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Senate

The Senate met at 10 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

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

Let us pray.

Eternal God, thank You for Your faithful love. You are the one who instructs nations and shapes the destinies of humankind. Help our lawmakers today to grow in grace and in the knowledge of You. Equip them to be servants of the people so that day by day our citizens may more clearly reflect Your image. Grant that our Senators will shine as lights in this dark world to lead others to You. May they love expectantly, knowing that You will provide serendipities, wonderful surprises of Your goodness, to help them navigate through life's inevitable challenges.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 12, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

EXECUTIVE SESSION

NOMINATION OF ANDREW DAVID HURWITZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. REID. I now ask unanimous consent that the Senate proceed to executive session.

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

SCHEDULE

Mr. REID. The Senate is considering the nomination of Andrew Hurwitz of Arizona to be a United States circuit judge for the ninth circuit postcloture. There is every expectation that time will be yielded back and the confirmation will take place soon.

The Senate will recess from 12:30 to 2:15 to allow for our weekly caucus meetings.

Senator STABENOW and Senator ROBERTS are working on an agreement for amendments on the farm bill and we will notify Senators if an agreement is reached.

MEASURE PLACED ON THE CALENDAR—H.R. 436

Mr. REID. Mr. President, H.R. 436 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 436) to amend the Internal Revenue Code of 1986 to repeal the excise tax on medical devices.

Mr. REID. I now object to proceeding further on this matter at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

RECOGNITION OF THE MINORITY LEADER

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

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

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

AMENDING THE FARM BILL

Mr. MCCONNELL. Mr. President, last week the President said the private sector is ''doing fine.'' Well, the fact is the private sector isn't doing fine and the President's comments make me wonder what private sector he may be talking about.

Since he took office, we have had 40 straight months of unemployment of over 8 percent and more than 23 million Americans are either unemployed, underemployed, or have given up looking for a job altogether. Last month's job report said the economy added only 69,000 jobs—far below what forecasters had predicted. That is the Obama economy, and it is not doing fine.

With the debt the size of our GDP, the President's recent push for even more government spending is equally out of touch. Taking more money out of the private sector, out of the hands of businesses and job creators or borrowing it to pay for yet another stimulus has consequences. We need to reduce the size and scope of government,

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

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not expand it. We need to put in place a progrowth policy to allow the private sector to flourish.

That is why Republicans have been calling for years for comprehensive tax reform and for both parties to sit down and begin the process of reforming entitlements. That is how we will get our fiscal house in order and help the economy grow as well. But without Presidential leadership, it simply can't happen.

Controlling only one Chamber, Republicans in Congress can only do so much. The Republican-led House has passed budgets while, for 3½ years, the Democratic-led Senate has refused to do so. And they have passed 28 job-related bills over in the House that our Democratic friends here in the Senate refuse to take up. For our part, Senate Republicans will continue to pursue a pro-jobs agenda, and I encourage our Democratic friends to join us before the administration's spending and debt spree forces us into the sort of economic spiral we currently see facing folks over across the Atlantic. They can start by working with Republicans on our commonsense amendments to the farm bill.

The President may think the private sector is doing fine or that the government isn't big enough, but those in rural America are definitely not doing fine. The biggest threat to farmers in Kentucky and across America is this administration's job-killing regulations. That is why Republicans are calling for votes on commonsense amendments that would either eliminate or prevent future job-killing regulations from going into effect which would provide the necessary relief for American farmers and give a boost to rural America in these challenging economic times.

Last year, while visiting Atkinson, IL, the President blew off one farmer when he asked about policy regulations. The President said, ''Don't always believe what you hear.'' Either the President doesn't know what his administration is doing or he doesn't want the American people to know it is his policies that are hurting farmers all across the country. It is either one or the other.

Here are a few examples of this administration's policies that are suffocating the American agricultural industry and the Republican amendments we want the Senate to take up.

Last fall, the Department of Labor attempted to regulate the relationship, believe it or not, shared between parents and their kids on family farms. The proposed rule would have prohibited those under age 16 from manual labor such as stall cleaning, using a shovel, and using a battery-operated screwdriver. Many people in my State consider this the type of manual labor that is widely referred to as Saturday morning chores. Senator THUNE is offering an amendment that would require the Department of Labor to consult with Congress before implementing such regulations.

The EPA wants to lift the ban that prevents Washington, DC, bureaucrats from regulating nonnavigable waters. The expanded Federal jurisdiction would bring the EPA and their redtape and taxes into the backyards of millions—literally millions—of Americans. The economic impact would be disastrous.

Congress passed a navigable ban to protect families, small businesses, and farmers from Washington bureaucrats trying to seize control of their water or their land. The U.S. Supreme Court twice affirmed the limits of Federal authority under the Clean Water Act. But, apparently, the EPA believes they are above the other two branches of government, and Senators PAUL and BARRASSO are offering two amendments that would stop the EPA in its tracks.

The EPA is considering a regulation that would require farm and ranch families to take as yet undefined measures to lower the amount of dust that occurs naturally—I am not kidding—lower the amount of dust that occurs naturally and is transmitted into the air due to agricultural production activities. It is hard to go through this and maintain one's composure. These activities include such things as combining, haying, moving cattle, tilling a field, or even driving down a gravel road. Failure to do so would result in a substantial fine. Senator JOHANNS is offering an amendment that would prevent the EPA from issuing any new rule that regulates agricultural dust. I kid you not, they want to regulate agricultural dust.

Finally, Senator CRAPO and Senator JOHANNS are offering an amendment that would help farmers across the country continue to manage their unique business risks associated with their day-to-day operations. The amendment would prevent unnecessarily diverting capital away from job creation and investing in their businesses in a way that was never intended by the sponsors of the Dodd-Frank Act. Preventing this unnecessary burden would promote economic growth, protect farmers and businesses, and ultimately help save American jobs.

In these extremely difficult economic times, rural America is already struggling to get by and it simply can't be bothered by an overreaching Federal Government that has literally no idea of the unintended consequences of its policies.

These five commonsense Republican amendments I have outlined, along with several others, put an end to numerous job-killing regulations, and each of these amendments deserves a vote.

I now wish to address another matter.

(The remarks of Mr. MCCONNELL and Mr. REID pertaining to the introduction of S.J. Res. 43 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

Mr. REID. Mr. President, I will take my time now and talk about a number of things.

JOB CREATION

The first thing I wish to mention is that my friend the Republican leader talked about the fact that the President has not done enough to create jobs.

Mr. President, we all have heard that longstanding joke—in fact, it was not a joke. I represented a young man who murdered his parents, and the joke during that period of time was, I guess now your defense is going to be that he is going to claim he is an orphan. There was nothing novel or new or unique in the experience I had representing that young man who had killed his parents, but the Republican leader's remarks remind me of that. He is saying that the problem with this country is President Obama. That is like the fact that someone kills their parents and then claims they are an orphan.

Republicans have blocked bill after bill after bill. These pieces of legislation have been suggested by, introduced by friends of President Obama. These were all job-creating bills, and simply every one of these, with rare exception, has been stopped on a procedural basis by the Republicans.

Then the Republican leader cites nonrelevant Republican amendments they would like to offer on the farm bill as ways to create jobs. But it is precisely these nonrelevant, nongermane amendments that keep the Senate from doing its work—its job-creating work—like the farm bill. The farm bill involves 16 million people who work doing farm programs. We have not done one in 5 years. The highway bill is something we are waiting for Republicans in the House to move with us on.

So I would just simply say that we live in a world that is imperfect. We live in a country that is imperfect. But let's give credit where credit is due. President Obama and this administration found themselves in a terribly deep hole when he was elected 3½ years ago. The administration he replaced lost more than 8 million jobs—about 1 million jobs a year in the prior administration. And President Obama has had 27 straight months of private sector job creation. So I think we deserve and he deserves some credit for the work he has done in that regard.

So I really strongly object to the Republican leader's remarks. It is just simply wrong. And if we had some cooperation from my friends on the other side of the aisle, as we say, we would have a lot more jobs created in this country. But my friend has said that his No. 1 issue is to defeat President Obama, and that is what has happened here. We simply have not been able to legislate appropriately because that is their mantra.

CYBERSECURITY

Mr. President, technology has changed our world, and that is an understatement. It has changed the way we shop, the way we bank, even the way we travel. It changes the way we get information, and that is an understatement, and the way we share it, and that is an understatement.

It was about 10 years ago or so that I decided to sell my home here in the suburbs, and I was stunned by one of my boys telling me: Hey, Dad, do you want to find out what other homes have been selling for around that area? Give me about a minute. And they pulled up on the computer every home in that area that had been sold in the last 2 years—when, how much.

There was even more detail than that. I was like: How do you do that? That was 10 years ago. That was in the Dark Ages with technology. There is so much that can be done now. Somebody can go online, go to Amazon, they can buy virtually anything in the world on that one Web site.

I met with someone a couple weeks ago who had gone to work with Google when they had 15 employees, and he talked to us about the tremendous problems they had starting this company. They wanted to give people information. I will not go into all the details, but it was very difficult to come up with the Google that now exists. It was not there when there were 15 employees.

They were working all night long trying to shut down computers and keep others going. So it is amazing what we have on the computer. Everyone can do it. Who wrote that song? What is the name of that play? What is the capital of Uzbekistan? Go to our BlackBerry. Go to whatever we have and get it in a second.

So the way we get information, the way we share it, has changed so dramatically. It has changed the way our country protects itself. That is not something people understand as well as Google and Amazon. But the way we protect our country has changed. It has changed the type of attacks we have to guard against.

Some of the top national security officials, including GEN Martin Dempsey, Chairman of the Joint Chiefs of Staff, GEN David Petraeus, four-star general, now head of the CIA, one of America's great patriots, and Leon Panetta, Secretary of Defense, have all said that malicious cyber attacks are the most urgent threat to our country, not North Korea, not Iran, not Pakistan, not Afghanistan but cyber attacks. We have already seen some of these. They have been kind of quiet to some but not to those in the security field.

We have seen cyber attacks on our nuclear infrastructure, our Defense Department's most advanced weapons, and the stock exchange Nasdaq had an attack. Most major corporations have been attacked. They spend huge amounts of money protecting their products or their operations from not collapsing because of cyber attacks.

Cyber attacks do not threaten only our national security, they threaten our economic security. These attacks cost our economy billions of dollars every year, millions of dollars every hour, and thousands of jobs. So we need to act quickly to pass legislation to make our Nation safer and protect American jobs.

The Defense Department, Department of Homeland Security, and experts from across the intelligence community have issued chilling warnings about the seriousness of this threat. I cannot stress enough how concerned people who understand security feel about this. Just a few days ago, Senator MCCONNELL and I received a letter from a remarkable bipartisan group of former national security officials, Democrats and Republicans.

The group includes six former Bush and Obama administration officials: Michael Chertoff, who has been a circuit court judge, judicial scholar, became head of the Department of Homeland Security during some very difficult times we had in this country; Paul Wolfowitz, who has been advising Presidents for decades; ADM Mike McConnell; GEN Michael Hayden; GEN James Cartwright, William Lynn, III. That is who signed the letter, and I could give a short dissertation on every one of these individuals about what they know about the security of our country.

The letter presented the danger in stark terms, as stark as I could ever imagine. This is a public letter. Listen to what this one paragraph says: ''We carry the burden of knowing that 9/11 might have been averted with intelligence that existed at the time.''

Listen to that. They are admitting 9/11 could have been averted with the tools we had at hand. They go on to say:

> We do not want to be in the same position again when ''cyber 9/11'' hits—it is not a question of whether this will happen; it is a question of when.

This is not me saying this. This is General Hayden, who was the head of the CIA, briefing us many times about some of the most sensitive matters going on during the height of the Iraq war, Marine GEN James Cartwright, Defense Department expert William Lynn, III.

This eminent group called the threat of a cyber attack imminent. What does imminent mean? It means now. They said it ''represents the most serious challenge to our national security since the onset of the nuclear age sixty years ago.''

Let me reread that. They said it ''represents the most serious challenge to our national security since the onset of the nuclear age sixty years ago.'' They said it; I did not. The letter noted that the top cybersecurity priority is safeguarding critical infrastructure: computer networks—we talked about those a little bit already. But computer networks that control our electrical grid, our water supply, our sewers, our nuclear plants, energy pipelines, communication systems and financial systems and more.

Because of Senator MIKULSKI—she was the one who said this was important—we did this. We went down to this classified room. We had a briefing on an example of what would happen to New York City if they took down the computer system to run that State's electricity. It would be disastrous, not only for New York but for our country.

These vital networks must be required to meet minimum cybersecurity standards. That is what these prominent Americans believe, and so do I. The letter was clear that securing the infrastructure must be part of any cybersecurity legislation this Congress considers. I believe that also.

GEN Keith Alexander, Director of the National Security Agency, has said something very similar. This is what he wrote to Senator MCCAIN recently:

> Critical infrastructure protection needs to be addressed in any cyber security legislation. The risk is simply too great considering the reality of our interconnected and interdependent world.

General Alexander is one voice among many. President Obama; the nonpartisan Center for Strategic and International Studies Commission on Cyber Security; the two Chairmen of the 9/11 Commission, Governor Kean and Congressman Hamilton; the Director of National Intelligence, General Clapper; the Director of the FBI, Robert Mueller, have all echoed a call to action—not sometime in the distant future but now. They believe the attack is imminent.

The attack may not be one that knocks down buildings, starts fires that we saw on 9/11, but it will be a different kind of attack, even more destructive. The entire national security establishment, including leading officials of the Bush and Obama administrations, civilian and military leaders, Republicans and Democrats, agree on the urgent need to protect this vital infrastructure.

That is only part of it. Yet some key Republicans continue to argue that we should do nothing to secure the critical infrastructure, that we should just focus on the military. When virtually every intelligence expert says we need to secure the systems that make the lights come on, inaction is not an option. A coalition of Democrats and Republicans, including the chairman of the Homeland Security Committee, Senator LIEBERMAN, and the ranking member, Senator COLLINS; the chairman of the Commerce Committee, Senator ROCKEFELLER—remember, Senator ROCKEFELLER was for years chairman of the Intelligence Committee and/or the ranking member; Senator FEINSTEIN, now the chair of the Intelligence Committee, have joined together and proposed one approach to address the problem. It is legislation. It is not something that is theoretical. It is not an issue paper. It is legislation.

Their bill is an excellent piece of legislation. It has been endorsed by many members of the national security community. It is a good approach, and it would make our Nation safer. But there are other possible solutions to this urgent challenge. Unfortunately, the critics of the bill have failed to offer any alternatives to secure our Nation's critical infrastructure.

The longer we argue over how to tackle these problems, the longer our powerplants, financial system, and water infrastructure go unprotected. Everyone knows this Congress cannot pass laws that do not have broad bipartisan support. There are 53 of us, 47 of them. So we will need to work together on a bill that addresses the concerns of the lawmakers on both sides of the aisle.

But for that to happen, more of my Republican colleagues need to start taking this threat seriously. It is time for them to participate productively in the conversation instead of just criticizing the current approach. There is room for more good ideas on the table, and I welcome the discussion of any Republican generally interested in being part of the solution.

The national security experts agree. We cannot afford to waste any more time. The question is not whether to act but how quickly we can act. I put everyone on notice. We are going to move to this bill at the earliest possible date.

RESERVATION OF LEADER TIME

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

Under the previous order, the following hour will be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, before I talk about the production tax credit which brought me to the floor, I wish to associate myself with the leader's remarks.

I have the great privilege to sit on the Armed Services Committee and the Intelligence Committee. The leader has put his finger on what should be a singular focus on the part of the Senate. We have been warned about the threats in the cyber domain. It is time to act. There are plans that are concrete, focused, and have great support. We should act as soon as we possibly can. I wish to thank the leader for bringing that to our attention.

WIND POWER'S FUTURE

I rise to talk about a very important issue for the economies of both my State and the entire Nation. That is the future of the wind power industry in the United States and a future that is at risk, I might add, if Congress does not extend the production tax credit for wind. Such inaction jeopardizes U.S. jobs and threatens what is a real bright spot for American manufacturing. Such inaction is not acceptable to the people in my home State of Colorado, nor, I believe, to Americans more broadly.

Many of us know—I think all my colleagues know—that we have seen the wind industry grow by leaps and bounds over the last few years. According to the Wind Energy Industry Association, the industry has attracted an average of over $15 billion annually from 2001 to 2011 in private investment in our wind sector in the United States.

In 2009, that figure was $20 billion, when 10,000 megawatts, the highest annual total to date of wind, was installed. Seventy-five thousand hardworking Americans find good-paying jobs in the wind sector. There are 6,000 of those jobs in Colorado. So I am not unbiased, but when we look around the country, nobody should be unbiased.

Those jobs also have a positive ripple effect on all these communities where they are based. In just over the last 4 years, wind represented 35 percent of all new power capacity in our country, second only to natural gas. With technology advances, wind turbines are now generating 30 percent more electricity per turbine, which means they are producing more energy while driving down cost.

This also means all Americans from the Great Plains to the eastern shores have access to more affordable, reliable, and secure clean energy. That is a win-win. It is little wonder our constituents are demanding we extend the wind production tax credit. I wish to say this industry and the good news that is coming out of it could not have come at a better time for our manufacturing base, which has seen relentlessly tough times over the last few years.

The wind industry is cutting against the grain. It is creating manufacturing jobs at a time when many companies are outsourcing jobs. This chart gives a great picture of what has been happening all over the country. We see every sector of the country where we have wind manufacturing jobs.

At the end of last year, the wind industry included almost 500 manufacturing facilities that employ 30,000 people spanning 43 States. We have wind projects in a vast majority of States—38 out of 50. Last year alone over 100 different wind projects were installed—ranging from a single turbine to over 4,000-megawatt capacity plants.

Back in 2005—7 years ago—we had only five wind turbine manufacturers. But with steady and consistent growth and government policy support and certainty, the number of domestic and international manufacturers grew to 23 at the end of 2011. That is a key factor, the certainty that has been provided that will help this industry continue to grow jobs.

At a time when our economy is still coming back after the 2008 recession, and we are facing stiff competition from other countries, the wind industry is a dynamic example for how we can grow manufacturing jobs and investment in our country. When I started, I mentioned the wind production tax credit, the PTC. It has been a key factor in this growth, central to this young industry—and it is still a very young industry—and its success in America by helping make wind energy more economical, which is still being commercialized.

This critical tax credit expires at the end of this year. Unless we act now in this Congress to extend the wind production tax credit, we risk losing this industry as well as the jobs, the investment and manufacturing base it creates, to our competitors in China, in Europe, and other countries. That is the last result we need in our economy.

I have come to the floor to urge the Congress to keep our country an open marketplace for innovative energy industries and for new investments. The United States is on the cutting edge of renewable energy technologies and on a path to further secure our energy independence. We have to maintain that momentum by passing an extension of the wind production tax credit.

In fact, it is so important—this extension—that I am planning to come to the Senate floor every morning until we get our act together and extend the PTC—not just for Colorado but for every State in our country. I plan to talk about the importance of wind energy in a different State every time I come to the floor. I look forward to talking about the State of the Presiding Officer, the State of Delaware.

I hear every day from Coloradoans who are incredulous that we have not acted to extend this commonsense tax credit. We need to be reminded that American jobs are at stake if we fail to act.

Simply put, if we don't extend the PTC as soon as possible, the wind industry will shrink significantly in 2013. Estimates are that we can lose almost half of the wind-supported jobs, down from 78,000 in 2012 to 41,000 in 2013.

If we fail to extend this tax credit, total wind investment is projected to drop by nearly two-thirds, from $15.6 billion in 2012 to $5.5 billion in 2013. That is simply unacceptable. Luckily, I am not alone in this effort. There is strong bipartisan support in the Senate for the extension of this tax credit. Yes, this is one of those occasions where we are talking about legislation that is supported by Members of both parties.

Senator GRASSLEY, a Republican Senator from Iowa—along with myself and seven other Democrats and Republicans—introduced a bill earlier this year to extend the tax credit. Senator JERRY MORAN, a Republican Senator from Kansas, and I led 12 Members from across the country and both sides of the aisle in urging our Senate leadership to work with us to extend the PTC as soon as possible.

We have not seen that happen yet, Mr. President. Instead of addressing this bipartisan proposal which has been

a proven job creator, Congress has been caught up in partisan fights. Let's do what Americans are demanding. Let's work together to create jobs and strengthen our economy, as well as our energy security. Let's pass the PTC as soon as possible—ASAP.

I will be back tomorrow, and I will talk more specifically about the importance of the PTC to my home State of Colorado. We are home to thousands of renewable energy jobs, including high-paying manufacturing ones. But that could change literally overnight if the PTC is not extended.

For the good of our economy, I ask all of my colleagues from both sides of the aisle to work with me. Let's work together to get the PTC extended.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

CYBERSECURITY

Mr. NELSON of Nebraska. I rise today to discuss an amendment that I am proposing to the 2012 farm bill that we are debating in the Senate. Before I speak to that, I also want to associate myself with the leader's comments about the importance of taking care of our cyber defense, putting ourselves in a position to be able to deflect and deter cyber attack from terrorists and otherwise against our industries and against our Federal Government.

As chairman of the Strategic Forces Subcommittee of the Senate Armed Services Committee, cyber command is part of our responsibility. The leader is exactly on target with his comments about the need to move forward to protect our country against future cyber attacks—which we encounter daily—recognizing that we perhaps do know what we know, but we are in that unfortunate position of not knowing what we don't know.

To modernize and move forward is absolutely essential to maintain our vigilance against cyber attacks in the future.

DIRECT FARM PAYMENTS

Mr. NELSON of Nebraska. Mr. President, the amendment I wish to talk about today and propose is about fairness. It is about fairness for America's farmers and ranchers and fairness to all taxpayers.

First, I note that one of the key elements of the 2012 farm bill that we drafted in the Senate, and is now on the floor, is about reform. In particular the bill reforms a program of Federal subsidies that have gone to farmers regardless of whether farm prices were high or low.

These subsidies are known as direct farm payments. They were established by the 1996 farm bill as a way to transition producers away from a government-controlled system of agriculture to more market-based agriculture.

These direct farm payments, which are outdated government subsidies, were supposed to be temporary, and the 2012 farm bill takes the necessary step to eliminate them and remove them from the future.

When this change is enacted, farmers will not be paid for crops they are not growing on land they are not planting. Eliminating these direct payments will save $15 billion over 10 years, which will be used for deficit reduction.

Producers in my State understand that given our Nation's fiscal problems, we have to have shared sacrifice to get the debt and deficit under control. If we end these outdated subsidies, the farm bill establishes that crop insurance will be the focal point of risk management by strengthening crop insurance and expanding access so that farmers are not wiped out by a few days of bad weather or bad prices.

Crop insurance is a shared private-public partnership that maintains the safety net we all need to sustain American agriculture. In my efforts to identify other areas where shared sacrifice for deficit reduction can be pursued, I am proposing an amendment to eliminate another set of government subsidies which are unnecessary and should be eliminated. These subsidies go to just 2 percent of the Nation's livestock producers. They receive substantial taxpayer-paid subsidies for grazing on public lands.

In the interest of fairness to all livestock producers and the taxpayers, we need to reform Federal grazing subsidies. My amendment would require that ranchers pay grazing fees based more closely on the market value for their region when grazing on public lands. Today, the 2 percent of livestock producers grazing on public lands pay far below market value that other market producers are paying.

Given our huge Federal debt and deficit, we can no longer afford to heavily subsidize an elite group of ranchers to graze their cattle on public lands at the taxpayers' expense. These ranchers receive a special deal—Federal ''welfare'' so to speak—that they don't need, most ranchers can't get, and taxpayers should not be paying for.

It is a matter of fairness to level this playing field, and it will help balance the budget as well. This 2 percent of the country's ranchers have grazing rights on public lands that cost the government, by lost income, $144 million a year to manage. But the government collects only about $21 million a year in grazing fees from ranchers, according to a 2005 study by the GAO. That leaves a net cost to taxpayers of more than $120 million a year. Losing the $120 million of tax money per year isn't fair to taxpayers, nor is it fair to producers who then are required to subsidize their competition.

This report also found that the two agencies that manage most of the Federal grazing lands—the Bureau of Land Management and the U.S. Forest Service—actually reduced grazing fees during years when grazing fees on private lands increased. Get that: The Federal Government reduced fees on public lands when fees are being raised on private lands.

The GAO found that from 1980 to 2004, BLM and Forest Service fees fell by 40 percent. At the same time, grazing fees charged by private ranchers rose by 78 percent. By an actuary's term, that is disintermediation. One is going one direction and the other another direction.

Furthermore, GAO found if the goals of the grazing fee were to recover expenditures, BLM and the Forest Service would charge $7.64 and $12.26 per ''animal unit month.'' That is much higher—get this—than the current $1.35-per-animal unit ranchers pay to graze on public lands. That is not fair.

The GAO stated that the formula used to calculate the fee includes ranchers' ability to pay and is not ''primarily to recover the agencies' expenditures or to capture the fair market value of forage.'' No kidding. That is what they said and what they think this program is all about.

In Nebraska, it costs livestock producers who get this special deal $1.35 per cow to graze on public lands. But it costs other producers who don't graze on public land an average of $30 per cow to graze on private land just in northwest Nebraska. It costs an average of $38 per cow on private land just across all of northern Nebraska. That is according to the University of Nebraska's agriculture economics department.

I note that I am aware others before me have tried to reform Federal grazing fees, and they are saying to me right now: Good luck. Given today's critical need to get our Nation's fiscal house in order, it is time to bring grazing costs on public lands more in line with what it costs producers to graze on private lands. There is no fairness in this disparity.

I urge my colleagues to join me in working to improve the 2012 farm bill reforms by ending unfair and outdated Federal grazing subsidies. Doing so would bring fairness to all livestock producers and have the added benefit of saving taxpayers more than $2 billion over the next decade—savings that could help pay down the national debt and reduce our deficit in the meantime.

With that, I yield the floor.

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

AGRICULTURE REFORM

Ms. STABENOW. Mr. President, in a short while—I think this afternoon—we will officially be back on consideration of what is dubbed the farm bill—the Agricultural Reform, Food, and Jobs Act. This is something we do every 5 years to secure the safest, most affordable, reliable food supply in the world. We are very proud of what our farmers and ranchers do.

The largest investment in land and water conservation we make as a country on working lands is made through the farm bill—protecting our Great Lakes, the Chesapeake Bay, and supporting farmers who have environmental challenges and managing those on their lands. So these are very important investments.

We also make important investments in nutrition for families who need temporary help, as many families certainly have during this economic downturn, and many other exciting opportunities that create jobs.

The Presiding Officer, I know, cares very deeply about manufacturing, as do I. One of the areas in which we are growing the economy is by making things, growing things, and bringing those together in something called bio-based manufacturing, which I will be talking more about as we proceed, but the idea is to use agricultural products to offset chemicals, to offset oil and plastics. This is an exciting new opportunity for us. We expand upon that through opportunities in what we call the farm bill.

The bottom line is this is a jobs bill. There are 16 million people at work in this country—and there are not too many bills that come to the floor that have the number 16 million—that are in some way related to agriculture and food production. It may be processing, it may be production, it may be in the sales end, but 16 million people work in this country because of agriculture in some way, and so it is important we get this right.

We also have a major trade surplus in this country coming from agriculture. So we are producing it here and then we are selling it overseas. I certainly wish to make sure we are focusing on exporting our products, not our jobs. The shining star of that is in agriculture, where we have seen just in the last few years a 270-percent increase in agricultural exports. So this is a big deal for us and it is part of why this is a jobs bill and very important.

We also know we need to reform agricultural production policies. This bill is very much about cutting subsidies as well as creating jobs. So what are we doing? We have taken the view in this farm bill where rather than focusing on protecting individual programs that have been with us a long time, we have focused on principles: What is it we need to do to have a strong economy, to support our farmers? Whether it is a weather disaster, such as we have had in Michigan, or whether it is a disaster in markets and prices, we don't want our farmers losing their farms because of a disaster beyond their control. We all have a stake in that. There is nothing more risky, in terms of a business, than agriculture, where one is at the whim of the weather and other market forces. So we want to make sure we are there.

We also know that for too long we have paid government money to folks who didn't need it for crops they didn't grow. We are not going to do that anymore. This is a huge reform in public policy, where we are moving to risk-based management. We are focusing on what we need to do to cut the deficit and strengthen and consolidate and save dollars but also provide risk management. In fact, in this bill, we are reducing the deficit by $23 billion.

We have not had the opportunity to have in front of us a bill on the floor that cuts the deficit, with strong bipartisan support around policies that make sense and that we agree to. This is an area where we have come forward. In fact, I am very proud of the fact our Agriculture Committees—in the fall, when the deficit reduction effort was going on—came forward with a House-Senate bipartisan agreement on deficit reduction. In fact, if every committee had done that, we would have gotten to where we needed to go.

I wish to thank my friend and ranking member Senator ROBERTS for his strong leadership, as well as the chairman and ranking member in the House for their joint efforts in that way.

But when that didn't happen, we decided we would keep our commitment to deficit reduction and move forward on policies that would achieve that and we have done that with $23 billion in cuts. We do that by repealing what is called direct payments that go to a farmer regardless of what is happening, whether it is good times or bad.

In fact, we replace four different farm subsidies with a strengthening of crop insurance and additional risk-management efforts when there is a loss by the individual farmer, at the county. We focus on loss. As I indicated, we will support farmers for what they plant.

We strengthen payment limits in terms of where we focus precious taxpayer dollars, and we also took a scalpel as we looked at every part of the USDA programs. We looked for duplication, what made sense, what was outdated, and we eliminated 100 different programs and authorizations within this farm bill policy. Again, I don't know many committees that have come forward with that kind of elimination.

That doesn't mean we are eliminating the functions, the critical areas of supporting farmers and ranchers or conservation or expanding jobs through renewable energy or our nutrition efforts or so on—farm credit, other beginning farmers, and all the efforts we are involved in. We are just doing it in a more streamlined way. We are cutting paperwork.

In rural development, which affects every single community, every town, every village, every county outside our urban areas, we want to make sure a part-time mayor can actually figure out rural development and use the supports that are there to start businesses, to focus on water and sewer infrastructure or roads, that it is actually simple and available and doable from their standpoint. We have spent our time working together to come up with something that makes sense for taxpayers, for consumers of food, for those who care deeply in every region of our country about how we support farmers and ranchers and for those who care very deeply about our land and water and air resources on working lands and how we can work together to actually do that.

We are moving forward now to the next phase on our farm bill consideration. Senator ROBERTS and I are working closely together to tee up some amendments—both Democratic and Republican amendments—so we can begin the process of voting. We know there is a lot of work to do. Colleagues have a lot of ideas. Certainly, some of those ideas I will support, some I will not support, but the process of the Senate is to come forward and offer ideas, debate them, and vote.

So we are working hard, hopefully to tee up some votes this afternoon or tomorrow that would give us the opportunity to move forward. We know there is a lot more work to do. We have a lot of ideas that colleagues have, and we will continue to negotiate moving forward on a final set of amendments. But we think it is important to get started.

I wish to thank all our colleagues who came together on the motion to proceed. It was extraordinary. After a strong bipartisan vote in committee, we are very appreciative of the fact our colleagues are willing to give us the opportunity to get this done with such a strong bipartisan vote on the motion to proceed.

Also, before relinquishing the floor, I notice my colleague from South Dakota is here, and I wish to personally thank him for his leadership on this bill, with extremely important provisions in the bill, both on risk coverage. The proposal to support farmers who have a loss came from a very important proposal Senator THUNE and Senator SHERROD BROWN put forward, along with other colleagues, which is the foundation of what we are doing to work with crop insurance to support farmers. Also, Senator THUNE has been pivotal in a very important part of conservation that ties what we call the sodsaver amendment to the protection of prairie sod, prairie land, to crop insurance. If someone is breaking up the sod, there would be a penalty on the crop insurance side. So it is an important way of bringing together accountability and crop insurance and protecting our native sod. This is something, among many other things, Senator THUNE has been involved in and shown real leadership.

As I said, this has been a strong bipartisan effort. Again, I thank my colleague from Kansas who has been a partner in this effort.

I look forward to having the opportunity to bring all our amendments to the floor and to give people the opportunity to move forward in good faith. It is going to be critical that we move forward in good faith so we can begin to debate, to vote, and to get this bill done.

All the policies we have talked about actually end on September 30 of this year, with very disastrous results for farmers and ranchers if we don't get this done. They need economic certainty. The 16 million who work because of agriculture are counting on us to get this done so they can make their

decisions on what they are going to plant and how their business is going to work.

I am proud of the effort so far, our coming together and having folks join in this wonderful bipartisan effort to get to work.

I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from South Dakota.

Mr. THUNE. Mr. President, I ask unanimous consent that my Republican colleagues, Senators MCCAIN and AYOTTE, and myself be permitted to enter into a colloquy for up to 30 minutes.

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

DEFENSE SEQUESTRATION

Mr. THUNE. Mr. President, I come to the floor, along with my colleagues, Senators MCCAIN and AYOTTE, to talk about the significant uncertainty surrounding sequestration and its threat to our national security.

The triggered reduction in spending is $1.2 trillion. After accounting for 18 percent in debt service savings, the required reductions amount to $984 billion to be distributed evenly over a 9-year period or $109.3 billion per year. So what we are talking about is $54.7 billion in reductions will be necessary in both the defense and nondefense categories, despite the fact—despite the fact—defense funding constitutes just 20 percent of the budget.

As my colleagues Senators MCCAIN and AYOTTE are well aware, this sequester disproportionately impacts defense spending, putting our national security at risk.

It has been almost a full year since the Budget Control Act was passed, and Congress needs a precise understanding from this administration as to the full effects of sequestration on national security funding. Both Senator MCCAIN and I, along with Senators SESSIONS, AYOTTE, and others, have called on the administration to detail the impact of sequestration on defense accounts.

This information is necessary for Congress to address the deep and unbalanced defense budget cuts that are expected under sequestration—which are in addition, I might add, to the $487 billion in reductions that were carried out last August.

What little information has been made available from the administration about the planned cuts to defense should give all of us pause about our Nation's security if sequestration proceeds without any modifications.

In a letter to Senators MCCAIN and GRAHAM this past November, Secretary Panetta said that over the long term, sequestration means we will have the smallest ground force since 1940, the smallest fleet of ships since 1915, and the smallest tactical fighter force in the history of the Air Force.

If sequestration were to go into effect, we risk turning back the clock on our military strength to where it was during the early 20th Century, before World War II. That clearly cannot be allowed to happen if we hope to have a future in which we are secure, prosperous, and at peace in the world.

I wish to turn now to my colleague Senator MCCAIN, who is the ranking member of the Armed Services Committee. He has been a leader in calling attention to this cloud of sequestration cuts looming over the Defense Department and its threat to our national security. He is, obviously, one of the foremost experts in the Senate when it comes to the issue of national security, and someone who has been raising the issue of sequestration and its impact to our national security interest for some time.

I would ask Senator MCCAIN if he might comment on his observations with regard to this issue and its impact on national security.

Mr. MCCAIN. I thank my colleague from South Dakota and appreciate very much his leadership on this issue and my colleague from New Hampshire, Senator AYOTTE, who has done a preliminary study on the effect of these sequestrations on our defense industries and jobs and employment in States across America.

In fact, she has been asked by the Conference of Mayors to give them assessments. One of the problems we have is not only sequestration itself, as my colleague from South Dakota mentioned, but the American people don't fully understand the impact—not only from a national security standpoint but from an economic standpoint.

I appreciate and admire our Secretary of Defense who continues to say that sequestration would be devastating to our national security, the effects would be Draconian in nature. He has described it in the most graphic and, I think, accurate terms. But we don't know exactly what those impacts would be and, unfortunately, the Secretary of Defense and the Defense Department have not given us information as to what those impacts would be. The American people need to know and they deserve to know what these impacts would be.

That is why we put in the Defense authorization bill a requirement that the Secretary of Defense send to the Congress and the American people the exact effects of this sequestration, which he has refused to do, up until now.

Since we have not taken the bill to the floor—and it may not be signed until the end of this year—that is why I have an amendment pending on the farm bill, to seek that same reporting, because Members of Congress, elected representatives, and the American people deserve to know the effects of sequestration.

One, they need to know from the interest of our national security, but I would argue to my friend they also need to know from the impact on an already faltering economy. I want to thank the Senator from New Hampshire, who has done more on this issue. In fact, she has given every member of our conference a rough readout as to exactly what the impact would be in our States. But obviously, the Senator from New Hampshire and I don't have access to the same database the Secretary of Defense has as to these Draconian effects.

So in summary, I would say we are facing what is now known as the fiscal cliff: the debt limit, which needs to be raised; the sequestration issue; the expiration of the Bush tax cuts; and several other issues, which we are all going to now address in a lameduck session. That is a Utopian vision for a lameduck session that, frankly, is not justified by history.

One of the aspects of this sequestration, the reason we need to address it now, is because the Pentagon has to plan. They have to plan on a certain budget. They can't wait until the end of this year, or early next year when it kicks in, until January 2, I believe it is, of 2013, in order to adjust to it. So, one, we need the information.

And, two, Members of Congress need to know that the sequestration issue should be, and must be, addressed. I thank Senator THUNE not only for his outstanding work on the farm bill but also for his leadership on this important issue.

I yield to my colleague from New Hampshire, who has done probably a more in-depth study of this issue and its impact on the defense industry in America and jobs and employment than any other Member.

Ms. AYOTTE. I thank Senator MCCAIN for his leadership as the ranking Republican on the Armed Services Committee. No one knows these issues better in the Senate than JOHN MCCAIN. So it is an honor be here with him, and also my colleague Senator THUNE, with whom I serve on the Budget Committee. Senator THUNE has been very concerned about the impacts of sequestration on our national security. I call sequestration the biggest national security threat you have never heard of. The American people need to know this threat to their national security, to the protection of our country, which is our fundamental responsibility under the Constitution.

I fully support the amendment Senator MCCAIN has brought forward on the farm bill that he championed, along with Senator LEVIN, on the Defense authorization, because we can't afford to keep hiding the details of what will happen to our Department of Defense and our military if sequestration goes forward.

To be clear, as Senator THUNE has already identified, the Department of Defense is taking significant reductions. In the proposed 2013 budget from the President, the Department will take approximately $487 billion in reductions over the next 9 years. That already means a reduction of approximately 72,000 of our Army and a reduction of 20,000 of our Marine Corps. But what we are here talking about today

is an additional $500 billion to $600 billion in reductions coming in January of 2013 that the American people need to know about, and our Department of Defense should clearly identify what is going to happen with those reductions.

But here is what we do know. As Senator MCCAIN and Senator THUNE have already talked about, our Secretary of Defense has warned that these cuts will be devastating; that they will be catastrophic; that we will be shooting ourselves in the head if we did this for our national security; that we would be undermining our national security for generations.

This is what it means, and what our service chiefs have told us so far about the preliminary assessments of sequestration:

For our Army, what they have said is an additional 100,000 reduction in our Army, 50 percent coming from the Guard and Reserve, on top of the 72,000 coming in the proposed 2013 budget. That would result in our ground forces being reduced to the smallest size since before World War II.

For the Navy, our current fleet is 285 and the Navy has said previously that we need 313 ships. If sequestration goes forward the Navy has said that our fleet will have to shrink to between 230 to 235 ships and submarines. At a time when China is investing more and more in their navy, where we have increased our defense focus in our national security strategy on the Asian Pacific region, it would make that increased focus a mockery, truthfully, if we allowed sequestration to go forward.

We have heard the same from our Marine Corps. What the Marine Corps has said about sequestration every Member of Congress should be concerned about. The Assistant Commandant of the Marine Corps has said if sequestration goes forward, it is an additional 18,000 reduction in our Marine Corps, and that the Marines would be incapable of conducting a single major contingency operation. Think about it: The Marine Corps of the United States of America incapable of responding to a single major contingency operation. This is at a time when the threats to our country have not diminished. This is at a time when we still have men and women, as we sit here today, who are serving us admirably in Afghanistan.

And, by the way, OMB has already said that the OCO—or war funding—will not be exempt from sequestration.

We owe it to our men and women who are in the field right now to make sure they have the support they need and deserve from this Congress.

When we look at where we are, this is not just about our national defense. But you would think that being about our national defense, our foremost responsibility in Congress, would be enough to bring everyone to the table right now to resolve this, regardless of whatever your party affiliation is. But this is also an issue about jobs, because the estimates are, in terms of the job impact in this country, George Mason University estimates that over 1 million jobs will be lost in this country over 1 year due to sequestration. And that is just looking at research and development and procurement.

Well, let's talk about some of the States that will be impacted, because every one of my colleagues represents a State in this Chamber that will be impacted by the jobs at issue.

We look at where our economy is right now, and yet we continue not to address this fundamental issue of sequestration when 1 million jobs are at stake.

For Virginia, the estimate is 123,000 jobs; Florida, 39,000 jobs; Ohio, 18,000 jobs; North Carolina, 11,000 jobs; Connecticut, 34,000 jobs; Pennsylvania, 36,000 jobs. In my small State of New Hampshire, it is projected that we will lose approximately 3,300 jobs.

So not only is this a national security issue, but we are also talking about our defense industrial base. And once we lose much of the talent in that industrial base, it doesn't necessarily come back. We have many small employers who can't sustain these cuts, who will go bankrupt, and won't be able to come back. And once they are gone, we lose their expertise and the U.S. military becomes more reliant on foreign suppliers.

In fact, the CEO of Lockheed Martin has said recently:

> The very prospect of sequestration is already having a chilling effect on the industry. We're not going to hire. We're not going to make speculative investments. We're not going to invest in incremental training, because the uncertainty associated with 53 billion of reductions in the first fiscal quarter of next year is a huge disruption to our business.

To my colleagues who think we can kick this can down the road until after the elections, please understand that when it comes to jobs, these defense employers have a responsibility under Federal law, what is called the WARN Act, to notify their employees if they are going to be laid off at least 60 days before a layoff will occur.

What that means is there could be hundreds of thousands of WARN Act notices going out, likely before the election in November, letting people across this country know that they may lose their job because Congress has not come forward and addressed this fundamental issue to our national security right now.

In conclusion—and I know Senator THUNE is supportive of this. I am the cosponsor of a bill along with Senator MCCAIN and others that comes up with savings to deal with the first year of sequestration, and I would ask every Member of this Chamber: Let's sit down and resolve this. We do need to cut spending, and we should find these savings. It is important to deal with our debt. But let's make sure we find savings that don't devastate our national security or undermine our national security for generations or hollow out our force, as our Chairman of the Joint Chiefs of Staff has said about sequestration. I would urge my colleagues on both sides of the aisle, let's sit down now and resolve this issue on behalf of our most important responsibility, which is to protect the American people from the threats that still remain around the world and are very real. We have seen it with Iran trying to acquire the capability of a nuclear weapon. It still remains a very challenging time, and we need to protect our country from the threats we face.

I thank my colleague Senator THUNE, and I turn it back to him.

Mr. THUNE. I would say to my colleague, the Senator from New Hampshire—because she mentioned that she and I both serve on the Budget Committee—that this perhaps could have been avoided had we passed a budget that dealt with title reform.

The reason we have these huge cuts, these steep and unbalanced cuts to the defense budget, is because we punted on the Budget Control Act to the supercommittee, which didn't produce a result, and this triggered these across-the-board reductions in spending—half of which come out of the defense budget, as the Senator mentioned, a defense budget that represents only 20 percent of Federal spending. So proportionality here seems to be a real issue. Why would you gut the part of a budget from which you get the resources to keep your country safe and secure?

Frankly, it comes back—in my view, at least—to the fact that now, for 3 consecutive years, the Budget Committee, on which the Senator and I both serve, has failed to produce a budget, spelling out a more reasonable and thoughtful plan for how to deal with these challenges as opposed to having this budget axe fall in this disproportionate way on our national security interests.

I am curious as to the Senator's thoughts with regard to the reason why we are where we are today.

Ms. AYOTTE. I would say to my colleague from South Dakota, you are absolutely right. It is outrageous that it has been over 1,100 days that we have not had a budget in the Senate. In the Budget Committee that we both serve on, the Senator and I are anxious to resolve the big fiscal issues facing our country.

I agree with the Senator from South Dakota, if we did that function of budgeting, we wouldn't be in this position where we have put our national security at risk because we are not taking on the big-picture fiscal issue to get our fiscal house in order in Washington and make sure we reform mandatory spending so those programs are sustainable and available for future generations. So here we are.

Not only do I serve on the Senate Armed Services Committee, but I am the wife of a veteran. It is astounding to me that we would put our national security at risk rather than doing our jobs, putting together a budget that is

responsible and proportional. That is one of the underlying reasons why we find ourselves in the position we are right now.

I ask my colleague from South Dakota, as Commander in Chief, the President has a responsibility on this very important issue. It is such an important and weighty responsibility as President of the United States to be Commander in Chief. Where is the President on these issues?

Mr. THUNE. Ironically, the point my colleague from New Hampshire made earlier and the statements made by the President's own Defense Secretary about what these cuts would mean just speak volumes. It is absolutely stunning when we look at the impact this would have on our national security budget, and, at least to date, the President is not weighing in on this argument at all.

I think what the Senator from New Hampshire and Senator MCCAIN and I are saying is this: Show us your plan.

If we are going to do something about this, we need to know how they intend to implement this. So the transparency issue is very important. Asking them to tell us how they are planning on making these reductions seems to be a critically important part of not only informing the American public but giving Congress a pathway—if there is one—to address and perhaps redistribute these reductions.

When we are talking about a $109 billion reduction that will take effect in January of next year—half of which comes out of defense—on top of $½ trillion in cuts to accrue over the next decade that were approved as part of the Budget Control Act, that is a huge chunk out of our national security budget.

I think the Senator from New Hampshire made an excellent point as well about how this obviously impacts national security first and foremost. I have always maintained that if we don't get national security right to protect and defend the country, then the rest is all secondary.

But there is a huge economic impact, as was pointed out not only by the study my colleague from New Hampshire mentioned but also by the Congressional Budget Office recently in speaking about the fiscal cliff that hits us in the first part of January next year and could cost us 1.3 percent in growth, which, according to the President's economic advisers, could be 1.3 million jobs. If the national security issue does not get your attention, certainly we would think the economy and jobs issue would. Yet we are hearing silence—crickets coming out of the White House.

I would hope he would weigh in on this debate and at least provide us with an idea of how the administration intends to implement this and hopefully a plan about how to avert this. As has been emphasized by the President's Defense Secretary, there would be a catastrophic impact on our national security interest.

Ms. AYOTTE. I ask Senator THUNE, is this not so important when we think about the impact on our national security that now we hear from the President that Members on both sides of the aisle should sit down instead of kicking this can beyond the elections?

What I have heard from our employers is that they will have to make decisions now that could impact our defense industrial base. We are talking about shipbuilders, we are talking about experts, small businesses that work in this area. Once those jobs go away in terms of a small business, such as a sole supplier on one of our major procurement programs, which happens quite often, that expertise goes away. We don't immediately pull that back. So we are talking about an estimate of 1 million jobs, and the private sector can't wait for us to resolve this until after the election. They need us to resolve this now. In my view, our military can't wait until after the election, nor should our military be put in that position. They should know that we are going to resolve this because we want to keep faith with them. We do not want to hollow out our force. We do not want to put them at risk. So, on a bipartisan basis, this is a critical issue to resolve before the election. I wondered what my colleague's view was on that.

Mr. THUNE. Mr. President, again I appreciate the leadership of the Senator from New Hampshire as a member of the Armed Services Committee on not only this issue of national security but also as a member of the Budget Committee, where we serve together. It is critical that we do something soon, and the reason for that, as the Senator from New Hampshire mentioned, is that a lameduck session of Congress—is not an appropriate time to try to legislate on a major issue such as this, particularly given the fact that there is going to be a pileup of other issues. We have tax rate expiration issues to deal with and potentially another debt limit vote coming up.

It seems to me that we ought to provide as much certainty as we can to our military, to the leaders of our military who have to make these decisions, and to the people who build these weapons systems and experience many of these reductions that will impact jobs.

As my colleague mentioned, there is a Warren Act requirement that they notify people if they are going to lay off people. There has to be a lead time to this, and that is why getting a plan from the administration that lays out in specific and detailed terms exactly what they intend to do with regard to sequestration is really important to this process and as a matter of fundamental transparency for the American people and for the Congress.

Clearly, there is a need—in my view, at least—for us to deal with this in advance of the election, not waiting, not punting, and not kicking the can down the road as is so often done here.

I appreciate the leadership of the Senator from Arizona, the ranking member of the Armed Services Committee, and my colleague from New Hampshire in raising and elevating this issue and putting it on the radar screen of the Senate in hopes that something might actually happen before the election. But that will require that the President of the United States and his administration get in the game. So far, we haven't heard anything from them with regard to how they would implement sequestration or what suggestions they might have that would avoid and avert what would be a national security catastrophe if these planned or at least proposed reductions go into effect at the first of next year.

I see that the Senator from Arizona, the ranking member of the Armed Services Committee, is back. Does the Senator have any closing comment before we wrap up this session?

Well, let me thank my colleagues in the Senate and particularly the Senator from Arizona and the Senator from New Hampshire for what they are doing on this issue. I hope that we are successful and that in the end we can get some greater transparency from the administration about how they intend to implement these reductions and that we might be able to take the steps that are necessary, as was pointed out, on a bipartisan basis. This is not an issue that affects one side or the other, it is an issue that affects the entire country when we are talking about our national security interests and the great jeopardy and risk we put them in if we don't take steps to address this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate in a colloquy with my colleague from South Carolina, Senator GRAHAM.

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

NATIONAL SECURITY

Mr. MCCAIN. Mr. President, Senator GRAHAM and I know there are others who would like to come to the floor on the issue of the almost unprecedented release of information which directly affects our national security—in fact, the most important programs in which we are engaged, including the use of drones and our counterterrorism activities, and, of course, the highly classified cyber attacks that have been made on the Iranians in order to prevent them from achieving their goal of building nuclear weapons.

I can't think of any time that I have seen such breaches of ongoing national security programs as has been the case here. The damage to our national security has been articulated by many both inside and outside of the administration, including the most damaging that we have seen. Our Director of National Intelligence said that it is the worst he has seen in his 30 years of service in the area of intelligence. All of the

ranking and chair members of the Intelligence Committee, Armed Services Committee, Foreign Relations Committee, and Homeland Security Committee have described in the strongest terms what damage has been done by these ''leaks.''

Among the sources that the authors of these publications list are ''administration officials'' and ''senior officials''; ''senior aides'' to the President; ''members of the President's national security team who were in the [White House Situation Room] during key discussions''; an official ''who requested anonymity to speak about what is still a classified program''—I am quoting all of these from the public cases; ''current . . . American officials . . . [who would not] allow their names to be used because the effort remains highly classified, and parts of it continue to this day''; several sources who would be ''fired'' for what they divulged—presumably because what they divulged was classified or otherwise very sensitive.

One author notes:

> [O]ver the course of 2009, more and more people inside the Obama White House were being 'read into' a [particular secret, compartmentalized] cyber program [previously known only by an extremely tight group of top intelligence, military and White House officials], even those not directly involved. As the reports from the latest iteration of the bug arrived—

Talking about the cyber attack on Iran—

> meetings were held to assess what kind of damage had been done, and the room got more and more crowded.

Some of the sources in these publications specifically refused to be identified because what they were talking about related to classified programs or ongoing programs. One of the authors specifically observed that some of his sources would be horrified if their identities were revealed.

As always with this leaking, which goes on in this town, although not at the level I have ever seen, I think we need to ask ourselves first who benefits—certainly not our national security or our military intelligence professionals or our partners abroad who are more exposed as a result of these leaks. I think to answer the question of who benefits, we have to look at the totality of circumstances. In this case, the publications came out closely together in time. They involved the participation, according to those publications, of administration officials. The overall impression left by these publications is very favorable to the President of the United States.

So here we are with a very serious breach of national security—and in the view of some, the most serious in recent history—and it clearly cries out for the appointment of a special counsel.

I would remind my colleagues and my friend from South Carolina will remind our colleagues that when the Valerie Plame investigation was going on, my colleagues on the other side of the aisle argued strenuously for the appointment of a special counsel at that time. Later on, I will read some of their direct quotes.

It is obviously one of the highest breaches of security this country has ever seen because of ongoing operations that are taking place. By the way, our friends and allies, especially the Israelis, who have been compromised on the Stuxnet operation, the virus in the Iranian nuclear program, of course, feel betrayed.

Now, can I finally say that I understand our colleague and chairperson of the Intelligence Committee is going to come over to object to our motion for the appointment of a special counsel. It is the same special counsel who was appointed at other times in our history, and ahead of her appearance after the statements she made about how serious these breaches of intelligence were. It is a bit puzzling why she should object to the appointment of a special counsel.

I ask my colleague from South Carolina—to place two outstanding individuals and prosecutors to investigate still places them under the authority of the Attorney General of the United States. The Attorney General of the United States is under severe scrutiny in the House of Representatives. The Attorney General of the United States may be cited for contempt of Congress over the Fast and Furious gunrunning-to-Mexico issue which also resulted, by the way, in the death of a brave young Border Patrolman, Brian Terry, in my own State, who was killed by one of these weapons. That is how serious it is.

I would think Mr. Holder, for his own benefit, would seek the appointment of a special counsel, and I ask that of my friend from South Carolina.

Mr. GRAHAM. I think it not only would serve Mr. Holder well, but certainly the country well.

We are setting the precedent that if we do not appoint a special counsel—and I don't know these two U.S. attorneys at all. I am sure they are fine men. But the special counsel provisions that are available to the Attorney General need to be embraced because it creates an impression and, quite frankly, a legal infrastructure to put the special counsel above common politics. The precedent we are about to set in the Senate if we vote down this resolution is, in this case, we don't need to assure the public that we don't have to worry, the person involved is not going to be interfered with; that in this case we don't need the special counsel, and there is no need for it.

Well, to my colleagues on the other side, how many of them said we needed a special counsel—Peter Fitzgerald—who was not in the jurisdiction—Illinois wasn't the subject matter of the Valerie Plame leaks. It happened in Washington. When Peter Fitzgerald was chosen as a special counsel, the country said that is a good choice, chosen under the special counsel provisions, which are designed to avoid a conflict of interest.

What is the problem? For us to say we don't need one here is a precedent that will haunt the country and this body and future White Houses in a way that I think is very disturbing, I say to the Senator from Arizona, because if we needed one for Valerie Plame—allegations of outing a CIA agent—and if we needed one for Jack Abramoff, a lobbyist who had infiltrated the highest levels of the government, why would we need one here? Is this less serious?

The allegations we are talking about are breathtaking. Go read Mr. Sanger's book as he describes Operation Olympic Games. It reads like a novel about how the administration, trying to avoid an Israeli strike against the Iranian nuclear program, worked with the Israelis to create a cyber attack on the Iranian nuclear program, and how successful it was. It literally reads like a novel.

What about the situation regarding the Underwear Bomber case, a plot that was thwarted by a double agent. One could read every detail about the plot and how dangerous it was and how successful we were in stopping it from coming about. Then, how we got bin Laden and sharing information with a movie producer, but telling the world about the Pakistani doctor and how we used him to track down bin Laden.

Mr. MCCAIN. Mr. President, could I add revealing the name of Seal Team 6.

Mr. GRAHAM. That takes us to the bin Laden information. In the book there is a scenario where the Secretary of Defense went to the National Security Adviser, Thomas Donilon, and said, ''I have a new communication strategy for you regarding the bin Laden raid: Shut the F up.''

But the drone program, a blow-by-blow description of how the President handpicks who gets killed and who doesn't.

This is breathtaking. Certainly, it is on par with Abramoff and Plame, I think, the biggest national security compromise in generations. For our friends on the other side to say we don't need a special counsel here, but they were the ones arguing for one in the other two cases, sets a terrible precedent, and we are not going to let this happen without one heck of a fight.

Senator Obama wrote a letter with a large group of colleagues urging the Bush administration to appoint a special counsel and to have an independent congressional investigation on top of that of the Valerie Plame CIA leak case. He also joined in a letter with his Democratic colleagues urging the Bush administration to appoint a special counsel in the Jack Abramoff case because the allegations were that Mr. Abramoff had access to the highest levels of government and that extraordinary circumstances existed.

What are we talking about here? We are talking about leaks of national security done in a 45-day period that paint this President as a strong, decisive national security leader. The book questions—not just the articles—is there any reason to believe this may go to the White House? Look what happened with the Scooter Libby prosecution in the Valerie Plame case. The Chief of Staff of the Vice President of the United States eventually was held accountable for his involvement.

Is there any reason to believe that senior White House people may be involved in these leaks? Just read the articles. But this is a book review by Mr. Thomas Riggs of the book in question by Mr. Sanger. Throughout, Mr. Sanger clearly has enjoyed great access to senior White House officials, most notably to Thomas Donilon, the National Security Adviser. Mr. Donilon, in fact, is the hero of the book as well as the commentator of record on events. It goes on and on in talking about how these programs were so successful.

Here is the problem. In the House, when a program is not so successful, such as Fast and Furious, that is embarrassing to the administration. One can't literally get information with a subpoena. So we have an administration and an Attorney General's Office that is about to be held in contempt by the House for not releasing information about the Fast and Furious Program that was embarrassing. When we have programs that were successful and make the White House look strong and the President look strong, we can read about it in the paper.

All we are asking for is what Senator Obama and Senator BIDEN asked for in previous national security events involving corruption of the government: a special counsel to be appointed, with the powers of a special counsel, somebody we can all buy into. If we set a precedent of not doing it here, I think it will be a huge mistake.

Mr. MCCAIN. Mr. President, wouldn't my colleague agree that one of the most revealing aspects of this entire issue from program to program that leads to enormous suspicion would be that probably the most respected Member of the President's Cabinet who stayed over from the Bush administration, Secretary Gates, was so agitated by the revelation of information about the bin Laden raid that he came over to the White House and said to the President's National Security Adviser that he had a ''new communication strategy.'' He responded by saying to the National Security Adviser, ''Shut the F up.'' That is a devastating comment and leads one to the suspicion that things were done improperly in the revelation of these most important and sensitive programs that were being carried out and are ongoing to this day.

So I ask my colleague, what is the difference between the Biden-Schumer-Levin-Daschle letter to President Bush in 2003 where they called for the appointment of a special counsel—Vice President BIDEN—and how the White House should handle Libby? I think they should appoint a special prosecutor. In 2003, then-Senator BIDEN called for a special counsel with 34 Senators, and then-Senator Obama requested the appointment of a special counsel to lead the Abramoff case.

I was involved heavily initially with the Abramoff case, and I can tell my colleagues even though there was severe corruption, there was certainly nothing as far as a breach of national security is concerned. Yet they needed a special counsel, according to then-Senator Obama, to investigate Abramoff but not this serious consequence.

So I guess my unanimous consent request for this resolution will be objected to. But the fact is, we need a special counsel because the American people need to know. I do not believe anyone who has to report to the Attorney General of the United States would be considered as objective.

I ask unanimous consent for an additional 3 minutes.

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

Mr. GRAHAM. Mr. President, if I may, I ask unanimous consent to have printed in the RECORD the letters written by Senator Obama and Senator BIDEN asking for a special counsel.

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

OBAMA, ET AL. LETTER ON ABRAMOFF

FEBRUARY 2, 2006.

Hon. ALBERTO GONZALES,
U.S. Department of Justice,
Washington, DC.

DEAR GENERAL GONZALES: We write to join the request made last week that you appoint a special counsel to continue the investigation and the prosecution of those involved in the corruption scandal surrounding Jack Abramoff's dealings with the federal government. The Department's response to the press regarding that request did not address the fundamental issue of a conflict of interest or the other serious issues raised by the letter.

This scandal has shaken the public's confidence in our government and all involved must be pursued vigorously. A special counsel will ensure the public's confidence in the investigation and prosecution and help to restore its faith in our government. FBI officials have said the Abramoff investigation ''involves systemic corruption within the highest levels of government.'' Such an assertion indicates extraordinary circumstances and it is in the public interest that you act under your existing statutory authority to appoint a special counsel.

Mr. Abramoff's significant ties to Republican leadership in Congress, and allegations of improper activity involving Administration officials, reaching, possibly, into the White House itself, pose a possible conflict of interest for the Department and thus further warrant the appointment of a special counsel. Recent news reports confirm that Mr. Abramoff met the President on several occasions and during some of those meetings, Mr. Abramoff and his family had their photos taken with the President. Mr. Abramoff also organized at least one and possibly several meetings with White House staff for his clients. These meetings with the President and White House staff occurred while you were serving as White House Counsel. Given the possible ties between Mr. Abramoff and senior government officials, we believe the appointment of a special counsel is not only justified, but necessary.

The Public Integrity section of the Department has thus far pursued this case appropriately, and we applaud its pursuit of Mr. Abramoff and his colleagues. As the investigation turns to government officials and their staffs, both in the Executive and Legislative branches, we have no doubt that if the investigation is left to the career prosecutors in that section, the case would reach its appropriate conclusion. Unfortunately, the highly political context of the allegations and charges may lead some to surmise that political influence may compromise the investigation. This concern is heightened by allegations that Frederick Black, the former acting U.S. Attorney for Guam and the Northern Marianas, was replaced, perhaps improperly, as a result of his investigation of Mr. Abramoff.

Appointment of a Special Counsel at this point in time is made even more appropriate by the White House's recent nomination of Noel Hillman, the career prosecutor in charge of the case, to a federal judgeship. As a new prosecutor will need to take over the case, we ask you to appoint an outside Special Counsel so the public can be assured no political considerations will be a part of this investigation or the subsequent prosecutions.

Because this investigation is vital to restoring the public's faith in its government, any appearance of bias, special favor or political consideration would be a further blow to our democracy. Appointment of a special counsel would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law.

We know you share our commitment to restoring the public's trust in our government. We hope you will take the only appropriate action here and appoint a special counsel so we can ensure that justice is done while preserving the integrity of the Justice Department.

We look forward to hearing from you on this matter soon.

Harry Reid; Charles E. Schumer; Ken Salazar; Barack Obama; Dick Durbin; Robert Menendez; Ted Kennedy; Daniel K. Inouye; Blanche L. Lincoln; Kent Conrad; Jack Reed; Evan Bayh; Carl Levin; Joe Lieberman; Debbie Stabenow; John F. Kerry; Bill Nelson; Frank R. Lautenberg; Barbara Mikulski; Dianne Feinstein; Patty Murray; Daniel K. Akaka; Maria Cantwell; Hillary Rodham Clinton; Ron Wyden; Barbara Boxer; Jim Jeffords; Max Baucus; Joe Biden; Chris Dodd; Patrick Leahy; Russell D. Feingold; Tim Johnson; Paul Sarbanes; Tom Carper; Jeff Bingaman.

BIDEN, DASCHLE, SCHUMER, LEVIN LETTER TO BUSH

UNITED STATES SENATE,
Washington, DC, October 9, 2003.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We write to express our continuing concerns regarding the manner in which your Administration is conducting the investigation into the apparently criminal leaking of a covert CIA operative's identity. You have personally pledged the White House's full cooperation in this investigation and you have stated

your desire to see any culprits identified and prosecuted, but the Administration's actions are inconsistent with your words.

Already, just 14 days into this investigation, there have been at least five serious missteps.

First, although the Department of Justice commenced its investigation on Friday, September 26, the Justice Department did not ask the White House to order employees to preserve all relevant evidence until Monday, September 29. Every former prosecutor with whom we have spoken has said that the first step in such an investigation would be to ensure all potentially relevant evidence is preserved, yet the Justice Department waited four days before making a formal request for such documents.

Second, when the Justice Department finally asked the White House to order employees to preserve documents, White House Counsel Alberto Gonzales asked for permission to delay transmitting the order to preserve evidence until morning. That request for delay was granted. Again, every former prosecutor with whom we have spoken has said that such a delay is a significant departure from standard practice.

Third, instead of immediately seeking the preservation of evidence at the two other Executive Branch departments from which the leak might have originated, i.e., State and Defense, such a request was not made until Thursday, October 1. Perhaps even more troubling, the request to State and Defense Department employees to preserve evidence was telegraphed in advance not only by the request to White House employees earlier in the week, but also by the October 1st Wall Street Journal report that such a request was ''forthcoming'' from the Justice Department. It is, of course, extremely unusual to tip off potential witnesses in this manner that a preservation request is forthcoming.

Fourth, on October 7, White House spokesperson Scott McClellan stated that he had personally determined three White House officials, Karl Rove, Lewis Libby and Elliot Abrams, had not disclosed classified information. According to press reports, Mr. McClellan said, ''I've spoken with each of them individually. They were not involved in leaking classified information, nor did they condone it.'' Clearly, a media spokesperson does not have the legal expertise to be questioning possible suspects or evaluating or reaching conclusions about the legality of their conduct. In addition, by making this statement, the White House has now put the Justice Department in the position of having to determine not only what happened, but also whether to contradict the publicly stated position of the White House.

Fifth, and perhaps most importantly, the investigation continues to be directly overseen by Attorney General Ashcroft who has well-documented conflicts of interest in any investigation of the White House. Mr. Ashcroft's personal relationship and political alliance with you, his close professional relationships with Karl Rove and Mr. Gonzales, and his seat on the National Security Council all tie him so tightly to this White House that the results may not be trusted by the American people. Even if the case is being handled in the first instance by professional career prosecutors, the integrity of the inquiry may be called into question if individuals with a vested interest in protecting the White House are still involved in any matter related to the investigation.

We are at risk of seeing this investigation so compromised that those responsible for this national security breach will never be identified and prosecuted. Public confidence in the integrity of this investigation would be substantially bolstered by the appointment of a special counsel. The criteria in the Justice Department regulations that created the authority to appoint a Special Counsel have been met in the current case. Namely, there is a criminal investigation that presents a conflict of interest for the Justice Department, and it would be in the public interest to appoint an outside special counsel to assume responsibility for the matter. In the meantime, we urge you to ask Attorney General Ashcroft to recuse himself from this investigation and do everything within your power to ensure the remainder of this investigation is conducted in a way that engenders public confidence.

Sincerely,

TOM DASCHLE.
JOSEPH R. BIDEN.
CARL LEVIN.
CHARLES E. SCHUMER.

Mr. GRAHAM. I guess the difference is we are supposed to trust Democratic administrations, and we can't trust Republican administrations. I guess that is the difference. It is the only difference I can glean here. Certainly, the subject matter in question is as equal to or more serious in terms of how it has damaged the Nation and in terms of the structure of a special counsel. If we thought it was necessary to make sure the Abramoff investigation could lead to high-level Republicans, which it did, and if we thought the Valerie Plame case needed a special counsel to go into the White House because that is where it went, why would we not believe it would help the country as a whole to appoint somebody we can all buy into in this case, give them the powers of a special counsel? That is what was urged before when the shoe was on the other foot.

This is a very big deal. We are talking about serious criminal activity. Apparently, the suspects are at the highest level of government, and I believe it was done for political purposes. To not appoint a special counsel would set a precedent that I think is damaging for the country and is absolutely unimaginable in terms of how someone could differentiate this case from the other two we have talked about.

To my Democratic colleagues: Don't go down this road. Don't be part of setting a precedent of not appointing a special counsel for some of the most serious national security leaks in recent memory—maybe in the history of the country—while at the same time most of my Democratic colleagues were on the record asking about a special counsel about everything and anything that happened in the Bush administration. This is not good for the country.

Mr. MCCAIN. I appreciate the indulgence of my colleagues.

UNANIMOUS CONSENT REQUEST

As in legislative session, I ask unanimous consent that the Senate now proceed to the consideration of a resolution regarding the recent intelligence leaks, which means the appointment of a special counsel, which is at the desk. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have served on the Intelligence Committee for 11 years now, and I have seen during that time plenty of leaks. I have tried with every bit of my energy to demonstrate how serious an issue this leaking matter is. In fact, I teamed up with Senator Bond—our colleagues remember Senator Bond, of course—and I sponsored legislation to double—double—the criminal penalty for those who leak, for those who expose covert agents. So I don't take a back seat to anybody in terms of recognizing the seriousness of leaks and ensuring that they are dealt with in an extremely prompt and responsive fashion.

What is at issue here is whether we are going to give an opportunity for U.S. attorneys—professionals in their fields—to handle this particular inquiry. I see no evidence that the way the U.S. attorneys are handling this investigation at this time is not with the highest standards of professionalism.

I have disagreed with the Attorney General on plenty of issues. My colleagues know I have been particularly in disagreement with the Attorney General on this issue of secret law. I think there are real questions about whether laws that are written in the Congress are actually the laws that govern their interpretations. So I have disagreed with the Attorney General on plenty of matters. I think I have demonstrated by writing that law with Senator Bond that I want to be as tough as possible on leakers.

But I would now have to object to the request from our colleague from Arizona simply because I believe it is premature. For that reason, Mr. President, I object to the request from the Senator from Arizona.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oklahoma.

PRESIDENT'S WAR ON COAL

Mr. INHOFE. Mr. President, I think I have time reserved now for up to 30 minutes. I wish to first of all say that the subject we have been listening to is life threatening. It is critical. That is not why I am down here today because we have something else that is very important.

I have come to the floor today with some breaking news. The momentum to stop President Obama's war on coal is now so great that some of my colleagues—Senators ALEXANDER and PRYOR—are going to introduce a countermeasure to my resolution. My resolution would put a stop to the second most expensive EPA regulation in history—a rule known as Utility MACT, with which the occupier of the chair is very familiar. The countermeasure is a cover bill, pure and simple.

While my resolution requires the EPA to go back to the drawing board

to craft a rule in which utilities can actually comply, the measure that Senators ALEXANDER and PRYOR are offering would keep Utility MACT in place but delay the rule for 6 years. This alternative is a clear admission that the Obama EPA's policy is wrong, but it does not fix the problem. It simply puts off the day of execution for a matter of 6 years.

What is really going on here? Since my S.J. Res. 37 is a privileged motion, it must be voted on by Monday, June 18, unless we extend it, which I would be willing to do, until after the farm bill takes place. That might be a better idea. It requires 50 votes to pass. The Alexander-Pryor cover bill will likely be introduced tomorrow. It is a bill that will likely never be voted on and would require 60 votes to pass. Therefore, the Senators who want to kill coal by opposing S.J. Res. 37 will put their names on the Alexander-Pryor bill as cosponsors to make it look as if they are saving coal, when in reality that bill, the Alexander-Pryor bill, kills coal in 6 years.

We have seen this before. I remember when we considered the Upton-Inhofe Energy Tax Prevention Act when it came to the floor last year. It was a measure that would have prevented the EPA from regulating greenhouse gases under the Clean Air Act. I would like to expand on that, but there is not time to do that.

My colleagues offered a number of counteramendments so they could have a cover vote. They wanted to appear as if they were reining in the out-of-control EPA—and I think everybody knows what is going on right now with all those regulations—for their constituents back home, all the while letting President Obama go through with his job-killing regulations. Some chose to vote for the only real solution to the problem—the Energy Tax Prevention Act—and some chose the cover vote. But all in all, 64 Senators went on record that day as wanting to rein in the EPA. But some of them did not have the courage to stand by it.

Of course, it is highly unlikely the Utility MACT alternative by Senators ALEXANDER and PRYOR will ever get a vote, but that is not the point. The point is just to have something out there that Senators in a tough spot can claim to support.

As I have said many times now, the vote on S.J. Res. 37 will be the one and only opportunity to stop President Obama's war on coal. This is the only vote. There is no other vote out there. If we do not do this, and that rule goes through—Utility MACT—coal is dead. This is the only chance we have.

Fortunately, we have a thing called the CRA. It is a process whereby a Senator can introduce a resolution to stop an unelected bureaucrat from having some kind of an onerous regulation. That is exactly what I have done with this. But this is the only chance for my colleagues to show constituents who they do stand with. Which of my colleagues will vote for the only real solution, which is my resolution, and which of my colleagues will vote for a cover vote?

What has changed over the past few weeks to the extent of my colleagues suddenly feeling it necessary for a cover vote?

A lot has changed because the American people are speaking up, and they are not happy about the Obama EPA. When I go back to Oklahoma, that is all I hear. It does not matter if you are in the ag business, if you are in the military business, if you are in the manufacturing business, they are all talking about the onerous regulations that are taking place in the EPA. I am pleased to say we have picked up the support of groups representing business and labor. Even more encouraging is a growing number of elected officials are working across the aisle to save coal. The Senate has taken notice, and the first Senate Democrats are beginning to come on board.

I want to commend Senator JOE MANCHIN, who happens to be occupying the chair at this time, and Senator BEN NELSON. They were the first two Senate Democrats to come out publicly in support of our resolution. I must say, I am very glad to see that they have made the right choice to stand with their constituents.

Senator MANCHIN's announcement came just after the Democratic Governor of West Virginia, Governor Tomblin, sent a letter asking him, as well as Senator ROCKEFELLER, to vote for my resolution because, he said, EPA's rules have—and I am quoting now the Democratic Governor of West Virginia; and the occupier of the chair will know this—EPA's rules have ''coalesced to create an unprecedented attack on West Virginia's coal industry.'' Still quoting, he said: ''This attack will have disastrous consequences on West Virginia's economy, our citizens and our way of life,'' and that EPA ''continues on this ill-conceived path to end the development of our nation's most reliable cost-effective source of energy—coal.''

I am very proud of a lot of the officials in West Virginia for what they have come out with. Governor Tomblin is not the only Democrat to be concerned. West Virginia Lieutenant Governor Jeffrey Kessler sent a separate letter to the West Virginia Senators and others asking them to pass S.J. Res. 37 in order to save what he called West Virginia's ''most valuable state natural resource and industry.'' He reminded the Senators that:

> On May 25, 2012, the State of West Virginia challenged the MATS rule—

that is the kill coal rule—

> and cited four reasons the defective rule should be rejected.

That is not all. A group of bipartisan State legislators from West Virginia also wrote the Senators and others urging them to support S.J. Res. 37 out of concern for the devastating impact on West Virginia. As they wrote:

> Several West Virginia power plants have announced their closure and the loss of employment that comes with it. Additionally, it is projected that with the implementation of this rule, consumer electric rates will skyrocket.

We all know that is true. Even the President has stated that.

I wish to note that we have support from nearly 80 percent of the private sector—those businesses that President Obama claims are ''doing just fine.'' Apparently, they do not think they are doing all that fine. American businesses are suffering because of aggressive overregulation by the Obama administration.

Let me take a minute to read the names of just some of the groups that are supporting our efforts to pass S.J. Res. 37: The National Federation of Independent Business, the U.S. Chamber of Commerce, the American Farm Bureau, the National Association of Manufacturers, the Industrial Energy Consumers of America, the American Chemistry Council, the Association of American Railroads, the American Forest and Paper Association, the American Iron and Steel Institute, the Fertilizer Institute, the Western Business Roundtable, and the National Rural Electric Cooperative Association.

That is just part of it.

Then the unions. The unions are coming too—I have talked about the businesses and read all of their groups—they have come to stop the overregulation that is killing jobs. Cecil Roberts, I had the occasion to meet him once. He is the president of the United Mine Workers, one of the largest labor unions in the country. He recently sent a letter to several Senators saying the union's support for my resolution is ''based upon our assessment of the threat that the EPA MATS rule''—that is the coal-killing rule—''poses to United Mine Workers Association members' jobs, the economies of coal field communities, and the future direction of our national energy policy.''

Remember, Cecil Roberts is the one who traveled across the country in 2008 campaigning for President Obama. But after 4 years of his regulatory barrage designed to kill the mining jobs his union is trying to protect, Mr. Roberts has said his group may choose not to endorse President Obama or just sit the election out. As he explained:

> We've been placed in a horrendous position here. How do you take coal miners' money and say let's use it politically to support someone whose EPA has pretty much said, ''You're done''?

With even Democrats and unions supporting my effort to save millions of jobs that depend on coal, EPA has to be feeling the pressure.

Gina McCarthy, the Assistant Administrator of EPA's Office for Air and Radiation, came out with a statement last week vehemently denying that Utility MACT and EPA's other rules are an effort to end coal. She said:

This is not a rule that is in any way designed to move coal out of the energy system.

Everybody knows better than that.

EPA Administrator Lisa Jackson echoed this sentiment saying that it is simply a coincidence that these rules are coming out at the ''same time'' that natural gas prices are low so utilities are naturally moving toward natural gas. Her message was: Do not blame the EPA.

Last week on the Senate floor, I described why their public health and natural gas arguments do not hold up, so I will not go into that today. But what I wish to focus on today is that these claims backing up their efforts to kill coal are just a part of the far-left environmental playbook.

There is a pretty big difference between what EPA is saying publicly and what they are saying when they talk with their friends, when they feel as though they can let their guard down and admit what is really going on down at the EPA. That is exactly what happened in a video recently uncovered of Region 6 Administrator Al Armendariz. While President Obama was posing in front of an oil pipeline in my State of Oklahoma pretending to support oil and gas, Administrator Armendariz told us the truth, that EPA's ''general philosophy'' is to ''crucify'' and make examples of oil and gas companies.

You may remember last week when I spoke on the Senate floor, I talked about a newly discovered video of EPA Region 1 Administrator Curt Spalding who is caught on tape telling the truth to a group of his environmental friends at Yale University. At a gathering there, he said that EPA's rules are specifically designed to kill coal and that the process isn't going to be pretty.

He openly admitted:

If you want to build a coal plant you got a big problem.

He goes on to say that the decision to kill coal was ''painful every step of the way'' because it will devastate communities in Virginia, Pennsylvania, and any area that depends on coal for jobs and livelihoods. That is kind of worth repeating. He said it is going to be painful. At least he recognized that. And we all know exactly what he is talking about.

I read his whole quotes on the floor of the Senate. They are a little too long to read now. But he talks about how painful it is going to be for all these families who are losing their jobs because we are killing coal.

I talked a lot about President Obama's war on coal last week, but what I did not have time to address was the Obama administration's allies in this war. It would come as no surprise that Administrator Spalding and, indeed, many at EPA are working hand in hand with the far-left environmental groups to move these regulations to kill coal.

Last July, Administrator Spalding spoke at a Boston rally for Big Green groups—that is capitalized: ''Big Green''—supporting EPA'S Utility MACT rule. That is the rule that would kill coal. In a YouTube video of this rally, Administrator Spalding gushes over the environmental community, thanking them profusely for ''weighing in on our behalf.'' So here we have EPA admitting that Big Green is working for them.

His whole speech was directly out of the environmental playbook. This is something that really exists: the environmental playbook. It was all about the so-called health benefits of killing coal. And he said:

Don't let anybody tell you these rules cost our economy money.

This is out of their playbook.

Administrator Spalding is not alone in his alliance with Big Green. Also appearing with these far-left environmental groups was Region 5 Administrator Susan Hedman. According to Paul Chesser, an associate fellow for the National League and Policy Center, Hedman told supporters at the rally:

We really appreciate your enthusiastic support for this rule. It's quite literally a breath of fresh air compared with what's going on in the nation's capital these days.

Of course, the former EPA region 6 Administrator Armendariz showed us again last week just how close EPA's relationship is with the far left groups. Armendariz had agreed to testify before Congress. It was actually over in the House, but at the last minute he canceled. As it turns out, Armendariz was in Washington that day. But while he apparently could not find time to testify before Congress, he did have time to stop by the Sierra Club for what has been described by the group as a private meeting. I suspect that Armendariz was there for a job interview. His ''crucify them'' resume makes him the perfect candidate.

Of course, EPA and their Big Green allies cannot tell the public the truth that they are crucifying oil and gas companies or that their efforts to kill coal will be ''painful every step of the way'' so they are deceiving the public with talking points from their playbook. When I say ''playbook,'' I mean a literal document telling activists exactly how to get the emotional effects they want.

We recently got a copy of this, and I have to say its contents are quite revealing. It comes from usclimatenetwork.com, a coalition of several major environmental groups, and it is a guideline for environmental activists when they attend hearings with the EPA to support the agency's greenhouse gas regulations.

A quick search revealed it was apparently written by a key player in the Sierra Club's Beyond Coal campaign, which is an aggressive effort to shut down all coal plants across America. After offering some tips on the word limit and how to deliver the message, the document urges activists to make it personal. It asks: Are you an expectant or new mother? Grandparent? If so, it suggests you bring your baby to the hearing. As it states, some examples of great visuals are ''holding your baby with you at the podium or pushing them in strollers, baby car seats,'' and so forth. ''Older children are also welcome.'' It encourages the visual aids of ''Asthma inhalers, medicine bottles, healthcare bills'' and all these other things that are good visuals.

The American Lung Association certainly took a page of this playbook. We have all seen the commercials of the red buggy in front of the Capitol. Of course, the Sierra Club put their principles to practice by inundating the American people with images of small children with inhalers.

The posters for the Beyond Coal campaign also featured abdomens of pregnant women with an arrow pointing to the unborn baby. The words on the arrow are, ''This little bundle of joy is now a reservoir for mercury.'' Another one says, ''She's going to be so full of joy, love, smiles, and mercury.''

Of course, the supreme irony is that the campaign that claims to be protecting this unborn child is the same one that is aggressively prochoice. It is coming from a movement that believes there are too many people in the world and actively advocates for population control and abortion.

Just after a hearing in May of this year, the Sierra Club posted pictures of their efforts. Sure enough, there is one of Mary Anne Hitt, director of the Sierra Club's Beyond Coal campaign, holding her 2-year-old daughter Hazel. But for all their efforts, it is clear the campaign is about one thing only; that is, killing coal.

At a hearing, Mary Anne Hitt with the Sierra Club said, ''We are here today to thank the Obama administration and to show our ironclad support for limiting dangerous carbon pollution being dumped into the air.'' She apparently sees the Obama administration as the closest ally in the Sierra Club's effort, and she has said about the Beyond Coal campaign:

Coal is a fuel of the past. What we're seeing now is the beginning of a growing trend to leave it there.

Of course, it is not just coal they want to kill; they want to kill coal, oil, and gas. A lot of people do not realize that. It was not long ago that Michael Brune, the executive director of the Sierra Club, said:

As we push to retire coal plants, we're going to work to make sure we are not simultaneously switching to natural gas infrastructure. And we're going to be preventing new gas plants from being built wherever we can.

So it is not just coal. It is oil. It is gas. We have to ask the question—at least I get the question asked when I go back to my State of Oklahoma because there are normal people there. They say: If we do not have coal, oil, and gas, how do you run this machine called America? The answer is we cannot.

As this vote on my Utility MACT resolution approaches, look for many of

my liberal friends to take their arguments directly out of the far left environmental playbook. Get ready to see lots of pictures of babies and children using inhalers. But these are the same Members who voted against my Clear Skies bill, that would have given us a 70-percent reduction in real pollutants, I am talking about SOx, NO_X, and mercury. We had that bill up, and that was one that would have actually had that reduction—a greater reduction than any President has advocated. When President Obama spoke—at that time he was in the Senate—he said: I voted against the Clear Skies bill. In fact, I was the deciding vote, despite the fact that I am from a coal State and half my State thought I had thoroughly betrayed them because I thought clean air was critical and global warming was critical.

At an April 17 hearing this year, Senator BARRASSO and Brenda Archambo, of the Sturgeon for Tomorrow, who testified before the EPW Committee, ''Would Michigan lakes, sturgeon, sportsmen, families have been better off had those reductions already gone into effect when they had the opportunity to pass [Clear Skies]?''

Her answer was yes. We are talking about, by this time, 6 years from now, we would have been enjoying those reductions. There are crucial differences between Clear Skies and Utility MACT. Clear Skies would have reduced the emissions without harming jobs and our economy because it was based on a commonsense, market-based approach. It was designed to retain coal in American electricity generation while reducing emissions each year.

On the other hand, Utility MACT is specifically designed to kill coal as well as all the good-paying jobs that come with it. EPA itself admits the rule will cost $10 billion to implement, but $10 billion will yield $6 million in benefits. Wait a minute. That does not make sense. That is a cost-benefit ratio between $10 billion and $6 million of 1,600 to 1.

If their campaign is so focused on public health, why did Democrats oppose our commonsense clean air regulations? Very simple. Because we did not include CO_2 regulation in the Clear Skies legislation. President Obama's quote only verifies that. He is on record admitting he voted against these health benefits because regulating greenhouse gases, which have no effect whatsoever on public health, was more important. In other words, the real agenda is to kill coal.

Just before President Obama made the decision to halt the EPA's plan to tighten ozone regulations, the White House Chief of Staff Bill Daley asked: ''What are the health impacts of unemployment?'' That is one of the most important questions before this Senate in preparation for the vote on my resolution to stop Utility MACT. What are the health impacts on the children whose parents will lose their jobs due to President Obama's war on coal? What are the health impacts on children and low-income families whose parents will have less money to spend on their well-being when they have to put more and more of their paychecks into the skyrocketing electricity costs?

EPA Administrator Spalding gave us a clue about the impacts of unemployment. It would be, as he said, ''Painful. Painful every step of the way.'' Do my colleagues in the Senate truly want that? I deeply regret that I have to be critical of two of my best friends in the Senate, Senators ALEXANDER and PRYOR, particularly Senator PRYOR. Three of my kids went to school with him at the University of Arkansas. He is considered part of our family. He is my brother. But if someone has been to West Virginia and to Ohio and to Illinois, to Michigan, to Missouri, and the rest of the coal States, as I have, and personally visited with the proud fourth- and fifth-generation coal families, as I have and certainly the occupier of the chair has, they know they will lose their livelihood if Alexander-Pryor saves the EPA's effort to kill coal. I cannot stand by and idly allow that to happen.

Let me conclude by speaking to my friends in this body who have yet to make up their minds as to whether they will support my resolution. I know everyone in the Senate wants to ensure we continue to make the tremendous environmental progress we have made over the past few years. We truly have.

The Clean Air Act many years ago cleaned up the air. We have had successes. Unfortunately, this administration's regulations are failing to strike that balance between growing our economy and improving our environment. Rather, this agenda is about killing our ability to run this machine called America.

Again, I wish to welcome the support of Senators MANCHIN and BEN NELSON, who listened to their constituents. It is the rest of the Senators from the coal States that I am concerned about. What about Senators LEVIN and STABENOW, who come from a State that uses coal for 60 percent of its electricity?

What about Senator CONRAD from a State with 85 percent of the electricity coming from coal? In Ohio, where Senator BROWN is from, 19,000 jobs depend on coal. Then there is Virginia, home of Senators WARNER and WEBB, which has 31,660 jobs, a 16 to 19 percent increase in the electric rates.

Arkansas, the war on coal there, that is 44.9 percent of electricity generation in the State of Arkansas; Tennessee, 52 percent of electricity generation, 6,000 jobs; Missouri, 81 percent of electricity generation—81 percent in the State of Missouri. That is 4,600 jobs at stake; Montana, 58 percent; Louisiana, that is 35 percent of electricity generation. These are all States that depend on coal for their electricity generation; lastly, Pennsylvania, 48.2 percent of electricity generation, 49,000 jobs would be lost in Pennsylvania if utility MACT is passed. That is significant. I would not be surprised if all these Senators from coal States that I just mentioned will vote for the bill of Senators ALEXANDER and PRYOR that says: Let's kill coal, but let's put it off for 6 years.

I repeat. It does not do any good to delay the death sentence on coal 6 years. Contracts will already be violated and the mines will be closed. So I say to my colleagues that their constituents will see right though those of who choose a cover vote. The American people are pretty smart. They know there is only one real solution to stop, not just delay, EPA's war on coal.

I hope they will join Senators MANCHIN and NELSON and me and several others and stand with the constituents, instead of President Obama and his EPA, which will make it painful every step of the way for them all. We need to pass S.J. Res. 37 and put an end to President Obama's war on coal. This is the last chance we have to do this. There is no other vote coming along.

If a Senator does not want to kill coal, they have to support S.J. Res. 37. It is our last chance to do it. Again, we do not know when this is going to come up. It is locked in a time limit, unless we, by unanimous consent, increase that time. I have no objection to putting it off until after the farm bill because that is a very important piece of legislation. So we will wait and see what takes place.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:28 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

EXECUTIVE SESSION

NOMINATION OF ANDREW DAVID HURWITZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from South Carolina.

SPENDING

Mr. DEMINT. Mr. President, I will speak for a few minutes on the farm bill, which we are debating this week.

Four years ago, President Obama was elected on the promise of change, the promise to cut the deficit in half in the first term, and to get unemployment, before the end of his first term, to a low of 6 percent. We all know what happened to those promises.

Two years ago, a wave of Republicans were elected with the promise of cutting spending, borrowing, and debt. Yet debt has continued to explode, as has spending. We were promised change,