(3) The Director may not accept any gift under this section that is expressly conditioned upon any expenditure not to be met from the gift itself or from income produced by the gift unless such expenditure has been authorized by law.

(4) The Director may, in the Director’s discretion, determine that an individual described in subparagraph (A) or (B) of paragraph (3) may accept a gift for the purposes described in paragraph (2)(A)(iii), and

(5) by adding at the end the following new subsection:

‘‘(f) The Director, in consultation with the Director of the Office of Government Ethics, shall issue regulations to carry out the authority provided in this section. Such regulations shall ensure that such authority is exercised consistently with all relevant ethical constraints and principles, including—

‘‘(1) the avoidance of any prohibited conflict of interest or appearance of impropriety; and

‘‘(2) a prohibition against the acceptance of a gift from a foreign government or an agent of a foreign government.’’.

SEC. 412. FOREIGN LANGUAGE PROFICIENCY REQUIREMENTS FOR CENTRAL INTELLIGENCE AGENCY OFFICERS.

(a) IN GENERAL.—Section 194(a)(3) of the National Security Act of 1947 (50 U.S.C. 405–4a(3)) is amended—

(1) in paragraph (1)—
(A) in the matter preceding subparagraph (A)—

(i) by inserting ‘‘in the Directorate of Intelligence career service or the National Clandestine Service career service’’ after ‘‘an individual’’; and

(ii) by inserting ‘‘or promoted’’ after ‘‘appointed’’; and

(iii) by striking ‘‘individual’’—

(A) inserting ‘‘individual has been certified as having’’ after ‘‘individual’’; and

(B) by striking paragraphs (A) and (B); and

(2) in paragraph (2), by striking ‘‘position or category of positions’’ both places that term appears and inserting ‘‘position, category of positions, or occupation’’.

(b) EFFECTIVE DATE.—Section 611(b) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–187; 50 U.S.C. 403–4a note) is amended—

(1) in the first sentence—

(A) by striking ‘‘positions’’ and inserting ‘‘individuals’’; and

(B) by striking ‘‘or promotions’’ after ‘‘appointments’’; and

(2) in the second sentence, by striking ‘‘position or category of positions’’ and inserting ‘‘position, category of positions, or occupation’’.

(c) REPORT ON WAIVERS.—Section 611(c) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–187; 118 Stat. 3965) is amended—

(1) in the first sentence—

(A) by striking ‘‘positions’’ and inserting ‘‘individuals’’; and

(B) by striking ‘‘or promotions’’ after ‘‘appointments’’; and

(2) in the second sentence, by striking ‘‘position or category of positions’’ and inserting ‘‘position, category of positions, or occupation’’.

(d) REPORT ON TRANSFERS.—Not later than 45 days after the date of enactment of this Act, and on an annual basis for each of the following 3 years, the Director of the Central Intelligence Agency shall submit to the Congress a report on the number of Senior Intelligence Service employees of the Agency who—

(1) were transferred during the reporting period to a Senior Intelligence Service position in the Directorate of Intelligence career service or the National Clandestine Service career service; and

(2) did not meet the foreign language requirements specified in section 194a(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–4a(g)(1)) at the time of such transfer.

SEC. 413. PUBLIC AVAILABILITY OF INFORMATION REGARDING THE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

Section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) is amended by adding at the end the following new subsection:

‘‘(h) INFORMATION ON WEBSITE.—(1) The Director of the Central Intelligence Agency shall establish and maintain on the homepage of the Office of the Inspector General publicly accessible website information relating to the Office of the Inspector General including methods to contact the Inspector General.

‘‘(2) The information referred to in paragraph (1) shall be obvious and facilitate accessibility to the information related to the Office of the Inspector General.’’

SEC. 414. CREATING AN OFFICIAL RECORD OF THE OSAMA BIN LADEN OPERATION.

(a) FINDINGS.—Congress finds the following:

(1) On May 1, 2011, United States personnel killed terrorist leader Osama bin Laden during the course of a targeted strike against his secret compound in Abbottabad, Pakistan.

(2) Osama bin Laden was the leader of the al Qaeda terrorist organization, the most significant terrorism threat to the United States and the international community.

(3) Osama bin Laden was the architect of terrorist attacks which killed nearly 3,000 civilians on September 11, 2001, the most deadly terrorist attack against our Nation, in which al Qaeda terrorists hijacked four airplanes and crashed them into the World Trade Center in New York City, the Pentagon in Washington, D.C., and, due to heroic efforts by civilian passengers to disrupt the terrorists, near Shanksville, Pennsylvania.

(4) Osama bin Laden planned or supported numerous other deadly terrorist attacks
and allies. The death of bin Laden marks the central front in our enduring struggle against terrorism and extremism.

The valiant members of the United States Armed Forces have courageously and vigorously pursued al Qaeda and its affiliates in Afghanistan and around the world.

The anonymous, unsung heroes of the intelligence community have pursued al Qaeda and its affiliates and to terrorist organizations around the world, terrorism requires a continued threat to United States national security.

President Obama said, "For over two decades, bin Laden has been al Qaeda's leader and symbol, and has continued to plot attacks against our country and our friends and allies. The death of bin Laden marks the most significant achievement to date in our Nation's effort to defeat al Qaeda."

SENSE OF CONGRESS.—It is the sense of Congress that:

(a) the raid that killed Osama bin Laden represented a significant blow to the al Qaeda organization and its affiliates and to terrorist organizations around the world; terrorism remains a critical threat to United States national security.

(b) In December 2011, the United States Armed Forces have courageously and vigorously pursued al Qaeda and its affiliates in Afghanistan and around the world.

(c) The death of Osama bin Laden marks the most significant achievement to date in our Nation's effort to defeat al Qaeda.

SEC. 415. RECRUITMENT OF PERSONNEL IN THE OFFICE OF THE INSPECTOR GENERAL.

(a) Study.—The Inspector General of the Office of Personnel Management, in consultation with the Director of the Central Intelligence Agency, shall carry out a study of the personnel authorities and available personnel benefits of the Office of the Inspector General of the Central Intelligence Agency; such study shall include:

(1) identification of any barriers or disincentives to the recruitment or retention of experienced investigators within the Office of the Inspector General of the Central Intelligence Agency; and

(2) a comparison of the personnel authorities of the Inspector General of the Central Intelligence Agency with similar benefits available within the offices of Inspectors General of other agencies and departments of the United States, including a comparison of the benefits available to experienced investigators within the Office of the Inspector General of the Central Intelligence Agency with similar benefits available within the offices of Inspectors General of other agencies or departments.

(b) Recommendations.—Not later than 120 days after the date of the enactment of this Act, the Inspector General of the Office of Personnel Management shall submit to the congressional intelligence committees and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives:

(1) a report on the study conducted under subsection (a); and

(2) any recommendations for legislative action based on such results.

(c) Funding.—Of the funds authorized to be appropriated for Defense Intelligence Agency, the Director of National Intelligence shall transfer to the Inspector General of the Office of Personnel Management such sums as may be necessary to carry out this section.

Title C—National Security Agency

SEC. 421. ADDITIONAL AUTHORITIES FOR NATIONAL SECURITY AGENCY SECURITY PERSONNEL.

(a) Authority To Transport Apprehended Personnel.—Paragraph (5) of section 11(a) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended to read as follows:

"(5) Agency personnel authorized by the Director under paragraph (1) may transport an individual apprehended under the authority of this section from the premises at which the individual was apprehended, as described in subparagraph (A) or (B) of paragraph (1), for the purpose of transferring such individual to the custody of law enforcement officials. Such transportation may be provided only to make a transfer of custody at a location within 30 miles of the premises described in subparagraphs (A) and (B) of paragraph (1).

(b) Conforming Amendment Relating to Tort Liability.—Paragraph (1) of section 11(d) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(D) transport an individual pursuant to subsection (a)(2)."

Title D—Other Elements

SEC. 431. CODIFICATION OF OFFICE OF INTELLIGENCE AND ANALYSIS OF THE DEPARTMENT OF HOMELAND SECURITY AS PART OF THE INTELLIGENCE COMMUNITY.

Section 3(4)(K) of the National Security Act of 1947 (50 U.S.C. 401a(4)(K)) is amended to read as follows:

"(K) The Office of Intelligence and Analysis of the Department of Homeland Security".

SEC. 432. FEDERAL BUREAU OF INVESTIGATION PARTICIPATION IN THE DEPARTMENT OF JUSTICE.

Subsection (b) of section 6372 of title 5, United States Code, is amended to read as follows:

"(b) Exception.—Except as provided in paragraph (2) and notwithstanding any other provision of this subchapter, neither an exempted agency nor any individual employed in or under an exempted agency may be included in a leave bank program established under any of the preceding provisions of this subchapter.

(2) Notwithstanding any other provision of law, the Director of the Federal Bureau of Investigation may authorize an individual employed by the Bureau to participate in a leave bank program established under the Department of Justice under this subchapter if in the Director's judgment such participation will not adversely affect the protection of intelligence sources and methods.

SEC. 433. ACCOUNTS AND TRANSFER AUTHORITY FOR APPROPRIATIONS AND OTHER AMENDMENTS TO THE OFFICE OF INTELLIGENCE AND ANALYSIS OF THE DEPARTMENT OF DEFENSE.

(a) In General.—Chapter 11 of title 10, United States Code, is amended by inserting after section 428 the following new section:

"§ 429. Appropriations for Defense intelligence elements; accounts for transfers; transfer authority.

"(a) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS.—The Secretary of Defense may transfer appropriations of the Department of Defense which are available for the activities of Defense intelligence elements to an account or accounts established for receipt of such transfers. Each such account may receive transfers from the Director of National Intelligence if made pursuant to Section 102A of the National Security Act of 1947 (50 U.S.C. 401a(4)), and shall remain subject to the same limitations provided in the act making the appropriation.

"(b) ACCOUNTS FOR USE OF FUNDS.—Funds transferred pursuant to subsection (a) shall remain available for the same time period and for the same purpose as the appropriation from which transferred, and shall remain subject to the limitations provided in the act making the appropriation.

"(c) AVAILABILITY OF FUNDS.—Funds transferred pursuant to subsection (a) shall remain available for the same time period and for the same purpose as the appropriation from which transferred, and shall remain subject to the limitations provided in the act making the appropriation.

"(d) DEFENSE INTELLIGENCE ELEMENT DEFINED.—In this section, the term 'Defense intelligence element' means any of the Department of Defense agencies, offices, and elements included within the definition of 'intelligence community' in subsection (4) of the National Security Act of 1947 (50 U.S.C. 401a(4))."
S8610

CONGRESSIONAL RECORD — SENATE
December 14, 2011

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"429. Appropriated funds for Defense intelligence elements: accounts for transfers; transfer authority."

SEC. 434. REPORT ON TRAINING STANDARDS OF DEFENSE INTELLIGENCE WORKFORCE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence and the Under Secretary of Defense for Intelligence shall submit to the Permanent Select Committee on Intelligence and the Committee on Armed Services of the Senate a report on the training standards of the defense intelligence workforce. Such report shall include—

(1) a description of existing training, education, and professional development standards applied to personnel of defense intelligence components; and

(2) an assessment of the ability to implement a certification program for personnel of the defense intelligence components based on achievement of required training, education, and professional development standards.

(b) DEFINITIONS.—In this section:

(1) DEFENSE INTELLIGENCE COMPONENTS.—The term "defense intelligence components" means—

(A) the National Security Agency;

(B) the Defense Intelligence Agency;

(C) the National Geospatial-Intelligence Agency;

(D) the National Reconnaissance Office;

(E) the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps;

(F) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(2) DEFENSE INTELLIGENCE WORKFORCE.—The term "defense intelligence workforce" means the personnel of the defense intelligence components.

TITLED—OTHER MATTERS

SEC. 501. REPORT ON AIRSPACE RESTRICTIONS FOR USE OF UNMANNED AERIAL VEHICLES NEAR THE BORDER OF THE UNITED STATES AND MEXICO.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the congressional intelligence committees, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report on whether restrictions on the use of airspace are hampering the use of unmanned aerial vehicles by the Department of Homeland Security along the international border between the United States and Mexico.

SEC. 502. SENSE OF CONGRESS REGARDING INTEGRATION OF FUSION CENTERS.

It is the sense of Congress that ten years after the terrorist attacks upon the United States on September 11, 2001, the Secretary of Homeland Security, in consultation with the Director of National Intelligence, should continue the program begun by the Department of Justice to post fusion centers to all of the intelligence, law enforcement, and homeland security capabilities of the United States in a manner that is consistent with the Constitution to protect the United States from acts of terrorism against the United States.

SEC. 503. STRATEGY TO COUNTER IMPROVED EXPLOSIVE DEVICES.

(a) STRATEGY.—The Director of National Intelligence and the Secretary of Defense shall establish a coordinated strategy utilizing all available personnel and assets for intelligence collection and analysis to identify and counter network activity and operations in Afghanistan and Pakistan relating to the development and use of improvised explosive devices.

(2) CONTENTS.—The strategy established under paragraph (1) shall—

(A) the networks that design improvised explosive devices, provide training on improvised explosive device assembly and employment, and employ improvised explosive device components into Afghanistan;

(B) the persons and organizations not directly affiliated with insurgents in Afghanistan whose activities enable the movement of commercial products and material used in improvised explosive device construction from factories and vendors in Pakistan into Afghanistan;

(C) the financiers, financial networks, institutions, and funding streams that provide resources to the insurgency in Afghanistan;

and

(2) the links to military, intelligence services, and government officials who are complicit in allowing the insurgent networks in Afghanistan to benefit.

(b) REPORT AND IMPLEMENTATION.—Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence and the Secretary of Defense shall—

(1) submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report containing the strategy established under subsection (a); and

(2) implement such strategy.

SEC. 504. SENSE OF CONGRESS REGARDING THE PRIORITY OF RAILWAY TRANSPORTATION SECURITY.

It is the sense of Congress that—

(1) the nation's railway transportation (including subway transit) network is broad and technically complex, requiring robust communication between private sector stakeholders and the intelligence community to identify, monitor, and respond to threats;

(2) the Department of Homeland Security Office of Intelligence and Analysis maintains a constructive relationship with other Federal agencies, state and local governments, and private entities to safeguard our railways; and

(3) railway transportation security (including subway transit security) should continue to be prioritized in the critical infrastructure threat assessment developed by the Office of Intelligence and Analysis and included in threat assessment budgets of the intelligence community.

SEC. 505. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 (50 U.S.C. 401 et seq.), is amended—

(1) in section 36(a) (50 U.S.C. 401a(b)), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(2) in section 506(b) (50 U.S.C. 415a(b)), by striking "Director of Central Intelligence," and inserting "Director of National Intelligence";

(3) in section 506a(c)(2)(C) (50 U.S.C. 415a-1(c)(2)(C)), by striking "Foreign Intelligence Program" both places that term appears and inserting "National Intelligence Program".

SEC. 506. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 351(a) of title 18, United States Code, is amended—

(1) by inserting "the Director (or a person nominated to be Director during the presidency of such nomination) or Principal Deputy Director of National Intelligence," after "in such department,"; and

(2) by striking "Central Intelligence," and inserting "the Central Intelligence Agency.

SEC. 507. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCIAL, SCIENCE, AND TRANSPORTATION

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 14, 2011, at 10 a.m. in room SR–253 of the Russell Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on December 14, 2011.

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

COMMITTEE ON FINANCE

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 14, 2011, at 9:45 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled "Alternative Energy Tax Incentives: The Effect of Short-Term Extensions on Alternative Technology Investment, Domestic Manufacturing, and Jobs.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 14, 2011, at 10 a.m., to hold a European Affairs subcommittee hearing entitled, "The State of Human Rights and the Rule of Law in Russia: U.S. Policy Options."

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on December 14, 2011, at 10 a.m., in room SD–430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.
Mr. REED. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 14, 2011, at 10 a.m.

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

Mr. REED. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 14, 2011, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Oversight of the Federal Bureau of Investigation.”

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

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Securities, Insurance, and Investment be authorized to meet during the session of the Senate on December 14, 2011, at 9:30 a.m., to conduct a hearing entitled “Examining Investor Risks in Capital Raising.”

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

PRIVILEGES OF THE FLOOR

Mr. BARRASSO. Mr. President, I ask unanimous consent that Clay Robbins, who is an intern serving in the office of Senator MERKLEY, the Presiding Officer, have the privilege of the floor for the remainder of the day.

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

Mr. FRANKEN. Mr. President, I ask unanimous consent that my legislative fellows, Erin Boyd and Sharon Hessney, be given the privileges of the floor for the duration of today’s session.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 380, 411, 458, and 459; that the nominations be confirmed en bloc; that the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to a vote on Calendar No. 337; that there be an additional 2 minutes for debate, equally divided in the usual form, that upon the use or yielding back of time, the Senate resume legislative session, and at a time to be determined by the majority leader, in consultation with the Republican leader, the Senate return to executive session, resume consideration of the nomination, and there be an additional 2 minutes for debate, equally divided in the usual form prior to a vote on Calendar No. 337; that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to a vote on Calendar No. 337; that the nominations related to the nomination be printed in the Record; that the President be immediately notified of the Senate’s action and the Senate then resume legislative session.

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

Mr. REID. As the Chair knows, Calendar No. 337 is Morgan Christen of Alaska.

REAUTHORIZING THE BELARUS DEMOCRACY ACT OF 2004

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 515 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

Mr. REID. Mr. President, I ask unanimous consent that the Kerry amendment No. 1462 be agreed to.

The amendment (No. 1462) was agreed to, as follows:

On page 6, line 19, strike “and” and insert “expanded its visa ban list, imposed additional financial sanctions on certain state-owned enterprises, and initiated preparations to freeze the assets of several individuals in Belarus.”

On page 10, line 9, strike “continue to”.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 515), as amended, was passed, as follows:

H.R. 515

Resolved, That the bill from the House of Representatives (H.R. 515) entitled “An Act to reauthorize the Belarus Democracy Act of 2004,” do pass with the following amendments:

1. On page 6, line 19, strike “and” and insert “expanded its visa ban list, imposed additional financial sanctions on certain state-owned enterprises, and initiated preparations to freeze the assets of several individuals in Belarus.”

2. On page 10, line 9, strike “continue to”.

Mr. REID. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the Record.

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

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2012

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 161.
The PRESIDING OFFICER. The clerk will report the bill by title. The bill clerk read as follows:

A bill (H.R. 1892) to authorize appropriations for fiscal year 2012 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System for other purposes.

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

Mrs. FEINSTEIN. Mr. President, I am very pleased to rise today in support of the Senate’s passage of the Intelligence Authorization Act for Fiscal Year 2012. I understand that the House of Representatives intends to consider this legislation on the suspension calendar later this week, so it should be enacted prior to the end of this session.

This will be the third time in less than 15 months that the Congress will enact an intelligence authorization bill—including bills for fiscal years 2010, 2011, and 2012—after a 6 year hiatus in this legislation. What this means is that Congress, through the Senate and House Intelligence Committees, is restoring oversight over the intelligence community and fulfilling our responsibility to thoroughly examine intelligence policies and budgets.

Unlike the last two authorization bills, this bill was completed contemporaneously with, instead of after, the appropriations process that funds intelligence efforts. The classified annex to this legislation authorizes appropriations for intelligence activities and has helped guide the work of the appropriations committees as they considered intelligence spending. The days when the intelligence community can bypass the intelligence committees and deal solely with the appropriations committees are over.

Since receiving the President’s budget request for the intelligence community and intelligence-related activities of the United States, the Senate in August of this year, reduced intelligence spending below the President’s request. Since then, we have worked closely with the House Intelligence Committee, the Senate Appropriations Committee, and the executive branch to reflect the spending reductions in the Budget Control Act of 2011. The legislation we are approving today keeps funding for intelligence essentially flat from fiscal year 2011, representing the meaningful reduction from the President’s request.

As we look to 2013, many more difficult decisions will need to be made to make further reductions to intelligence spending. It is my belief that real reductions in intelligence spending can be accomplished without sacrificing capability, but this will require a rigorous process and the executive branch being more forthcoming than it has been to date about where it believes cuts are possible.

Of course, the bill also provides significant legislative provisions to give the intelligence community the authorities and flexibilities it needs to continue protecting our national security and providing policymakers the information they need to make foreign policy decisions; and other provisions for the effective and appropriate functioning of our intelligence apparatus.

I note that passage of the last intelligence authorization act occurred shortly after the strike leading to the death of Usama bin Laden in Abbottabad, Pakistan. Since then, the intelligence community has had continued success in tracking and removing terrorist threats to the United States. Senior leaders and commanders of al-Qaida, including all of its affiliate groups as well as militant organizations involved in the Afghan war, have been removed from the fight, and terrorist plots and plotting have been disrupted. For example, last December, the Saudi Ambassador to the United States was thwarted due to the skillful and cooperative efforts of the FBI, DEA, CIA, and others.

Intelligence has factored into significant policy decisions and U.S. actions, including with respect to interdicting the proliferation of weapons, setting economic sanctions, protecting ISAF forces in Afghanistan, blocking cyber attacks against our government and certain critical infrastructure companies, and contributing to the NATO effort in Libya.

It is my hope that the provisions in this bill will continue to aid the intelligence community as it conducts its missions; ensure better stewardship of taxpayer dollars; and support its thousands of civilians and military employees.

Among other things, this bill includes: A section that provides for burials of military and civilian personnel killed in the line of duty, similar to those for members of the U.S. military; New procurement authorities that enable intelligence agencies to protect against supply chain risk to information technologies; a measure authorizing new accounts at the Department of Treasury that will enable defense intelligence agencies to become financially auditable; Provisions that strengthen congressional oversight of the transfers of detainees from Guantanamo Bay; and another to improve the accuracy of intelligence community cost estimates; and Provisions that provide the Director of National Intelligence with needed personnel management authorities.

As noted, the bill contains a 275-page classified schedule and annex that authorizes intelligence funding and implements the committee’s oversight findings over the past year. That annex is available to all Senators in the intelligence committee’s offices.

Mr. President, let me note my sincere appreciation for the close collaboration of Senator Chambliss, the chairman of the committee, throughout the legislative process. He and his staff—in particular Martha Scott Poindexter and Jacqueline Russell—have continued the bipartisan approach that the committee followed in the last Congress, and we have together agreed to provisions in this legislation.

As can be imagined, it has taken enormous effort to produce a third bill in such a short time frame. I sincerely thank the efforts of the staff to review the President’s request, funding levels and legislative provisions, to craft legislation, and to negotiate a final product. In particular, I thank Lorenzo Goco, the Deputy Staff Director who has overseen the legislative efforts, Michael Davidson, the general counsel of the Senate Intelligence Committee until this past Labor Day, and Christine Healey, who has carried the load of the legislative work throughout and who replaced Mr. Davidson as general counsel. I also extend my appreciation for the work of Eric Lesick and Mike Buchwald, majority counsel on the Committee, and Jack Livingston and Kathleen Rice, the minority counsel.

Similarly, the Committee’s budget staff has worked diligently and expertly in their preparation of the classified annex to this bill and in working with intelligence agencies to understand and guide their efforts. I thank the committee’s budget director, Peggy Evans, and the budget staff for their work this period: Randy Bookout, Andrew Kerr, John Dickas, Paul Matulic, Matt Pollard, Amy Hopkins, Jamal Ware, Iram Ali, Jeffrey Howard, Andy Grotto, Jim Smythers, Brian Miller, Eric Chapman, John Maguire, Tyler Stephens, Evan Gottesman, Brian Walsh, Ryan Tully, and Christian Cook.

I also appreciate the work and relationship with Chairman Rogers and Ranking Member Ruppersberger of the House Permanent Select Committee on Intelligence. The version of the legislation approved today builds on the House legislation, and our two committees have consulted closely throughout this process. We held a joint open hearing on the tenth anniversary of the September 11th attacks and I look forward to continuing to work together next year to enact the fiscal year 2013 intelligence authorization bill.

I also note my appreciation for the two other Senate committees. The Senate Appropriations Subcommittee on Defense has closely followed our authorizations as it drafted its appropriations bill. This underscores the work done in our bill, and limits to a minimum in cases where the authorization and appropriations levels do not match.

We have also worked over the past week with the Senate Armed Services Committee to include language in the classified annex to this bill concerning the Military Intelligence Program and a military construction program authority for the National Security
Agency. The Armed Services Committee and the Intelligence Committee both exercise jurisdiction over military construction projects with intelligence funding; in this instance, the two committees have both included authorizations for the construction projects associated with the text that we are approving today, the Intelligence Committee issued a report to accompany the bill it reported to the Senate in August. As the legislation has changed since House passage of its authorization bill and at the conclusion of the debate today of this amendment, I ask unanimous consent to have printed in the RECORD a section-by-section analysis of the legislation so as to provide for the legislative history needed to explain the intent. The section provides and better clarify the effects of the provisions included.

There being no objection, the material was ordered to be printed in the RECORD.

For purposes of the legislative history of the Intelligence Authorization Act for Fiscal Year 2012, the Managers Amendment we pass today is an amendment in the nature of a substitute to H.R. 1892. In large measure, the legislative text of H.R. 1892 and this Managers Amendment follows the legislative text of S. 1458, reported from the Select Committee on Appropriations of the Senate on August 1, 2011, Report No. 112–43. The Managers Amendment also includes a classified Schedule of Authorizations and annex that this is a modified version of the classified Schedule and annex that were passed by the House of Representatives. They have been made available to the Executive Branch and appropriate congressional committees. The report language in the annex should be understood to represent congressional intent where reference is made to the Committee.

SECTION 101. AUTHORIZATION OF APPROPRIATIONS

Section 101 provides that the amount authorized for Intelligence Community (DNI) in managing the civilian personnel of the Intelligence Community. Section 101(a) authorizes the DNI to authorize employment of civilian personnel (expressed as full-time equivalent positions) in Fiscal Year 2012 in excess of the number of authorized full-time equivalent positions by an amount not exceeding 3 percent of the total limit applicable to each IC under Section 101(b) of the Act, which the DNI may do so only if necessary to the performance of important intelligence functions.

Section 101(b) provides additional flexibility with respect to personnel levels for the Intelligence Community elements that determine that work currently performed by contract personnel should be performed by government employees. It does so by authorizing the DNI to authorize employment of additional full-time equivalent personnel in a number equal to the number of full-time equivalent personnel positions currently performing that work. Under this section, any exercise of this authority should be implemented in accordance with a plan that includes adequate support for personnel. The exercise of this authority should result in an actual reduction of the number of contract personnel and not a shift of resources to hire other personnel.

The DNI must report the decision to allow an Intelligence Community element to exceed the personnel ceiling or to convert contract personnel under Section 101(a) and (b) in advance to the congressional intelligence committees.

During consideration of the Fiscal Year 2008 request, the congressional intelligence committees learned that practices within different elements of the Intelligence Community on the counting of personnel with respect to justifications for Fiscal Year 2010. The DNI has done so. In addition, the DNI has issued a policy to ensure a uniform method for counting Intelligence Community personnel. The committees also expressed their view that the DNI should improve the methods of counting personnel with respect to intelligence personnel at an Intelligence Community element of a covered department. The new subsection (c) confirms in statute the intent to remain available through September 30, 2013, and 2014, by the head of each element of the Intelligence Community on the number of personnel hired by such element during such fiscal year who were at any time recipients of a grant or scholarship under the David L. Boren National Security Education Act of 1990 (90 USC 1901 et seq.). The report may be in classified form.

Section 104. ENHANCEMENT OF AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT

Section 104 adds a subsection to Section 102A of the National Security Act of 1947 to promote the ability to manage all the elements of the Intelligence Community as a single cohesive community. The new subsection 102A(v) enables the DNI, with the concurrence of the head of the covered department concerned and in coordination with the Director of the Office of Personnel Management (OPM), to convert competitive service positions within an Intelligence Community element to excepted positions to establish new positions in the excepted service within an Intelligence Community element of a covert department, if OPM determines an incumbent occupying a position on the date of enactment selected to be converted to the excepted service shall have the right to refuse the conversion. Once that individual no longer occupies the position, the position may be converted.

Because of their unique intelligence, investigative, and national security missions, most Intelligence Community elements are in the excepted civil service. However, civil-
will enable the Intelligence Community to maintain a system throughout the Intelligence Community that is responsive to the needs of the Intelligence Community both for secrecy and the ability to quickly respond to personnel requirements. The DNI has requested a similar authority in the past. Under this section, the covered departments are the Department of Energy, the Department of Homeland Security, the Department of State, and the Department of the Treasury.

Although new positions in the excepted service may be created within an element of the Intelligence Community within the covered scope of this authority, the personnel ceilings referred to in Section 102(a) still apply to the number of personnel in an excepted service. This authority is intended for personnel other than the full-time equivalent personnel in an element of the Intelligence Community within the covered scope of this authority to be used to increase the number of full-time equivalent personnel in an intelligence element above the applicable personnel ceilings.

Section 305. Preparation of nuclear proliferation assessment statements

As set forth in the Atomic Energy Act, the United States may enter into a Civilian Nuclear Security Agreement with another nation or multinational organization. After negotiating the terms of the 123 Agreement, a draft version of the terms will be sent to Congress for review along with a Nuclear Proliferation Assessment Statement (NPAS). Under current law, the NPAS is drafted by the State Department, in consultation with the Director of Central Intelligence; the Act has not been amended to reflect the establishment of the Director of National Intelligence; the Act has not been amended to require the semiannual updating of such agreement. Section 305 amends the Nuclear Proliferation Assessment Act of 1947 to require that the semiannual update to the NPAS include the following information: (1) the name of the individual to be transferred or released; (2) the country or freely associated state to which the individual is to be transferred; (3) the terms of any agreement with the country or state for the acceptance of such individual; (4) any financial assistance related to such agreement; and (5) the agencies or departments of the United States responsible for ensuring the agreement is carried out.

Section 306. Cost estimates

Section 306 amends Section 506A of the National Security Act of 1947 to require that independent cost estimates include all costs associated with the system acquisition, even when a service or capability to deliver end-to-end functionality will be provided by another Intelligence Community agency or element. The cost estimate includes estimates for system acquisition and system and all services necessary for successful implementation. The cost estimate is due to each NPAS accompanying a civilian nuclear cooperation agreement, containing a comprehensive analysis of the country’s export policy. Section 306 amends Section 506A to require the head of a covered department or agency to be responsible for the accuracy of the cost estimate and to make a determination made in writing that less intrusive measures are not reasonably available. Where the head of the covered agency plans to limit disclosure of information relating to the basis for carrying out a covered procurement action, the risk to national security due to disclosing such information must outweigh the risk of not disclosing such information.

Section 307. Notification of transfer of a detainee held at United States Naval Station, Guantanamo Bay

The requirements of Section 309 take effect 180 days after enactment. After negotiating the terms of the 123 Agreement, the Secretary of State, to provide an addendum to the intelligence annex, the CIA and the Director of the Defense Intelligence Agency, and the DNI, must submit to Congress a determination that incited the President is required to submit classified quarterly reports to Congress that include classified information about detainees’ recidivism of detainees currently or formerly held at Guantanamo Bay and an assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations. The initial update shall be made publicly available no later than 180 days after the date that the first report following enactment is submitted to Congress. The summary will be prepared by the DNI in consultation with the Director of the CIA and the Director of the Defense Intelligence Agency, and the number of confirmed or suspected recidivists.

Section 308. Notification of transfer of a detainee held at United States Naval Station, Guantanamo Bay

Section 308 requires the President to submit to Congress, in classified form, at least 30 days prior to the transfer or release of an individual detained at Naval Station, Guantanamo Bay, Cuba, the following information: (1) the name of the individual to be transferred or released; (2) the country or freely associated state to which the individual is to be transferred; (3) the terms of any agreement with the country or state for the acceptance of such individual, including the amount of any financial assistance related to such agreement; and (4) the agencies or departments of the United States responsible for ensuring the agreement is carried out.

Section 308 is a modification of Section 306 of S. 1458 as reported from the Senate Intelligence Committee and is intended to clarify the role of the DNI and the Intelligence Community in the NPAS process.

Section 309. Enhanced procurement authority to include covered procurement actions

Section 309 authorizes the head of the covered agency to perform covered procurement actions, to include procurements of covered systems, covered system elements, and supply chain risk. Section 309 authorizes the head of the covered agency to perform covered procurement actions, to include procurements of covered systems, covered system elements, and supply chain risk.
Although the ODNI, under 31 USC 3515, is required to prepare and submit to the Congress and the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year by March 1st, Section 509 of the Intelligence Authorization Act for Fiscal Year 2010, enacted on October 7, 2010, directs the DNI “to develop and submit a full, unqualified audit of each element of the intelligence community not later than September 30, 2013.” Section 402 will align the statute with the plan for achieving auditability set forth in the Fiscal Year 2010 Act.

Section 403. Public availability of information regarding the Inspector General of the Intelligence Community

Section 403 requires the DNI to establish and maintain on the publically accessible ODNI website information relating to the Inspector General of the Intelligence Community including methods to contact the Inspector General. Section 403 is based on a similar requirement in Section 41 of the Inspector General Reform Act of 2008, 5 USC App., and is similar to Section 413, applicable to the CIA Inspector General. The information about the Inspector General is intended to be obvious and facilitate access to the Inspector General. Given that most of the Inspector General’s reports will be classified, Section 403 does not require the publication of the reports and audits be posted on the publicly accessible website.

Section 404. Clarification of Status of Chief Information Officer in the Executive Schedule

Section 404 amends Section 531 of the Intelligence Community from section 3515 until Fiscal Year 2013. The DNI, acting through the Director of National Intelligence, is authorized to place the salary level of the Chief Information Officer of the Intelligence Community at Level IV of the Executive Schedule, the level of other chief information officers in the federal government with comparable duties and responsibilities. The Chief Information Officer of the Intelligence Community is a position in the Executive Schedule. It is intended to eliminate the need for the Director of the Intelligence Community to place the Chief Information Officer in the Executive Schedule. A similar provision was requested by the Senate Committee on Intelligence on the Establishment Act of 1947 the Principal Deputy DNI is next in line) with an individual who serves in another element of the Intelligence Community. A similar provision was requested by the DNI.

The Vacancies Act (5 USC 3345(a)(1)) provides that when a Senate-confirmed position (1) the first assistant of the office may begin serving as the acting officer immediately and automatically upon the occurrence of a vacancy. In such a case, the person who has already received Senate confirmation may be directed by the President to serve in that position. As the vacancy fills, (2) certain other positions may be designated by the President to serve in that capacity. Given the relatively small size of the ODNI, the fact that a significant number of positions are on the directorate level, and the fact that positions in the ODNI are on the directorate level, it is important to maintain a critical mass of personnel in the ODNI.

Section 411. Acceptance of gifts

Section 411 is a provision that arose out of the CIA’s review of benefits available to the survivors of CIA employees killed in the line of duty following the December 2009 attack at Khost, Afghanistan. The CIA concluded that the Director of the CIA did not have the authority under Section 12 of the CIA Act to accept and use gifts for purposes related to the welfare, education and recreation of those survivors. Under current law, the Director of the CIA may “accept, hold, administer, dispose, use and/or apply gifts, contracts, grants, or other property whenever the Director determines it would be in the interest of the United States . . . . for purposes relating to the general welfare of the CIA employee population as a whole. Also, it provides that gifts may be used for the assistance of the family of CIA employees injured in the line of duty from hostile or terrorist activities or in connection with other intelligence activities having a substantial element of risk. Gifts for injured employees or their families or survivors are to be accepted by the CIA on behalf of the CIA employees concerned, and not directly by such employees or their family members. The Director is authorized to assign the gifts accepted under the new authority provided by this section to the CIA officers and their surviving family members.

Section 411 provides a framework for the exercise of authority under Section 12, including the acceptance of gifts to provide for the general welfare, education, or recreation of the CIA employee population as a whole. Gifts shall be made according to regulations developed by the Director of the CIA in consultation with the Director of the Office of Government Ethics, consistent with all relevant ethical constraints and principles.

Section 412. Foreign language proficiency requirements for Central Intelligence Agency employees

Section 412 makes amendments in Section 104A(g) of the National Security Act of 1947 which imposes foreign language requirements on certain personnel within the CIA. Section 412 provides that an individual employed within the Intelligence Community (outside the ODNI may be best suited to fill a key leadership position temporarily. Section 405 addresses this issue by expanding the President’s choice for appointment under the third category of the Vacancies Act. The President may appoint a Deputy Director of a senior element of the Intelligence Community. Nothing in Section 401 modifies or precludes the utilization of sections 335(a)(1) or (2) of title 5 for such vacancies.

Subtitle B—Central Intelligence Agency

Section 411. Acceptance of gifts

Section 411 is a provision that arose out of the CIA’s review of benefits available to the survivors of CIA employees killed in the line of duty following the December 2009 attack at Khost, Afghanistan. The CIA concluded that the Director of the CIA did not have the authority under Section 12 of the CIA Act to accept and use gifts for purposes related to the welfare, education and recreation of those survivors. Under current law, the Director of the CIA may “accept, hold, administer, dispose, use and/or apply gifts, contracts, grants, or other property whenever the Director determines it would be in the interest of the United States . . . . for purposes relating to the general welfare of the CIA employee population as a whole. Also, it provides that gifts may be used for the assistance of the family of CIA employees injured in the line of duty from hostile or terrorist activities or in connection with other intelligence activities having a substantial element of risk. Gifts for injured employees or their families or survivors are to be accepted by the CIA on behalf of the CIA employees concerned, and not directly by such employees or their family members. The Director is authorized to assign the gifts accepted under the new authority provided by this section to the CIA officers and their surviving family members.

Section 411 provides a framework for the exercise of authority under Section 12, including the acceptance of gifts to provide for the general welfare, education, or recreation of the CIA employee population as a whole. Gifts shall be made according to regulations developed by the Director of the CIA in consultation with the Director of the Office of Government Ethics, consistent with all relevant ethical constraints and principles.

Section 412. Foreign language proficiency requirements for Central Intelligence Agency employees

Section 412 makes amendments in Section 104A(g) of the National Security Act of 1947 which imposes foreign language requirements on certain personnel within the CIA. Section 412 provides that an individual employed within the Intelligence Community (outside the ODNI may be best suited to fill a key leadership position temporarily. Section 405 addresses this issue by expanding the President’s choice for appointment under the third category of the Vacancies Act. The President may appoint a Deputy Director of a senior element of the Intelligence Community. Nothing in Section 401 modifies or precludes the utilization of sections 335(a)(1) or (2) of title 5 for such vacancies.
S8616

CONGRESSIONAL RECORD — SENATE

December 14, 2011

Skills Level or a commensurate proficiency level.

Section 412 requires the Director of the CIA to provide a report within 45 days of enactment concerning the transfer of personnel, to the congressional intelligence committees, on the number of personnel transferred to a Senior Intelligence Service position in the Intelligence Community, the personnel of the National Clandestine Service, or the National Cryptologic Service who did not meet the foreign language requirements of Section 194A(g). Section 412(a) makes technical corrections to delete outdated references to the Directorate of Operations.

Section 413. Public availability of information regarding the Inspector General of the Central Intelligence Agency

Section 413 requires the Director of the CIA to establish and maintain on the publicly accessible CIA website information relating to the CIA Inspector General including methods to contact the Inspector General. Section 413 is based on a similar requirement in the Inspector General Reform Act, 5 USC App. 8L, and is similar to Section 403. The information about the Inspector General is to be obvious and facilitate access to the Inspector General. Given that most of the Inspector General reports will be classified, Section 413 does not require that Inspector General reports and audits be posted on the publicly accessible website. Section 413 is based on a request of the CIA Inspector General.

Section 414. Creating an official record of the Osama bin Laden operation

Section 414 makes findings concerning the raid of May 1, 2011, that killed terrorist leader Osama bin Laden in his compound in Abbottabad, Pakistan. Section 414 includes a statement of the sense of Congress that the events that transpired before, during, and as a result of the raid should be memorialized to allow the United States to have an accurate account of these events in the future. Section 414 requires the Director of the CIA to provide to the congressional intelligence committees the report being prepared by the Center for the Study of Intelligence that documents the history of and lessons learned from the raid not later than 90 days after its completion and to preserve any records, in addition to identifying controlled and management oversight, and only with prior consent from the accepting jurisdiction.

Subtitle D—Other Elements

Section 431. Codification of Office of Intelligence and Analysis of the Department of Homeland Security as an element of the intelligence community

Section 431 requires the Director of National Intelligence to transfer functions of the Office of Intelligence and Analysis of the Department of Homeland Security to the Office of Intelligence and Analysis of the Department of Justice. Section 431 is based on a request of the CIA Inspector General.

Section 432. Federal Bureau of Investigation participation in the Department of Justice leave bank

Section 432 provides for participation of employees of the FBI in the Department of Justice’s Voluntary Leave Bank Program. The Voluntary Leave Bank Program allows federal employees to donate to and to receive donations from a leave “bank” to cover absences necessitated by extraordinary medical conditions. Current law does not allow participation in the Department’s leave bank program.

Section 433. Countershade: a new office of the intelligence and analysis directorate

Section 433 authorizes the Secretary of Defense to transfer appropriation amounts for the activities of the defense intelligence agencies, intelligence and analysis accounts, to any other intelligence agency accounts established for receipt of such funds. These accounts may receive transfers and reimbursements from transactions, authorized by law, between the defense intelligence agencies and other entities, and the DNI may also transfer funds into these accounts. Appropriations transferred to this section shall remain available for the same time period, and for the same purposes, as the appropriations from which funds were transferred. This section is intended to improve auditing of defense intelligence appropriations.

Section 434. Report on training standards of defense intelligence workforce

Section 434 requires not later than 180 days after enactment the DNI and the Under Secretary of Defense for Intelligence to submit to the congressional intelligence and armed services committees a report on training standards of the defense intelligence workforce. The report is to include a description of existing training, education, and professional development standards applied to the personnel of defense intelligence components, and an assessment of the ability to implement a certification program based on achievement of required training, education, and professional development standards.

Title V—Other Matters

Section 501. Report on airspace restrictions for use of unmanned aerial vehicles along the border of the United States

Section 501 requires the Secretary of Homeland Security not later than 90 days after enactment to submit to the congressional intelligence and homeland security committees a report on whether restrictions on the use of airspace are hampering the use of unmanned aerial vehicles by the Department of Homeland Security along the international border between the United States and Mexico.

Section 502. Sense of Congress regarding integration of fusion centers

Section 502 states that it is the sense of Congress that the Secretary of Homeland Security, in consultation with the DNI, should continue to integrate and utilize fusion centers to enlist all of the intelligence, law enforcement, and homeland security capabilities of the United States in a manner that is consistent with the Constitution to prevent acts of terrorism against the United States.

Section 503. Strategy to counter improvised explosive devices

Section 503 requires the DNI and the Secretary of Defense to establish a coordinated strategy utilizing all federal and other assets for intelligence collection and analysis to identify and counter network activity and operations in Pakistan and Afghanistan relating to the development and use of improvised explosive devices. Not later than 120 days after enactment, the DNI and the Secretary of Defense are to submit a report containing the strategy to the congressional intelligence and armed services committees and implement such strategy.

Section 504. Sense of Congress regarding the priority of railway transportation security

Section 504 states that it is the sense of Congress that railway transportation security, including subway transit security, should continue to be prioritized in the threat assessment budgeted for the Intelligence Community.

Section 505. Technical amendments to the National Security Act of 1947

Section 505 updates certain references in sections 3(6), 506(b) and 506A of the National Security Act of 1947 and transfers the “Director of Central Intelligence” and the “National Foreign Intelligence Program” to the “Director of Intelligence and Analysis” in the National Security Act of 1947.
of National Intelligence” and the “National Intelligence Program.”

Section 506. Technical amendments to Title 18, United States Code

Section 506 updates references in 18 USC 331(a) to the Director and Deputy Director of Central Intelligence and provides that the amended section includes the DNI, the Principal Deputy DNI, and the Director and Deputy Director of CIA among officials covered by the provision.

Section 507. Budgetary effects

Section 507 states that the budget effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Mrs. FEINSTEIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise to join Chairman FEINSTEIN in thanking my colleagues for their support of the fiscal year 2012 Intelligence Authorization Act. Over the past several committee meetings, we worked hard to resolve the final details of the bill and concerns raised by other committees and individual Members. The end result of this effort is a solid bill that ensures vigorous congressional oversight and provides additional authorities to the intelligence community.

Of course, the vast majority of what the committee authorized is classified, so I cannot discuss specifics. I can say that the classified annex is designed to improve the operations of the intelligence community—from counterterrorism and counterproliferation to the wars in Afghanistan and Iraq and everything in between.

The bill also implements fiscal discipline. Difficult economic times demand austerity, but cuts in this bill are specific and targeted to eliminate waste while preserving the critical work the intelligence community does to protect our country.

In the unclassified area—and one of great importance to me—we reached an agreeable compromise with the Administration that gives the committee the information we need about the transfer of Guantanamo Bay detainees. As the recidivism rate among former detainees rises over 27 percent, it is critical that the committee have full insight into the transfer and resettlement process. The vast majority of detainees are free when they are transferred, and this committee needs to know whether the countries charged with monitoring them are capable and willing to do so. Several provisions in this bill will help the committee do that.

The bill also addresses concerns from other committees with national security threats and issues from the House. As we go forward, I hope the committees of the Senate will do a better job of making sure that committees with oversight of national security issues get the information they need, without automatic objections based on perceived jurisdictional lines. Too often, the intelligence committee includes other committees on receipt of reports or other products that do not get the same treatment in return. That’s just not good for oversight or for fulfilling our responsibility to the American people.

I am also pleased that we were able to reach reasonable solutions for authorities requested by the intelligence community. The bill allows for the reimbursement of burial expenses for certain government employees who are killed as the result of hostile or terrorist activities or die in connection with a risky intelligence activity. In these difficult financial times, we worked hard to make sure that the provision is in line with benefits for the families of fallen soldiers and with the funeral costs generally paid by ordinary Americans. We also ensured that individuals in the same agency, like the FBI, are entitled to receive the same reimbursement. The bill also redefines the administration of the CIA’s foreign service officer requirements and allows for more flexible personnel management by the Director of National Intelligence.

I thank Chairman FEINSTEIN for her hard work and leadership in getting this bill through the Senate. I also thank the committee staff for once again showing their dedication and commitment to protecting the national security of this country.

Mr. REID. Mr. President, I ask unanimous consent that the amendment (No. 1463) to provide incentives for the creation of jobs, and for other purposes.

Mr. REID. I now object to any further proceedings at this time.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

PROGRAM

Mr. REID. Mr. President, we expect to consider the DOD authorization conference report tomorrow. We also expect to consider the House Republican payroll tax cut bill or some version thereof.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:10 p.m., adjourned until Thursday, December 15, 2011, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 14, 2011:

IN THE NAVY

The following named officers for appointment in the United States Navy to the grade indicated under Title 10, U.S.C., Section 842, to be rear admiral

Rear Adm. (L) BARBRY L. BRUENER
Rear Adm. (L) DEBBY R. BURBROUGHS
Rear Adm. (L) JAMES D. CLODY
Rear Adm. (L) MICHAEL T. FRANKEN
Rear Adm. (L) BRADLEY R. GRIFFIN
Rear Adm. (L) ROBERT P. GRIFFIER
Rear Adm. (L) PAUL A. GRIFFIN
Rear Adm. (L) SCOTT L. HARRIS
Rear Adm. (L) MARGARET D. KLEIN
Rear Adm. (L) RICHARD B. LANDOLT

ORDERS FOR THURSDAY, DECEMBER 15, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, December 15, 2011; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate proceed to executive session, under the previous order.

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

MEASURE PLACED ON THE CALENDAR—H.R. 3630

Mr. REID. Mr. President, I understand that H.R. 3630 is at the desk and due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the second time.

The bill clerk read as follows:

A bill (H.R. 3630) to provide incentives for the creation of jobs, and for other purposes.

Mr. REID. I now object to any further proceedings at this time.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

THE PRESIDING OFFICER. The measure (H.R. 3630) is placed on the calendar.
IN THE COAST GUARD

The following named officer for appointment to serve as the director of the Coast Guard Reserve pursuant to Title 14, U.S.C., Section 53 in the grade indicated:

To be rear admiral (lower half)

RADM DAVID E. CALLAHAN

To be rear admiral (lower half)

CAPT. KURT B. HINRICHS

The following named officers for appointment in the United States Coast Guard Reserve to the grade indicated under Title 10, U.S.C., Section 12203:

To be rear admiral (lower half)

CAPTAIN MARK E. BUTT
CAPTAIN LINDA L. FAGAN
CAPTAIN THOMAS W. JONES
CAPTAIN STEVEN D. POULIN
CAPTAIN JAMES E. RENDON
CAPTAIN JOSEPH A. SERVIDIO