United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, MONDAY, JULY 23, 2012 No. 110

Senate

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

PRAYER

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

Let us pray.

Eternal Savior, our help in ages past, take our lawmakers to a safe refuge, for You are their strong defense. Let them find safety under Your wings, as You protect them with Your constant love and faithfulness. Today, refresh our Senators with Your spirit, quicken their thinking, reinforce their judgment, and strengthen their resolve to follow You. Show them what needs to be changed and give them the courage and wisdom to make the changes.

Lord, we conclude this prayer by asking You to embrace with Your arms of mercy the victims and the families affected by the tragic shooting in Aurora, CO. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 23, 2012.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

MIDDLE CLASS TAX CUT ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 467.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 467, S. 3412, a bill to amend the Internal Revenue Code of 1986 to provide tax relief to middle-class families.

MOMENT OF SILENCE

Mr. REID. Mr. President, I ask unanimous consent that the Senate now observe a moment of silence for the victims of the shooting in Colorado.

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

(Moment of Silence.)

AURORA, COLORADO SHOOTINGS

Mr. REID. Mr. President, this afternoon the Senate pauses to remember those killed in last week's horrific shooting in Colorado.

Among the dead was 26-year-old Jonathan Blunk—a graduate of Hug High School in Reno, NV, a Navy veteran and father of two. My heart goes out to his loved ones and to all the victims and their families as they struggle to make sense of the senseless. How can you make sense of something that is so senseless? We may never know the motivations behind this terrible crime or understand why anyone would target so many innocent people.

Friday's events were a reminder that nothing in this world is certain and that life is precious and short. Today we pause to mourn the dead but also to honor how they lived. We pledge our support to the people of Aurora, CO, both as they grieve and as they begin to heal from this terrible tragedy.

RECOGNITION OF THE MINORITY LEADER

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

AURORA, COLORADO SHOOTINGS

Mr. MCCONNELL. Mr. President, we have all been sifting through the events of last Friday, and I think it is entirely appropriate for the Senate to take a moment today to acknowledge, as we just did, the victims of this nightmarish rampage, their families, and the wider community of Aurora.

In the life of a nation, some events are just so terrible they compel all of us to set aside our normal routines and preoccupations, step back, reflect on our own motivations and priorities, and think about the kind of lives we all aspire to live. This is certainly one of those times.

As is almost always the case in moments such as this, the horror has been tempered somewhat by the acts of heroism and self-sacrifice that took place in the midst of the violence. I read one report that said three different young men sacrificed their own lives in protecting the young women they were with. We know the first responders and nurses and doctors saved lives too, including the life of an unborn child.

I think all of us were moved over the weekend by the stories we have heard about the victims themselves. It is hard not to be struck by how young most of them were, of how many dreams were extinguished so quickly and mercilessly, but we were also moved by the outpouring of compassion that followed and by the refusal of the people of Aurora to allow the monster who committed this crime to

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

Printed on recycled paper.

eclipse the memory of the people he killed.

President Obama, Governor Hickenlooper, and the religious leaders in and around Aurora are to be commended for the time and effort they have put into consoling the families of the victims and the broader community. I think the best thing the rest of us can do right now is to show our respect for those who have been affected by this terrible and senseless crime and to continue to pray for the injured, that they recover fully from their injuries.

There are few things more common in America than going out to a movie with friends, which is why the first response most of us had to the shootings in Aurora was to think: It could have been any of us. It is the randomness of a crime such as this that makes it impossible to understand and so hard to accept. But as the Scripture says, ''The rain falls on the just and the unjust.''

So we accept that some things we just can't explain. Evil is one of them. We take comfort in the fact that while tragedy and loss persist, so does the goodness and generosity of so many.

Now I would like to join Governor Hickenlooper in honoring the victims by reciting their names:

Veronica Moser-Sullivan, Gordon Cowden, Matthew McQuinn, Alex Sullivan, Micayla Medek, John Larimer, Jesse Childress, Alexander Boik, Jonathan Blunk, Rebecca Ann Wingo, Alexander Teves, Jessica Ghawi.

We too will remember.

RESERVATION OF LEADER TIME

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

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

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

The legislative clerk proceeded to call the roll.

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

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

DEFENSE AUTHORIZATION

Mr. McCAIN. Mr. President, I rise to once again urge the majority leader of the Senate to bring to the floor for debate one of the most important pieces of legislation that comes before this body each year; that is, the national defense authorization bill.

On several occasions I have approached the majority leader and asked him to consider this legislation which, for the last 50 years, this body has taken up, debated, amended, passed, conferenced with the House of Representatives, and sent to the President for the President's signature.

Last week, the majority leader, the Senator from Nevada, stated that Senate consideration of a controversial and flawed bill on cybersecurity—a bill that has not been considered in the regular order—is more important and of a higher national security priority than the Defense authorization bill. I respectfully but vehemently disagree with that statement.

According to the majority leader, ''We're going to have to get to cybersecurity before we get to the defense authorization bill because on the relative merits, cybersecurity is more important.''

Let me repeat this. The majority leader of the Senate is arguing that legislation dealing with cybersecurity—which is a subset of national security, of national defense—is more important than legislation responsible for ensuring that the men and women of the Armed Forces have the resources and authorities necessary to ensure our national security—a bizarre statement.

I have been involved in national security issues for a long time. I have been involved with the bills concerning national defense, and I have never heard a statement that cybersecurity is more important than the overall security of this country. That either was the majority leader misspeaking or the majority leader having a lack of understanding of what national security is all about.

He is arguing that a controversial and flawed bill on cybersecurity—a bill of such ''significance'' that it has languished for over 5 months at the Homeland Security and Governmental Affairs Committee, with no committee markup or normal committee process, no amendments—should take precedence over a bill which was vetted for over a period of 4 months by the Senate Armed Services Committee and reported to the floor with the unanimous support of all 26 members, which certainly would not have been the case if there had been a vote on cybersecurity legislation as it is presently proposed, because I am a member of that committee and I and others certainly would never have supported this legislation and at least we should have been allowed the amendment process. But that is not the case with ''cybersecurity.''

Also, I might add, I understand we will have to have a motion to proceed, which then will drag us into next week, when we could—I emphasize could—finish the Defense authorization bill in 1 week and at most 2.

I remind my colleagues that consideration of the Defense authorization bill is more than a simple right of this body. It is an obligation to our national defense and a fulfillment of our responsibility to the men and women in uniform that the Senate has honored over the past 50 consecutive years.

I would say to my colleagues, today I went out to Bethesda Walter Reed to visit with our wounded. It is always an uplifting and always an incredible experience for me to make that visit. Cannot we—cannot we—as a body, for the sake of those men and women whose lives are on the line, pass a defense authorization bill that is responsible for their security, their training, their weapons, their equipment, their morale, their welfare? Cannot we pass a defense authorization bill through this body? Are we so parochial? Is the Senate majority leader oblivious to the needs of the men and women who are serving this Nation? They deserve better than what they are getting from the leadership of this Senate.

The Senate Armed Services Committee version of the fiscal year 2013 National Defense Authorization Act provides $525 billion for the base budget of the Defense Department, $88 billion for operations in Afghanistan and around the world, and $17.8 billion to maintain our nuclear deterrent.

In the area of pay and compensation, the bill authorizes $135 billion for military personnel, including costs of pay, allowances, bonuses, and a 1.7-percent across-the-board pay raise for all members of the uniformed services, consistent with the President's request. The bill improves the quality of life of the men and women in the Active and Reserve components of the all-volunteer force. It helps to address the needs of the wounded servicemembers and their families. It also authorizes important military construction and family housing projects that cannot proceed without specific authorization.

All major weapons systems are authorized in this legislation, including those that will benefit by the committee's continuous rigorous oversight of poorly performing programs. Every piece of equipment—large or small—that the Department of Defense needs to develop or procure is authorized in that legislation.

With the planned reductions in Afghanistan, the importance of providing for our deployed troops while training and transitioning responsibilities to the Afghan forces has never been more important. The bill provides our service men and women with the resources, training, equipment, and authorities they need to succeed in combat and stability operations. It also enhances the capability of U.S. forces to support the Afghan National Security Forces and Afghan local police as they assume responsibility for security throughout Afghanistan by the year 2014.

The bill contains important initiatives intended to ensure proper stewardship by the department of taxpayer dollars by, among other things, codifying the 2014 goal for it to achieve an auditable statement of budgetary resources, strictly limiting the use of cost-type contracts for the production of major weapons systems, requiring the Department of Defense to review its existing profit guidelines and revise them as necessary to ensure an appropriate link between contractor profits and contractor performance, enhancing protections for contractor employee whistleblowers, and restricting the use of abusive ''passthrough'' contracts.

Another vitally important provision in the bill repeals provisions of last year's National Defense Authorization Act that threaten to upset the delicate balance between the public sector and

the private sector in the maintenance and repair of military systems, and the bill addresses many other important national security policy issues.

With respect to cybersecurity, I am in full agreement that the threat we face in the cyber domain is among the most significant and challenging threats of 21st century warfare. This threat was made even more evident by the recent leaks about Stuxnet coming from this administration. That is why the Defense authorization bill takes great steps to improve our capabilities by consolidating defense networks to improve security and management and allow critical personnel to be reassigned in support of offensive cyber missions which are presently understaffed. It also provides policy guidance to the Department of Defense to address the clear need for retaliatory capabilities to serve both as a deterrence to and to respond in the event of a cyber attack.

Based on the procedures the Senate has been following over the past few years—with little or no opportunity for debate and amendments—the majority leader apparently intends to rush through the Senate a flawed piece of legislation. The cybersecurity bill he intends to call up later this week is greatly in need of improvement, both in the area of information sharing among all Federal agencies and the appropriate approach to ensuring critical infrastructure protection.

Without significant amendment, the current bill the majority leader intends to push through the Senate has zero chance of passing the House of Representatives or ever being signed into law; whereas, the Defense authorization bill, if we would take it up and pass it, clearly, we would have a successful conference with the House, and we would send it—after voting on the conferenced bill—to the President for his signature. There is no chance the cybersecurity bill the majority leader wants to bring to the floor will have a chance of passage in the House of Representatives.

So here is the choice: take up the Defense authorization bill, which has important cybersecurity provisions in it and provides for the overall defense of the Nation, or take up a flawed bill that never went through the committee, was never amended, take it to the floor, use up 1 week while we go through the motion to proceed, and then maybe pass it, maybe not, and not have it even considered by the other body during the month of September, which is the last we will be in session before the election.

For the life of me, I do not understand why the majority leader of the Senate should have so little regard for the needs of the men and women who are serving in the military today, and I hope he will understand better the needs to defend this Nation, as we are still involved in conflict in Afghanistan, we face a major crisis with Iran over their continued development of nuclear weapons—we just saw the Iranian ability to commit acts of terror all over the world, the latest being in Bulgaria—the fact that Syria is now coming apart and in danger of—because of this administration's failure to lead—that there can be chemical weapons not only spread around Syria but also in other places as well. There is a danger of chemical weapons that are presently under Bashar Assad's control flowing to Hezbollah, presenting a grave threat to the security of Israel.

All these things are happening in the world without this body acting on the most important piece of legislation as far as our national security is concerned, and the majority leader of the Senate apparently has decided not to bring it up and wants to bring up cybersecurity instead. It is a grave injustice—a grave injustice—to the men and women who are serving this Nation and sacrificing so much.

I hope the majority leader of the Senate, who by right of his position and in the majority decides the agenda for the Senate, will change his mind and bring up the Defense authorization bill, which I assure him we can have passed by this body, as always, in a near unanimous vote, if not totally unanimous vote, for the benefit of the security of this Nation.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

CLASS WARFARE

Mr. KYL. Mr. President, I wanted to say a few words today about the current debate over ''class,'' a term that has been ubiquitous in this election year. Its usage in political rhetoric is, I believe, misguided and wrong and even dangerous. Most prominently, we have a President who talks incessantly about class, particularly the middle class. Maybe you have noticed that.

He defines class strictly by your income. In the President's narrative, someone who makes $199,000 a year is a member of one class, and someone who makes $200,000 belongs to another class. Does that make sense? Indeed, each day the President is out on the campaign trial championing himself as the great protector of what he calls the middle class, and pitting those Americans against their fellow citizens by arguing that the wealthiest class is victimizing them through the Tax Code.

If wealthy people are not made to pay more, he argues, the middle class will be stuck in their current stations. What one class wins, he implies, the other class loses. In this, I believe he is wrong. Moreover, I believe such a formulation is contrary to four centuries of American history.

First, I think ''class'' is a loaded term that is not appropriate for our debates about income, mobility, and tax policy. Implying there is a rigid class structure in America suggests some people were born innately superior to others, and that where you were born is where you stay.

That is not what we believe in America. A true class-based society is one in which one ruling class employs another class that labors but cannot own property or move out of their class.

This is not who we are in America. We do not have an ingrained class system. There are no noble bloodlines. We do not have an aristocracy or commoners or people who are legally unable to own land, for example, because of their class. Spreading economic resentment weakens American values and ideals, and it ignores the uniquely meritocratic basis of our society where you can succeed if you work hard, and you can do well.

Generations arrived here in America to get away from class societies in Europe. They believed in that meritocracy. They wanted the opportunity to make it in the land of self-government and equal rights and opportunity, to work and compete and to build something of their own, something they could perhaps one day pass on to their children.

In America we believe everyone can achieve the American dream regardless of background. And how many rags-to-riches stories are there out there? There are countless. How many from one generation to the next, and by the third generation you had an incredibly more successful generation than the first. Think of all the people who had a big dream and built something or made something that changed lives; maybe a company that employs a lot of people or a product that makes life easier or maybe even just more fun. We have different talents to offer and different ideas of success and what we want to do with our lives, and that is all part of the American story.

As columnist Robert Samuelson noted recently, four modern-day Presidents—Obama, Clinton, Johnson, and Eisenhower—all came from very modest backgrounds. So we don't need the current President touring the country and defining every American's values and status based upon a class system he has made up.

If we want to talk about income and mobility, which is the basis of the class debate, let's do that. And that leads to my second point. Income in America is fluid; that is, there is ample evidence that people can and do move among income groups. Our economists study this. They divide our country into quintiles and they talk about how people move from one quintile into another quintile, and they do this throughout their life. You know, younger people start in the lower quintiles and as they get education and get work and then get improved work and more experience, they move into higher quintiles.

Take one statistic here. The Tax Foundation found from 1997 to 2007—the 10-year period they studied—only 50 percent of the taxpayers who reached millionaire status did so more than one time. In other words, high income status is often the result of 1 or 2 years of financial success, frequently based on the sale of an asset or some other temporary event.

Here is another notable factoid: A Kauffman Foundation survey of more than 500 successful entrepreneurs found that 93 percent came from middle-income or lower income backgrounds. The survey notes that entrepreneurship did not run in the family for these people. Quoting from the survey:

The majority were the first in their families to launch a business.

A Treasury Department study on income and mobility in America found during the 10-year period starting in 1996, roughly half of the taxpayers who started in the bottom 20 percent had moved up to a higher income group by 2005. Similarly, people in the top income group dropped to lower groups, thus making way for others to move up. The point is there is no such thing as a permanent middle class or any other class in America.

There are other measures of income mobility. As columnist Robert Samuelson noted, one litmus test for mobility in America is whether people rise above their parents economically, and this happens frequently. Citing a new report from the Pew Mobility Project, he notes that 84 percent of Americans exceed their parents' income at a similar stage in life. Income gains were ''sizable across the economic spectrum,'' he writes. Indeed, in the bottom fifth of income earners, median income grew by 74 percent over just this decade.

While income mobility has slowed during this economic downturn, the overarching point is that nobody in America is stuck where they are because of a ruling class of greedy wealthy people.

Here is my third point: To borrow a phrase from Congressman PAUL RYAN, the real class threat is a class of bureaucrats and crony capitalists using their government connections to try to rig the rules and rise above everyone else.

One example is ObamaCare. Recently released documents show that industry lobbyists and Democrats worked very closely in drafting ObamaCare. After it became law, the Department of Health and Human Services granted approximately 1,700 temporary waivers from the new annual limit requirements of the law. When the Federal Government is handing out lucrative favors, it is easy to predict what will happen. Companies hire armies of lobbyists and politically connected organizations—in this case, primarily, labor unions—will get special treatment. And that is exactly what happened here.

It is not just ObamaCare. Cap-and-trade would have enriched politically connected energy firms. Even without cap-and-trade, many of Obama's political supporters have reaped huge benefits from the administration's green energy industrial policy. The Solyndra scandal demonstrates what can happen when government tramples free markets in a misguided attempt to pick economic winners and losers.

As University of Chicago economist Luigi Zingales reminds us in his new book, ''A Capitalism for the People,'' being ''probusiness'' is not the same as being ''promarket.'' All too often, the Obama administration has embraced spending policies and regulations that favor certain businesses but are fundamentally antimarket. If a Federal policy is probusiness but antimarket, it is most likely an example of crony capitalism.

The irony here is remarkable. Even though President Obama tours the country advertising himself as the defender of the little guy and a guardian of the middle class, he has consistently embraced policies that promote crony capitalism.

That is not the type of capitalism that made this country so prosperous, and it is not the type of capitalism the American people support. Citizens across this country are eager for policies that promote free markets and equal opportunities for all businesses, all industries, all entrepreneurs, all people. Those are the principles upon which our country was founded. Americans firmly reject the idea that certain companies and industries should receive preferential treatment for political or ideological reasons. Centuries of evidence from around the world demonstrates crony capitalism leads to corruption, a decline of social trust, and economic stagnation. That is certainly not the future Americans want.

Instead of policies that favor politically connected entities and take even more money from successful Americans, let's clear the way for more opportunity and mobility in a true free market system. Higher taxes and more government are not the answers. We should not make it more difficult for Americans to get ahead.

We should certainly not believe Americans are to be distinguished by their income in any given year or be presumed to have different values or value because of that. To say America has a middle class presumes we have a lower class or an upper class. Think about it. You can't have a middle without something on either side. Is it true we have a lower class and a middle class and an upper class? Some Americans are better off financially than others. That is certainly true. But that is no basis for dividing us into arbitrary classes to favor one over another.

My guess is that all this talk about class, while it has a tendency to divide Americans, is more about trying to identify with the common man, and that is something all politicians try to do. ''I am just like you. I am just like the average guy.'' Abraham Lincoln talked about identifying with the common man. He said he thought God made a lot of them, and I think that is true. Most people in this country like to think of themselves as basic, common citizens, and they do not particularly like somebody identifying them as a class in order to suggest they are better or worse than somebody else.

That is why I think, even though this divides America, the discussion about class is probably simply an effort to say ''I am for you.'' And some politicians don't like to say ''I am for everybody'' because that would imply they are for people who are very successful. Well, why shouldn't we be for people who are very successful? They are probably people who have accumulated wealth because of something they have accomplished in life—usually by studying hard, working hard, sometimes by creating some special kind of product.

Take Bill Gates or Steve Jobs. They were smart people who created something people wanted and were willing to buy, and they got very wealthy because of that. Is that bad? Bill Gates has created a foundation, and he and his wife have contributed more to charity than probably any other thousand people you can name. That is a good thing. They have created more jobs than many other people in this country have. They have created products that have enabled us to lead much better lives. The same thing is true of Steve Jobs and thousands and thousands of other entrepreneurs. So there is nothing wrong with being successful, being rewarded for that, because most likely it has given many other people an opportunity.

There was a recent editorial in the Wall Street Journal that talked about the Chicago Bulls and Michael Jordan. The article noted they weren't a very impressive team before Michael Jordan came and the team wasn't making very much money and neither were any of the players. When Michael Jordan came, after he established how great he would be, he was given an enormous, almost unheard-of salary. Did the other players say: That is not fair? No. Actually, all the other players got big salary increases too—nothing like Michael Jordan, but they got huge salary increases. Why? Because he made the team better and it began to succeed and, eventually—you all know the story—the world championships, the whole franchise did well—the people selling popcorn in the stands, the people parking the cars, and certainly every one of the members of the team made much more money than they ever would have had Michael Jordan not come to the team. But Michael Jordan still made many times more than any of them did.

This is a point President John Kennedy made when he talked about reducing the tax rates in the country on business—on capital gains—so that businesses could create more wealth so they could do what? They could grow and hire more people. He said a rising

tide lifts all boats. If the economy is doing well, if we have wealthy people who are doing well, we have less wealthy who will also do better.

That is what America has always been about. We don't take it away from the person who makes a lot of money. Maybe it is because they are lucky with a God-given talent they have or their good looks and their acting ability. Whatever it is, those people generally participate in activities that create wealth for others as well. They also create products or services or even entertainment we enjoy. So Americans don't look askance at these people. We celebrate them. We are happy for their success. Frequently it helps us too, besides which they pay a lot of taxes.

Likewise, for those people who are less fortunate, I don't know of any politician who wants to talk about the lower class. That almost is a pejorative term. It is as though these are lesser people. Well, the reality is maybe it is somebody down on his or her luck. Maybe it is somebody just starting out so they are not making as much money as somebody who has been in business a lot longer. Maybe it is a student, for example, or somebody who suffered misfortune, somebody who doesn't have a good education, or maybe a recent immigrant to the country. There is nothing lesser about those people. We are all Americans. They may be in a lower income group, at least temporarily, but there is no reason to distinguish between the people in that income group and however the President defines the middle class.

Why is the middle class more deserving or special than people who don't make as much money as those in the middle class? The point is, people are deserving all up and down the economic ladder. It isn't just about money, anyway. The person who makes an average income—who provides for his family, provides them a good home, good tutelage as a parent, strong values, maybe sends them off to college and helps them to prepare for their life as a productive citizen—is just as important as the wealthy person in this country. A teacher may not make much money but influences the lives of thousands of young people to be better citizens in this country—more educated—and that influence goes far beyond the salary the individual teacher makes. So you can't judge value by how much money someone makes, and you certainly can't identify with one class and say: That is the class I am for.

The President, in particular, represents all Americans. He should be for all Americans. And I don't think there is anything called middle class values that are different from the values of other people in this country. Tell me what is different about the values of someone who the President identifies as middle class? Does that mean middle income? If so, what income and what year? Because a person will be in a lower income group one year, in a middle income group the next year, and maybe 10 years later in a higher income group. Has that individual's values changed? No. Americans are Americans, and it doesn't matter how much money we make in a given year. What matters is that as a country we have found a degree of success that others can only dream of because we create opportunity for everyone to succeed, and we teach that to our kids.

I think it is destructive for the leader of the country, the President, to be suggesting something else—that you should consider what class you are in in this country: If you are middle class, that is great, I am for you. Well, what about the other classes, and what about the person who is middle class today under the President's definition but wasn't yesterday and might not be tomorrow?

I just think the whole discussion of class is wrong. It is not what we do here in America. You can divide people for statistical purposes into income levels, into wealth levels, into levels of education. We divide ourselves for statistical reasons into all kinds of categories, but at the end of the day, we don't suggest that one group has different values than the other or that one is better than the other one. And I think that is the pernicious effect of the President's rhetoric—constantly talking about the middle class. I don't even know if I am in that group or not. Am I in the middle class? I make less money than the President suggests identifies the wealthy, that is for sure, but I don't think my values are any different or any better than those who make less money or more money than I do. In my view, money isn't even the measure of what this should be all about anyway.

I hope that as the campaign goes on, maybe we can focus a little bit more on what unites us rather than what divides us, on the values that I think we all subscribe to, and on the things that would make us a better country not just in economic terms but in other terms as well. And if we are focused on economic terms, then let's focus on those that will make us better off economically: a better education, a better home environment, strong communities, a government that is willing to help when that is necessary, and certainly governmental policies that reward what? That reward education; that reward hard work; that reward savings and investment; that reward entrepreneurship, people working to create something, to create a business; that reward job creation so that you don't have a law like ObamaCare that says: You are OK if you have 49 employees, but as soon as you have 50 employees, then here are a whole bunch of expensive burdens you are going to have to take on—tax burdens, penalties, and regulations. That is not something that favors building a business beyond 49 employees. It doesn't favor job creation beyond 49 employees. These are the kinds of issues we should be debating. What will make our country better both in economic terms and in all of the other terms that define us as a society?

I hope that as the campaign goes on, we will focus a lot more on what we hold in common, that we share, and that we can do better with, rather than those that divide us and especially that divide us in political terms.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AURORA, COLORADO SHOOTINGS

Mr. DURBIN. Mr. President, the horrific shooting that happened last week in Aurora, CO has shocked our Nation. Our hearts and our prayers go out to the victims, to their loved ones, and to all those whose lives have been forever marred by this tragedy. Twelve have died, and 58 more have been injured, many seriously.

We certainly give thanks to the first responders and to the medical personnel who responded so quickly and so capably. Most of all, we mourn those who we have lost.

Sadly, no state in our Union is immune to the horror of lives cut short by violence. In my State of Illinois, there have been too many lives lost, too many families shattered, too many children caught in the crossfire in my hometown of East St. Louis and some neighborhoods of Chicago.

The tragic mass shooting in Aurora has sent ripples of sadness and loss far beyond Colorado. For many people in Illinois, the scene last Friday was sickeningly familiar. A little over 4 years ago, a mentally disturbed gunman walked into a lecture hall at Northern IL University in DeKalb, IL, and opened fire. He killed 5 people, and injured 21 more. We in Illinois know something about the grief Coloradans are feeling after last Friday's mass shooting, and we grieve with them.

PETTY OFFICER JOHN LARIMER OF CRYSTAL LAKE, IL

We were saddened to hear that a young man from Illinois was among those killed in Aurora. U.S. Navy PO3 John Larimer of Crystal Lake, IL, was a fourth-generation Navy man.

He joined the Navy last year and trained at the Naval Station Great Lakes near Chicago. He was a cryptologic technician. He was stationed at Buckley Air Force Base in Aurora, where he was assigned to the U.S. Fleet Cyber Command. Last week Petty Officer Larimer went to the movies with his girlfriend, Julia Vojtsek, a nurse who grew up in Algonquin, Illinois. When the shooting started, John Larimer shielded Julia's body with his own. Julia said that John ''held my

head, and protected my whole body with his, and saved me.'' John Larimer was a brave man who died a hero. He was 27 years old.

His commanding officer, Commander Jeffrey Jakuboski, said the following of Larimer:

He was an outstanding shipmate. A valued member of our Navy team, he will be missed by all who knew him.

Over the weekend, John Larimer was remembered by friends and family for his intelligence, his good nature, his compassion, and his dedication to his family, his community and his country.

Family members spoke of his ''incredible mind'' and ''quiet gentleness.'' John's English teacher at Crystal Lake South High School remembered a good student who was ''incredibly bright and firm in his ideals.'' He said John ''was a good, strong human being . . . and I know he would have done incredible things for our country.'' To his high school principal, John Larimer was ''just a great kid to be around.''

Whether it was giving a big tip to a neighborhood kid who sold him a lemonade, or sending letters to the local newspaper calling for tolerance and respect for the views of others, John Larimer inspired those around him through the way he lived his life. And now he has inspired us with the way he died, literally sacrificing his life to save another.

His passing is a heartbreaking loss to the community of Crystal Lake, to Illinois, and to our country. I offer my condolences to John's parents, his brother and his three sisters. All of us will keep John, his family and his loved ones in our thoughts and prayers.

A night out at the movies is supposed to be a joyful event. That it could end in such a horrific scene reminds us how precious and fragile life is.

In the days and weeks to come, we will learn more about what happened in Aurora and whether there was any point at which this disturbed gunman could have been identified and stopped.

There will inevitably be discussions about whether we need to change any of our laws or policies. We owe it to the victims and their loved ones to see that those debates are guided by an honest assessment of the facts, what it will take to keep us safe in America, safe from the gunman who walks into a classroom at Northern Illinois University in DeKalb or the gunman who walks into a crowded theater in Aurora CO.

I came out of church yesterday, and a woman came up to me and said: They are talking about putting metal detectors in movie theaters now. What is next?

I said, sadly: I am not sure. I don't know where we will turn next to keep America safe from people who misuse firearms, assault rifles, a 100-round clip of ammunition.

All of these things are raising questions in the minds of everyone about where is it safe anymore.

I said to this woman outside our church: There was a big crowd sitting in that church today, too. Just as in that movie theater, we all thought we were safe until this happened.

For today we pause, not to enter into a debate about these important issues, which we must face, but to remember and honor those who died, to offer our condolences to those who were left behind, and to pray for the recovery of all those who were wounded and those who have suffered. We wish them comfort in this difficult time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, are we now on the motion to proceed to S. 3412?

The PRESIDING OFFICER. We are.

CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk I wish to have reported.

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

The assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 467, S. 3412, a bill to amend the Internal Revenue Code of 1986 to provide tax relief to middle class families.

Harry Reid, Max Baucus, Tom Udall, Debbie Stabenow, Mark Begich, Sheldon Whitehouse, Carl Levin, Robert P. Casey, Jr., Tom Harkin, Tom Carper, Christopher A. Coons, Barbara A. Mikulski, Jeff Merkley, Kirsten E. Gillibrand, Daniel K. Inouye, Richard Blumenthal, Mark R. Warner.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF MICHAEL A. SHIPP TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

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

The assistant bill clerk read the nomination of Michael A. Shipp, of New Jersey, to be United States District Judge for the District of New Jersey.

Mr. LEAHY. Mr. President, I ask unanimous consent that the cloture motion be withdrawn and that the time be equally divided between now and the hour of 5:30 in the usual form; that upon the use or yielding back of time the Senate proceed to vote without intervening action or debate on the nomination; that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

Mr. LEAHY. Mr. President, I thank the distinguished Presiding Officer, distinguished by his service here in the Senate but also as Governor of one of the most beautiful States in the Union.

AURORA, COLORADO SHOOTINGS

Before we begin—and so many others have said this—it would be impossible to state the amount of horror and sadness felt by my wife Marcelle and me at the news of what happened in Colorado, and I was reminded again today as I saw the flags lowered to half staff on this Capitol Building. We think of the Capitol as being a bastion of democracy or the light that sort of shines for the rest of the world on what democracy is. Unfortunately, so much of the world has seen the acts of a madman. It is safe to say this is one thing that united every Senator of both parties here. Our hearts go out not only to those who have been injured, obviously to the families of those who have died, and to the people in that wonderful community, because it is impossible for any one of us here to know how long or how hard that will hold in their heart, the number of people who say, as we all do: We just went to a movie. Any one of us has done that. Our children go to movies, our grandchildren go to movies. You expect them to go, have a good time, and come back, and enjoy it. The thought of what they saw there is horrible.

We have before us a Federal trial court nomination, that of Michael Shipp. This is a nomination that was voted on by the Senate Judiciary Committee more than three months ago and supported nearly unanimously by both Republican and Democratic Senators who have reviewed it. The only objection came as a protest vote from Senator LEE.

Judge Michael Shipp has served as a U.S. Magistrate Judge in the District of New Jersey since 2007 and has presided over civil and criminal matters and issued over 100 opinions. He is the

first African-American United States Magistrate Judge in that district. Prior to his appointment to the Federal bench, he worked for the Office of the Attorney General of New Jersey for five years, where he was Assistant Attorney General in charge of Consumer Protection from 2003 to 2007 and Counsel to the Attorney General in 2007. From 1995 to 2003, Judge Shipp was an associate in the Newark office of the law firm Skadden, Arps. Upon graduation from law school, Judge Shipp clerked for Judge James Coleman on the New Jersey Supreme Court.

Despite his outstanding qualifications and bipartisan support, Senate Republicans have delayed his confirmation vote for more than three months. Despite the fact that the Senate has finally been allowed to consider his nomination and that he will be confirmed overwhelmingly, Senate Republicans have again demonstrated their obstruction of judicial nominees. This is not a nominee on whom cloture should have been filed.

They refused until today to agree to a vote on this nomination. That meant that the Majority Leader was required to file a cloture petition to put an end to their obstruction and partisan filibuster. While I am pleased we are holding a confirmation vote today, it should not have required that the Majority Leader file for cloture.

This was the 29th time the Majority Leader had been forced to file for cloture to end a Republican filibuster and get an up-or-down vote for one of President Obama's judicial nominees. By comparison, during the entire eight years that President Bush was in office, cloture was filed in connection with 18 of his judicial nominees, most of whom were opposed on their merits as extreme ideologues.

Senate Republicans used to insist that filibustering of judicial nominations was unconstitutional. The Constitution has not changed but as soon as President Obama was elected they reversed course and filibustered President Obama's very first judicial nomination. Judge David Hamilton of Indiana was a widely-respected 15-year veteran of the Federal bench nominated to the Seventh Circuit and was supported by Senator Dick Lugar, the longest-serving Republican in the Senate. They delayed his confirmation for five months. Senate Republicans then proceeded to obstruct and delay just about every circuit court nominee of this President, filibustering nine of them. They delayed confirmation of Judge Albert Diaz of North Carolina to the Fourth Circuit for 11 months. They delayed confirmation of Judge Jane Stranch of Tennessee to the Sixth Circuit for 10 months. They delayed confirmation of Judge Ray Lohier of New York to the Second Circuit for seven months. They delayed confirmation of Judge Scott Matheson of Utah to the Tenth Circuit and Judge James Wynn, Jr. of North Carolina to the Fourth Circuit for six months. They delayed confirmation of Judge Andre Davis of Maryland to the Fourth Circuit, Judge Henry Floyd of South Carolina to the Fourth Circuit, Judge Stephanie Thacker of West Virginia to the Fourth Circuit, and Judge Jacqueline Nguyen of California to the Ninth Circuit for five months. They delayed confirmation of Judge Adalberto Jordan of Florida to the Eleventh Circuit, Judge Beverly Martin of Georgia to the Eleventh Circuit, Judge Mary Murguia of Arizona to the Ninth Circuit, Judge Bernice Donald of Tennessee to the Sixth Circuit, Judge Barbara Keenan of Virginia to the Fourth Circuit, Judge Thomas Vanaskie of Pennsylvania to the Third Circuit, Judge Joseph Greenaway of New Jersey to the Third Circuit, Judge Denny Chin of New York to the Second Circuit, and Judge Chris Droney of Connecticut to the Second Circuit for four months. They delayed confirmation of Judge Paul Watford of California to the Ninth Circuit, Judge Andrew Hurwitz of Arizona to the Ninth Circuit, Judge Morgan Christen of Alaska to the Ninth Circuit, Judge Stephen Higginson of Louisiana to the Fifth Circuit, Judge Gerard Lynch of New York to the Second Circuit, Judge Susan Carney of Connecticut to the Second Circuit, and Judge Kathleen O'Malley of Ohio to the Federal Circuit for three months.

As a current report from the nonpartisan Congressional Research Service confirms, the median time circuit nominees have had to wait before a Senate vote has skyrocketed from 18 days for President Bush's nominees to 132 days for President Obama's. This is the result of Republican foot dragging and obstruction. In most cases, Senate Republicans are delaying and stalling for no good reason. How else do you explain the filibuster of the nomination of Judge Barbara Keenan of Virginia to the Fourth Circuit who was ultimately confirmed 99–0? And how else do you explain the needless stalling and obstruction of Judge Denny Chin of New York to the Second Circuit, who was filibustered for four months before he was confirmed 98–0?

Three of the five circuit court judges finally confirmed this year after months of unnecessary delays and a filibuster should have been confirmed last year. The other two circuit court nominees confirmed this year were both subjected to stalling and a partisan filibuster by Senate Republicans. This was the case even though these circuit nominees had strong bipartisan support. We needed to overcome a filibuster to confirm Justice Andrew Hurwitz of Arizona to the Ninth Circuit despite the strong support of his home state Senators, Republicans JON KYL and JOHN MCCAIN. The Majority Leader had to file cloture to secure an up-or-down vote on Paul Watford of California to the Ninth Circuit despite his sterling credentials and bipartisan support. The year started with the Majority Leader having to file cloture to get an up-or-down vote on Judge Adalberto Jordan of Florida to the Eleventh Circuit even though he was strongly supported by his Republican home state Senator. Every single one of these nominees for whom the Majority Leader was forced to file cloture was rated unanimously well qualified by the nonpartisan ABA Standing Committee on the Federal Judiciary, the highest possible rating. And every one of them was nominated to fill a judicial emergency vacancy.

In June, Senate Republicans confirmed that they shut down the confirmation process for qualified and consensus circuit court nominees. They are now filibustering Judge Patty Shwartz of New Jersey who is nominated to the Third Circuit and Richard Taranto who is nominated to the Federal Circuit. In addition, they are filibustering two circuit court nominees who have the support of both their home state Republican Senators: William Kayatta of Maine to the First Circuit and Judge Robert Bacharach of Oklahoma to the Tenth Circuit. This is almost unprecedented.

During the past five presidential election years, Senate Democrats have never denied an up-or-down vote to any circuit court nominee of a Republican President who received bipartisan support in the Judiciary Committee. In fact, during the last 20 years, only four circuit nominees reported with bipartisan support have been denied an up-or-down vote by the Senate and all four were nominated by President Clinton and blocked by Senate Republicans. While Senate Democrats have been willing to work with Republican presidents to confirm circuit court nominees with bipartisan support, Senate Republicans have repeatedly obstructed the nominees of Democratic presidents. In the previous five presidential election years, a total of 13 circuit court nominees have been confirmed after June 1. Not surprisingly, 12 of the 13 were Republican nominees. Clearly, this is not tit-for-tat as some contend but, rather, a one-way street in favor of Republican presidents' nominees.

This entire year, the Senate has yet to vote on a single circuit court nominee who was nominated by President Obama this year. Since 1980, the only presidential election year in which there were no circuit nominees confirmed who was nominated that year was in 1996, when Senate Republicans shut down the process against President Clinton's circuit nominees.

The nonpartisan Congressional Research Service has confirmed in its reports that judicial nominees continue to be confirmed in presidential election years—except it seems when there is a Democratic President. In five of the last eight presidential election years, the Senate has confirmed at least 22 circuit and district court nominees after May 31. The notable exceptions were during the last years of President Clinton's two terms in 1996 and 2000 when Senate Republicans would not

allow confirmations to continue. The third exception was in 1988, at the end of President Reagan's presidency, but that was because vacancies were at 28. In comparison, vacancies at the end of the Clinton years stood at 75 at the end of 1996 and 67 at the end of 2000. Otherwise, it has been the rule rather than the exception. So, for example, according to CRS the Senate confirmed 32 nominees in 1980; 28 in 1984; 31 in 1992; 28 in 2004 at the end of President George W. Bush's first term; and 22 after May 31 in 2008 at the end of President Bush's second term. So far this year only 7 judicial nominees have been allowed to be confirmed.

It is ironic that certain Senate Republicans are now arguing in support of a distorted version of the Thurmond Rule, as if it had the force of law. After all, it is Senate Republicans who have repeatedly asserted that the Thurmond Rule does not exist. For example, on July 14, 2008, the Senate Republican caucus held a hearing solely dedicated to arguing that the Thurmond Rule does not exist. At that hearing, the senior Senator from Kentucky stated: ''I think it's clear that there is no Thurmond Rule. And I think the facts demonstrate that.'' Similarly, the Senator from Iowa, my friend who is now serving as Ranking Member of the Judiciary Committee, stated that the Thurmond Rule was in his view ''plain bunk.'' He said: ''The reality is that the Senate has never stopped confirming judicial nominees during the last few months of a president's term.'' We did not in 2008 when we proceeded to confirm 22 nominees over the second half of that year. That Senate Republicans have objected to voting on the nomination of Judge Shipp is a distortion of the Thurmond rule and shows the depths to which they have gone.

There is no good reason that the Senate should not vote on consensus nominees like Judge Shipp and more than a dozen other consensus judicial nominees to fill Federal trial court vacancies in Iowa, California, Utah, Connecticut, Maryland, Florida, Oklahoma, Michigan, New York and Pennsylvania. There is no good reason the Senate should not vote on the nominations of William Kayatta of Maine to the First Circuit, Judge Robert Bacharach of Oklahoma to the Tenth Circuit, Richard Taranto to the Federal Circuit and for that matter Judge Patty Shwartz of New Jersey to the Third Circuit, who is supported by New Jersey's Republican Governor. Each of these circuit court nominees has been rated unanimously well qualified by the nonpartisan ABA Standing Committee on the Federal Judiciary, the highest possible rating. These should not be controversial nominees. They are qualified and should be considered as consensus nominees and confirmed.

Senate Republicans are blocking consent to vote on superbly qualified circuit court nominees with strong bipartisan support. This is a new and damaging application of the Thurmond rule.

The fact that Republican stalling tactics have meant that circuit court nominees that should have been confirmed in the spring—like Bill Kayatta, Richard Taranto and Patty Shwartz—are still awaiting a vote is no excuse for not moving forward this month to confirm these circuit nominees.

In an article dated July 16, 2012 entitled ''William Kayatta and the Needless Destruction of the Thurmond Rule,'' Andrew Cohen of the Atlantic states:

> In a more prudent and practical era in Senate history, nominees like Kayatta would have been confirmed in days . . . Now even slam-dunk candidates like Kayatta linger in the wings waiting for Senate ''consent'' long after the body already has definitively ''advised'' the executive branch of how great it thinks the nominee would be as a judge. Can you imagine the uproar if the Senate ever used its filibuster power to block the deployment of troops already endorsed by the Armed Services Committee? Now please tell me the material difference here. Surely, the judiciary needs judges as much as the army needs soldiers.

I agree. We have outstanding nominees with the support of both Republican home State senators. Yet, we cannot vote on these nominees because Senate Republicans want to place politics over the needs of the American people.

The Los Angeles Times recently published an editorial entitled ''Reject the 'Thurmond Rule' '' which concluded ''the administration of justice shouldn't be held hostage to partisan politics even in an election year.''

I ask unanimous consent that copies of the July 12 and 16 articles be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1.)

Mr. LEAHY. As both Chairman and Ranking Member of the Judiciary Committee during the last several years, I have worked with Senate Republicans to consider judicial nominees well into presidential election years, I have made earnest efforts to make the confirmation process more transparent and fair, I have ensured that the President consults with home state Senators before submitting a nominee, and I have opened up the blue slip process to prevent abuses while continuing to respect it.

In the last two presidential election years, we were able to bring the number of judicial vacancies down to the lowest levels in the past 20 years. In 2004 at end of President Bush's first term, vacancies were reduced to 28 not the 77 we have today. In 2008, in the last year of President Bush's second term, we again worked to fill vacancies and got them down to 34, less than half of what they are today. In 2004, 25 nominees were confirmed between June and the presidential election, and in 2008, 22 nominees were confirmed between June and the presidential election.

In 2004, a Presidential election year, the Senate confirmed five circuit court nominees of a Republican President that had been reported by the Committee that year. This year we have confirmed only two circuit court nominees that have been reported by the Committee this year, and both were filibustered. By this date in 2004 the Senate had already confirmed 32 of President Bush's circuit court nominees, and we confirmed another three that year for a total of 35 circuit court nominees in his first term. So far, the Senate has only been allowed to consider and confirm 30 of President Obama's circuit court nominees five fewer, 17 percent fewer while higher numbers of vacancies remain, and yet the Senate Republican leadership wants to artificially shut down nominations for no good reason.

As Chairman of this Committee, I have also assiduously protected the rights of the minority in the judicial nomination process. I have only proceeded with judicial nominations supported by both home state Senators. That has meant that we are not able to proceed on current nominees from Arizona, Georgia, Nevada and Louisiana. I even stopped proceedings on a circuit court nominee from Kansas when the Kansas Republican Senators reversed themselves and withdrew their support for the nominee. Nor did I accede to the Majority Leader's request to push a Nevada nominee through Committee who did not have the blue slip of the state's Republican Senator. In stark contrast, it was Senate Republicans and the Republican chairman who blatantly disregarded Senate Judiciary procedure by proceeding with nominations despite the objection of both home state Senators. And I have been consistent. I hold hearings at the same pace and under the same procedures whether the President nominating is a Democrat or a Republican. Others cannot say that. So those have been my rules respect for minority rights, transparency, deference to home state Senators, consistent application of policies and practices, and allowing for confirmations well into presidential election years for nominees with bipartisan support.

Personal attacks on me do nothing to help the American people who are seeking justice in our Federal courts. I am willing to defend my record but that is beside the point. The harm to the American people is what matters. What the American people and the overburdened Federal courts need are qualified judges to administer justice in our Federal courts, not the perpetuation of extended, numerous vacancies.

The judicial vacancy rate remains almost twice what it was at this point in the first term of President Bush. I wish Senate Republicans would think more about our responsibilities to the American people than some warped sense of partisan score settling. Vacancies have been near or above 80 for three years. Nearly one out of every 11 Federal courts is currently vacant. Their shutting down confirmations for consensus

and qualified judicial nominees is not helping the overburdened courts who cannot administer justice in an expedient fashion. It is not helping owners of small businesses.

Last week, after his nomination was reported with near unanimous voice vote by the Judiciary Committee approximately three months ago, the Senate was finally able to confirm Judge Kevin McNulty to the District of New Jersey. Despite vacancies still remaining near or above 80, Senate Republicans continue to obstruct and stall nominees on the Senate floor for no good reason. We could easily have confirmed both Judges Shipp and McNulty together three months ago. It is this type of across-the-board obstruction of judicial nominees by Senate Republicans that has contributed to the judicial vacancy crisis in our Federal courts.

Last week, I spoke about the novel excuses that some Senate Republicans have concocted for refusing to allow for votes on nominees. One excuse was that having confirmed two Supreme Court justices, the Senate cannot be expected to reach the 205 number of confirmations in President Bush's first term. Work on two Supreme Court nominations did not stop the Senate from working to confirm 200 of President Clinton's circuit and district nominees in his first term. Similarly, there were two Supreme Court confirmations in President George H.W. Bush's term, and that did not prevent Senate Democrats who were in the Senate majority from confirming 192 of his circuit and district nominees, including 66 in the election year of 1992 alone.

Last week we heard another self-serving misconception of more recent history from the Republican side of the aisle. They claimed that Democrats were responsible for growing judicial vacancies in 2008. The charge was as follows: ''[A]t the beginning of 2008 there were 43 vacancies. So the practice for Democrats who controlled the Senate during that last year of President Bush's term was to allow vacancies to increase by more than 37 percent.'' In fact, what we did in 2008 was to reduce vacancies back down to 34 in October 2008 when the Senate recessed for the year. The increase in vacancies after October and through the remainder of 2008 was not because Senate Democrats were obstructing Senate votes on qualified judicial nominees with bipartisan support as Senate Republicans are today. In November and December 2008 the Senate met on a few days only to address the financial crisis. There were no nominations pending on the Calendar after the election in 2008. Their charge is fallacious. Judicial vacancies have not been as low as 34 or 43 or even the 55 that they stood at when President Obama took office for years. Due to Republican obstruction, President Obama will be the first President in 20 years to complete his first term with more judicial vacancies than when he took office.

Last week Senate Republicans also contended that they have no responsibility for the lack of progress in 2009. In fact, that year ended with 10 judicial confirmations stalled by Senate Republicans. The obstructionist tactics they employed from the outset of the Obama administration had led to the lowest number of judicial confirmations in more than 50 years. Only 12 of President Obama's judicial nominations to Federal circuit and district courts were confirmed that whole year. The 12 were less than half of what we achieved during President Bush's first tumultuous year. In the second half of 2001, a Democratic Senate majority proceeded to confirm 28 judges. Despite the fact that President Obama began nominating judicial nominees two months earlier than President Bush, Senate Republicans delayed and obstructed them to yield an historic low in confirmations. Republicans refused to agree to the consideration of qualified, noncontroversial nominees for weeks and months. And as the Senate recessed in December, only three of the available 13 judicial nominations on the Senate Executive Calendar were allowed to be considered.

By contrast, in December 2001, the first year of President Bush's administration, Senate Democrats proceeded to confirm 10 of his judicial nominees. At the end of the Senate's 2001 session, only four judicial nominations were left on the Senate Executive Calendar, all of which were confirmed soon after the Senate returned in 2002. By contrast, it took until May 2011, a year and a half later, to complete action on the judicial nominees who should have been confirmed in December 2009 but had to be renominated. Although noncontroversial, several were further delayed by filibusters before being confirmed unanimously. The lack of Senate action on those 10 judicial nominees in 2009 was attributable to Senate Republicans and no one else. Despite the fact that President Obama reached across the aisle to consult with Republican Senators, he was rewarded with obstruction from the outset of his administration. While President Obama moved beyond the judicial nominations battles of the past and reached out to work with Republicans and make mainstream nominations, Senate Republicans continued their tactics of delay.

For Senate Republicans to claim that ''only 13 [sic] judges were confirmed during President Obama's first year'' because of ''decisions made by the Senate Democratic leadership'' and that it was ''the choice of Democrats'' and ''not because of anything the Republican minority could do'' is ludicrous. Senate Democrats had cleared for confirmation the other 10 judicial nominees stalled by Republicans in 2009. Their assertion ignores the facts and the truth. Just as they cannot escape responsibility for their unwillingness to move forward with the 21 judicial nominees ready for a final up-or down vote now before the end of this year, they cannot escape responsibility for what they did in 2009.

Senate Republicans choose to offer weak excuses and blame everyone but themselves for the delays and obstruction in which they have excelled. Their sense of being justified by some view of tit-for-tat is distorted and should be beside the point while vacancies remain so high that the American people and our courts are overburdened. The way Senate Democrats helped reduce vacancies was not by limiting confirmations to one nominee per week, as Senate Republicans have. In September 2008, with Democrats in the majority, the Senate confirmed 10 of President Bush's nominees in a single day, all by voice vote. There were 10 consensus nominees pending on the Senate floor, and we confirmed all of them in minutes. Likewise, in 2002, Senate Democrats joined in confirming 18 of President Bush's nominees in a single day, again by voice vote. I wish Senate Republicans would duplicate that precedent and help clear the logjam of judicial nominees dating back to March who are still awaiting up-or-down votes.

While I am pleased that we will confirm Judge Shipp today, I wish that Senate Republicans would help us confirm the 20 additional judicial nominees who can be confirmed right now. Then we could make real progress in giving our courts the judges they need to provide justice for the American people, just as we did in 1992, 2004 and 2008.

After today's vote, I hope Senate Republicans will reconsider their ill-conceived partisan strategy and work with us to meet the needs of the American people. With more than 75 judicial vacancies still burdening the American people and our Federal courts, there is no justification for not proceeding to confirm the judicial nominees reported with bipartisan support by the Judiciary Committee this year.

Each day that Senate Republicans refuse because of their political agenda to confirm these qualified judicial nominees who have been reviewed and voted on by the Judiciary Committee is another day that a judge could have been working to administer justice. Every week lost is another in which injured plaintiffs are having to wait to recover the costs of medical expenses, lost wages, or other damages from wrongdoing. Every month is another drag on the economy as small business owners have to wait to have their contract disputes resolved. Hardworking and hard-pressed Americans should not have to wait years to have their cases decided. Just as it is with the economy and with jobs, the American people do not want to hear excuses about why Republicans in Congress will not help them. So let us do more to help the American people.

EXHIBIT 1

[From theatlantic.com, July 16, 2012]

WILLIAM KAYATTA AND THE NEEDLESS DESTRUCTION OF THE THURMOND RULE

(By Andrew Cohen)

WHY DO REPUBLICAN LEADERS STILL PLAY ALONG WITH AN INFORMAL SENATE RULE THAT PREVENTS UP-OR-DOWN VOTES ON EVEN THOSE JUDGES WHO HAVE STRONG REPUBLICAN SUPPORT?

Meet William Kayatta, another one of America's earnest, capable judges-in-waiting. Widely respected in his home state of Maine, nominated by President Obama in January to fill a vacancy on the 1st U.S. Circuit Court of Appeals, eagerly endorsed by both of Maine's Republican senators, passed for confirmation to the Senate floor by an easy voice vote in the Senate Judiciary Committee, Kayatta's nomination instead has become yet another victim of the Senate GOP's suicidal tendencies.

The litigants of the 1st Circuit need Kayatta. There are no serious arguments against him. Yet the Republican leadership in the Senate has blocked a vote on the merits of his nomination in obedience to the so-called ''Thurmond Rule,'' an informal practice as self-destructive as was its namesake. The Thurmond Rule is typically invoked by the opposition party in a presidential election year to preclude substantive votes on federal judicial appointments within six months of Election Day. It is the Senate's version of a sit-down strike.

In April, just after the Judiciary Committee favorably passed along Kayatta's nomination to the Senate floor for confirmation, Maine's junior senator, Susan Collins, had wonderful things to say about the nominee:

Bill is an attorney of exceptional intelligence, extensive experience, and demonstrated integrity, who is very highly respected in the Maine legal community. Bill's impressive background makes him eminently qualified for a seat on the First Circuit. His thirty-plus years of real world litigation experience would bring a much-needed perspective to the court. Maine has a long proud history of supplying superb jurists to the federal bench. I know that, if confirmed, Mr. Kayatta will continue in that tradition. I urge the full Senate to approve his nomination as soon as possible.

And how did her fellow Republicans respond to her request? They blew her off. There has been no vote on Kayatta's nomination and none is scheduled. Instead, last month, Sen. Mitch McConnell, the Senate Minority Leader, invoked the ''Thurmond rule'' to block floor consideration of appointment—as well as up-or-down votes on the rest of President Obama's federal appellate nominees (This in turn, initially prompted Sen. Collins to blame the Obama Administration for going too slow in nominating Kayatta in the first place.)

In theory, the Thurmond Rule is something official Washington defends as the price of divided government. In reality, it's another outrageous example of how the Senate has re-written the Constitution by filibuster. In practice, in the Kayatta case and many more, the Thurmond rule is the antithesis of good governance. Your Senate today perpetuates a frivolous rule which, for the most cynical political reasons, blocks qualified people from serving their nation. It's not misfeasance. It's malfeasance.

Just because Strom Thurmond was willing to jump the Senate off the bridge doesn't mean that today's Senate Republican leaders had to do likewise.

In a more prudent and practical era in Senate history, nominees like Kayatta would have been confirmed in days. Fifty years ago, for example, when another bright Democratic appointee with strong Republican support came to the Senate seeking a judgeship, the Judiciary Committee took all of 11 minutes before it endorsed him. Byron ''Whizzer'' White then served the next 31 years as an associate justice of the United States Supreme Court. That's wholly unthinkable today—even with lower federal court nominees.

Now even slam-dunk candidates like Kayatta linger in the wings waiting for Senate ''consent'' long after the body already has definitively ''advised'' the executive branch of how great it thinks the nominee would be as a judge. Can you imagine the uproar if the Senate ever used its filibuster power to block the deployment of troops already endorsed by the Armed Services Committee? Now please tell me the material difference here. Surely, the judiciary needs judges as much as the army needs soldiers.

There are currently 76 judicial vacancies around the country. There are 31 districts and circuits designated as ''judicial emergencies'' because vacancies there have lingered so long. In the 10th Circuit, what's happening to Kayatta is happening to Robert Bacharach, who has the support of Oklahoma's two Republican senators. The Senate also is blocking Richard Taranto from a Federal Circuit spot even though he breezed through the Judiciary Committee and has been endorsed by Robert Bork and Paul Clement. The same goes for Patty Shwartz in the 3rd Circuit.

This is unacceptable on every level. When we talk about ''false equivalence'' in modern politics the business of these judges should be the lede. These nominations require no great policy choices on the part of Congress. They don't come with thousands of pages of ambiguous legalese disguised as the language of a federal statute. There is no room for spin. These nominees are either qualified, or they aren't, and when they sail out of the Judiciary Committee with voice votes no one can plausibly say they aren't qualified.

And yet here we are. It would be convenient to blame Strom Thurmond, one of the most divisive politicians of the 20th century, for one of the Senate's most divisive rules. But Thurmond is long gone. And there was never anything about his rule that demanded it be followed, session after session, under both Democratic and Republican control. Just because Strom Thurmond was willing to jump the Senate off the bridge, in other words, doesn't mean that today's Senate Republican leaders had to do likewise. But they have.

America has trouble enough today without a senseless Senate rule that blocks highly skilled, highly competent public servants from joining government. The nation's litigants in federal court, burdened by judicial vacancies, already are waiting long enough to have their corporate disputes decided. This isn't gridlock. This is destruction. ''I think it's stupid'' to block good judges from confirmation, Sen. Tom Coburn said earlier this year. For once, he is right. And Sen. Collins? Even she's come around. ''I have urged my colleagues on both sides of the aisle to give Bill the direct vote by the full Senate that he deserves,'' she said late last month. Amen to that.

[From the Los Angeles Times, July 12, 2012]

REJECT THE ''THURMOND RULE''

SENATE MINORITY LEADER MITCH MCCONNELL INVOKES THE LEGACY OF STROM THURMOND TO HOLD UP JUDICIAL CONFIRMATIONS—IT'S BAD FOR JUDGES AND BAD FOR JUSTICE

The late Strom Thurmond is best known for his 48 years in the U.S. Senate representing South Carolina, his segregationist candidacy for the presidency in 1948 and the fact that even though he was a longtime opponent of racial equality, he fathered a child with a black teenage housekeeper. But Thurmond also lent his name to the so-called Thurmond Rule, according to which Senate action on judicial confirmations is supposed to stop several months before a presidential election.

The rule—actually a custom that sometimes has been honored in the breach—goes back to 1968, when Thurmond and other Republicans held up action on President Johnson's nomination of Abe Fortas to be chief justice of the United States. Fortas withdrew in the face of a filibuster, and President Nixon, the Republican victor in the 1968 election, was able to choose a successor to the retiring Earl Warren. In subsequent years, senators of both parties have cited the Thurmond/Fortas episode as a precedent for not acting on judicial nominations close to an election.

Even in the case of a Supreme Court appointment, the Thurmond Rule violates the spirit of the Constitution, which doesn't distinguish between nominations made earlier or later in a president's term. It is less defensible still in connection with nominations to lower courts. Yet Senate Minority Leader Mitch McConnell (R–Ky.) told colleagues last month that he was immediately invoking the rule to end nominations to the U.S. Court of Appeals, and would block confirmation votes on nominees to federal district courts after September.

Such delays are a disservice to the nominees and to an overburdened federal judiciary. At present there are 12 vacancies on federal appeals courts, 63 on district courts and two on the U.S. Court of International Trade. The Obama administration, although it has been slow to fill vacancies, currently is proposing seven candidates for the appeals court and 28 for the district courts. The Senate should hold up-or-down votes on these nominations and any others put forward in the near future.

Apart from the Thurmond Rule, the timely confirmation of judicial nominees has long been frustrated by petty partisanship. Democrats and Republicans share the blame. The most recent logjam was broken in March when Republicans agreed to timely votes on 14 nominations.

Obviously Republicans hope that Barack Obama is a lame-duck president, but even lame-ducks are entitled to expeditious consideration of their nominations. And the administration of justice shouldn't be held hostage to partisan politics even in an election year.

Mr. President, I see the distinguished senior Senator from New Jersey on the floor. If he seeks the floor, I will yield to him; otherwise, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, I thank the chairman of the Judiciary Committee who always has things of relevance to talk to us about and he has done that again today and we thank the chairman.

SHOOTING IN AURORA, CO

Mr. President, I do plan on talking about a confirmation vote coming up

on the floor, but one can't address the public at-large on this day, so soon after a tragedy of enormous proportion, without taking just a few moments to discuss the events that took place in Aurora, CO, last Friday. The question arises: What do we do besides weep with these people? What do we do besides feel sad and see a gloom hanging over our country? What do we do about this? What do we want to do to prevent it in the future? That will be the test of the general character of this body and others in government.

So many promising young lives were lost, changed forever. We see pictures of those who lost a loved one in our newspapers. It is heartbreaking just to look at those pictures. What I sense from my visits around New Jersey today and over the weekend is a certain kinship one feels with the people who are mourning the loss of a child—an 8-year-old—or a daughter or son, husband or wife. One feels a certain kinship. One can feel the sadness and it is depressing, and it is not the kind of characterization we would like to see for the United States and the young lives lost forever.

But our duty in this body is not simply to mourn and offer our condolences. We want to do that. We want those families who lost someone to understand that we, in some strange way, join them in their mourning, but the best way to prove our sadness, the best way to prove we care is to take action to protect young, innocent lives. On that score, we don't rank very high.

I remember so clearly the time in 1999 the pictures of young people at a high school, hanging out the window, imploring for help, imploring to be saved, heartbroken at what they were seeing and what they were feeling. So we have to do something more.

The gun laws on the books are outdated, and we even have let key protections expire. It is tragic. In the coming days, I am sure, some of my colleagues and I will be discussing specific measures, commonsense measures, because when it comes to our gun laws, we need to act before another outburst of gun violence overtakes us with the terrible consequences that brings.

Around here we have opportunities to do great things, and I have one of those, I believe, today—an opportunity that I take with great pleasure—to come to the floor to strongly endorse Judge Michael Shipp for a position on the U.S. District Court for the District of New Jersey.

Judge Shipp brings an impressive background to the bench. To start, he was born in Paterson, NJ, as was I. It is a city of significant poverty and difficulty, but he rose from humble beginnings in Paterson to graduate from Rutgers University and Seton Hall Law School, two of New Jersey's fine educational institutions.

Judge Shipp has dedicated his career to our justice system, and he spent much of it in public service. I learned so much about him in my meeting with him. Not only does he bring a sincerity about wanting to do what is right, but he has the knowledge and the sensitivity that will make him a terrific district court judge.

He began his career as a law clerk to a New Jersey Supreme Court justice, James H. Coleman, Jr. He then served in the office of New Jersey's attorney general, where he developed not only a thorough legal expertise but also real leadership acumen. As counsel to the attorney general, he oversaw 10,000 employees, including 800 attorneys. For more than a decade, Judge Shipp has taught our State's students as an adjunct law professor at Seton Hall University.

Since 2007, he has served our city and our Nation as a U.S. magistrate judge in the district court. In this capacity, he has conducted proceedings in both civil and criminal cases and has included rulings on motions, issuing recommendations to district court judges, and performing district court judge duties in cases with magistrate jurisdiction. With this experience, Judge Shipp is going to be well prepared to serve on the district court.

The law, our constitution, are the greatest denominators of our democracy, and the judges are the faithful stewards to protect these precious guidelines of our society. That is why, as a Senator, I consider it a sacred duty, given by the Constitution, to carefully select judicial nominees and to provide the President with advice and consent.

Our faith in the legal system depends on the just application of the law as it is soundly written law. Judge Shipp has served New Jersey extraordinarily well, he is eminently qualified, and his broad experience will prepare him well for his new role. I have no doubt he will continue his excellence as a judge on the U.S. district court.

The success of our democracy depends on all our citizens receiving equal and just representation before the law. As leaders in our judicial system, judges hold that equality and justice in their hands. It means they must be fair-minded, honorable, and humble. I am confident Judge Shipp is going to make a terrific judge. He is highly qualified to meet this challenge, and I urge my colleagues to support this confirmation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I ask unanimous consent that I be recognized for 4 minutes; that following my 4 minutes, the distinguished Senator from Iowa, the ranking member of the Judiciary Committee, be recognized for 6 minutes.

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

Mr. MENENDEZ. Mr. President, I rise to strongly support the nomination of Judge Michael Shipp for the U.S. District Court for the District of New Jersey.

All of us in New Jersey, everyone who has dealt with him, everyone who knows him is very familiar with Judge Shipp's strong qualifications and reputation for excellence. He is an exceptional candidate for the Federal bench—an accomplished jurist with impressive credentials.

I recommended Judge Shipp to President Obama, and I urge all my colleagues in the Senate to support his nomination, as the Judiciary Committee did.

With almost 5 years' experience as a Federal magistrate judge for the District of New Jersey, he is well prepared to assume a seat as a Federal district judge. As a magistrate, he has successfully managed significant and complex cases. On occasion, he has served as the district court judge in cases with magistrate jurisdiction.

The first 8 years of his distinguished legal career were spent in the litigation department at the law firm of Skadden, Arps, Slate, Meagher & Flom. In 2003, he turned to public service to give something back to the community as an assistant attorney general for consumer protection in the Office of the Attorney General of New Jersey, where he honed his expertise in consumer fraud, insurance fraud, and securities fraud cases.

Judge Shipp clearly excelled. He was twice promoted within the office, first as a liaison to the attorney general and second as counsel to the attorney general. As counsel, he was in charge, in essence, of day-to-day operations of the Department of Law and Public Safety, a department with over 10,000 employees and 800 attorneys.

An accomplished jurist, an experienced prosecutor, a dedicated public servant, and an effective administrator and manager as well, that is Michael Shipp. It is what all of us in New Jersey have known him to be.

Judge Shipp has not stayed on the sidelines. Even with a full plate, he has been deeply involved in the legal community in helping address the profession's needs and concerns. He held a leadership role with the New Jersey State Bar Association and is actively involved with the Garden State Bar Association, which is the association of African-American lawyers.

As a faculty member of Seton Hall University's School of Law's Summer Institute for Pre-Legal Studies, he helped disadvantaged students develop their interest in the law, and he served on the faculty of the New Jersey Attorney General's Advocacy Institute, which ensures that attorneys representing the State of New Jersey maintain the highest possible levels of professionalism.

Judge Shipp is also a very proud New Jerseyan—part of the community—with deep roots in the State. A native of Paterson, he grew up and has lived in New Jersey all his life. He earned his degrees from Rutgers, the State university, and Seton Hall University School of Law. After graduating, he

went on to clerk for the Honorable James Coleman, a former justice on the New Jersey Supreme Court.

To put it simply, Michael Shipp will be an extraordinary district court judge for the District of New Jersey. He is a man of honor, principle, and he possesses an excellent judicial temperament, has extraordinary legal experience, and a deep and abiding commitment to the rule of law.

I have full confidence he will serve the people of New Jersey and the country with all the dignity, fairness, and honor he has shown throughout his extraordinary career. We are lucky to have a nominee of his caliber, and I wholeheartedly urge the full Senate to vote to confirm Judge Shipp to the District of New Jersey.

I am thrilled we are actually going to do a confirmation vote and not a cloture vote and I appreciate those who made that possible.

With that, I yield the floor to my distinguished colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

RECOGNIZING TAYLOR MORRIS

Mr. GRASSLEY. Mr. President, when my colleagues come over to vote, I hope they will take note of a constituent of mine and wish him well.

Taylor Morris, a Navy wounded person from Afghanistan, who is an explosives expert, lost parts of four limbs. He is at the bottom of the escalator as you go to the subway. He is one of our wounded heroes, and I would like to have my colleagues recognize him.

AURORA, COLORADO SHOOTINGS

Mr. GRASSLEY. Mr. President, it was a very sad weekend and will be for a long period of time in Aurora, CO. I heard the remarks of the majority and minority leaders today expressing condolence for the victims and their families. I wish to associate myself with those remarks and offer my condolences to all the people of Aurora but particularly to those who have deceased family members and those who are hospitalized because of this tragic event that happened there.

Mr. President, I support the nomination of Michael A. Shipp to be U.S. district judge for the District of New Jersey, currently serving as a U.S. magistrate and coming out of committee on voice vote. I am not aware of any controversy regarding this nominee, and I expect he will be confirmed with an overwhelming vote.

There has been a bit of discussion regarding whether the cloture vote that had been scheduled on today's nominee was some sort of escalation of Presidential election politics or an indication of a partisan fight over judicial confirmations. Those are raised as speculation or misreading what is happening in the Senate. The fact is that the cloture vote, which is now vitiated, had nothing to do with the judicial confirmation process in general or this nominee in particular.

There is, unfortunately, an element of partisan gridlock that is affecting this nomination, but it is not because of a Republican desire to block this nominee or to shut down the Senate floor. Republicans, in fact, have been demanding more access to the Senate floor. That gridlock is the majority leader's tactics to block amendments on the Senate floor.

Time after time the majority uses parliamentary procedure to prohibit amendments, block votes, and deny or limit debate. For example, last Thursday the Republican leader asked the majority leader if the anticipated business coming before the Senate, the Stabenow-Obama campaign tax bill, would be open for amendment. The majority leader responded that would be ''very doubtful.'' These actions, although they may be permitted by Senate rules, are contrary to the spirit of the Senate.

Certainly we are far from being the world's greatest deliberative body at this time. So when a Senator who seeks a vote on his amendment is stymied time after time, it is not surprising that the Senator would use Senator rules and procedures to bring pressure on the majority leader for a vote—in other words, to do exactly what the Senate was set up under the Constitution to do. There is a bit of sad irony that Senators who are facing obstructionism are the ones who are labeled obstructionist when they are persistent in trying to bring a matter to a vote, which is customary in the Senate.

Unfortunately, we are now seeing this obstructionism strategy creep into committee activity as well. Again, last Thursday the Judiciary Committee marked up an important national security bill. The bill was open to amendment but apparently only amendments the chairman agreed with. In the Judiciary Committee, we have a longstanding practice of voting up or down on difficult, controversial issues. What happened last week undermined the responsibility of the committee to debate and address important issues—in this case, national security. The Judiciary Committee is a forum for these debates.

The bill that was on the agenda is one of the few vehicles that will likely be passed before the end of the year, so it was an important and appropriate vehicle for addressing such issues once the chairman opened the amendment process by adopting his own substitute amendment. Instead, the partisan gridlock, driven by the majority leader's tactics to block amendments on the Senate floor, has now spread to the committee level with made-up germaneness rules and tabling motions forced on amendments, some of which had received bipartisan support from members of the Judiciary Committee in the past. The only conclusion that can be drawn is that the Senate majority leadership wants to protect its members at every step of the legislative process from having to make difficult votes, and the majority leadership will employ any procedure it can to duck debates and to govern.

Even as we turn to the 154th nominee of this President to be confirmed to the district or circuit courts, we continue to hear unsubstantiated charges of obstructionism. The fact is we have confirmed over 78 percent of President Obama's district nominees. At this point in his Presidency, 75 percent of President Bush's nominees had been confirmed. President Obama, in other words, is running ahead of President Bush on district confirmations as a percentage.

I continue to hear some of my colleagues repeatedly ask the question: What is different about this President that he is to be treated differently than all of these other Presidents? I won't speculate as to any inference that might be intended by that question, but I can tell you that this President is not being treated differently than previous Presidents. By any objective measure, this President has been treated fairly and consistently with past Senate practices.

As I stated, as a percentage of nominations, this President is running ahead of the previous President with regard to the number of confirmations. Let me put that in perspective for my colleagues with an apples-to-apples comparison. As I mentioned, we have confirmed 153 district and circuit nominees of this President. We have also confirmed two Supreme Court nominees. Everyone understands that the Supreme Court nominations take a great deal of committee time. The last time the Senate confirmed two Supreme Court nominees was during President Bush's second term, and during that term the Senate confirmed a total of 119 district and circuit court nominees. With Judge Shipp's confirmation today—which I support and which I think will be confirmed almost unanimously—we will have confirmed 35 more district and circuit court nominees for President Obama than we did for President Bush in similar circumstances.

During the last Presidential election, 2008, the Senate confirmed a total of 28 judges—24 district and 4 circuit. This Presidential election year we have already exceeded those numbers. We have confirmed 5 circuit nominees, and this will be the 27th district judge confirmed.

Judge Shipp received his B.S. from Rutgers University in 1987 and his J.D. from the Seton Hall University School of Law in 1994. Upon graduation, he clerked for the Honorable James H. Colman, Jr., a justice on the Supreme Court of New Jersey. After his clerkship, Judge Shipp joined Skadden, Arps, Slate, Meagher & Flom LLP as a litigation associate. There, he worked in general litigation matters, handling labor and employment work. He also developed an expertise in mass tort law and products liability litigation.

In 2003, Judge Shipp became an assistant attorney general in charge of

consumer protection with the Department of Law and Public Safety of New Jersey. There, he managed five practice groups: consumer fraud prosecution, insurance fraud prosecution (civil), securities fraud prosecution, professional boards prosecution, and debt recovery. He supervised approximately 80 deputy attorneys general. In 2005, he was promoted to the Attorney General's front office. There, he acted as an advisor to the Attorney General on sensitive legal matters related to ethics and appointments.

In 2007, Judge Shipp was appointed as a United States magistrate judge for the District of New Jersey. As a magistrate judge he presides over civil and criminal pre-trial proceedings. He also presides over civil trials, with the consent of the parties. The ABA Standing Committee on the Federal Judiciary gave Judge Shipp a rating of substantial majority ''Qualified,'' minority ''Not Qualified.''

Mr. LEAHY. Mr. President, I ask unanimous consent to speak for 1 minute.

Mr. GRASSLEY. I ask unanimous consent to have 1 minute, then, too.

Mr. LEAHY. I have no objection. In fact, I will give a courtesy to the Senator from Iowa that he did not give to me, and I will be happy to yield 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Usually, Mr. President, it has been my experience that in 37 years in this Senate, as the second most senior Member here, if a Senator wants to come and attack another Senator, they have the courtesy of giving him notice before they do. I am sorry my friend from Iowa didn't follow the normal courtesy.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, for my 1 minute I will respond simply to that by saying that I am talking about the institution of the Senate and not one single Senator personally.

Mr. LEAHY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 seconds.

Mr. LEAHY. Mr. President, I yield to no Member of this body in the fact that I uphold not only the rules but the courtesies of this Senate. As chairman of the Senate Judiciary Committee, I have never cut off a Member of the other party who wished to speak, unlike some of the procedures they followed when they held the chair. I have never refused to have a Member of the other party bring up an amendment, contrary to the procedures they followed when they chaired it.

I believe in the Senate. I believe in the rules of the Senate, but especially I believe in the comity that Thomas Jefferson believed in, in this body; otherwise, the Senate would fall apart.

I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Michael A. Shipp, of New Jersey, to be United States District Judge for the District of New Jersey.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from California (Mrs. BOXER), the Senator from Pennsylvania (Mr. CASEY), the Senator from Iowa (Mr. HARKIN), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. UDALL) would have voted ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Utah (Mr. HATCH), and the Senator from Illinois (Mr. KIRK).

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

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

The result was announced—yeas 91, nays 1, as follows:

[Rollcall Vote No. 182 Ex.]

YEAS—91

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

NAYS—1

Lee

NOT VOTING—8

Begich	DeMint	Kirk
Boxer	Harkin	Udall (CO)
Casey	Hatch	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. CONRAD. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

TRIBUTE TO LARRY CORUM

Mr. MCCONNELL. Madam President, I come before the Senate to recognize the entrepreneurial spirit of Mr. Larry Corum of London, KY. After serving in the United States military for over 20 years, in 1990 he opened a printing business and now is the manager of the London-Corbin Airport. Both his economic leadership and steadfast service to Laurel County make him a valuable asset to the London community.

Born and raised in Clay County, KY, upon his graduation from high school in 1958, Larry attended Sue Bennett College and Eastern Kentucky University. After graduating from EKU in 1965, he joined the U.S. Air Force and became an officer. While in his first years of service, Larry married his wife, Lois. Throughout his 20-year military career, the couple traveled around the country with their two children, Chris and Gienah. Finally in 1989, he retired from the Air Force as a lieutenant colonel and settled in London, KY.

In 1990, Larry opened an American Speedy Printing franchise in the London Shopping Center. After acquiring Durham Printing in 1998, the name of the company changed to Allegra Print and Imaging. In 2008, Larry left the business, entrusting his son, Chris, with running the day-to-day business operations, and became manager of the London-Corbin airport, which is the sixth-largest airport in the State of Kentucky.

Larry has served on many boards in the Laurel County area such as the American Red Cross, the United Way, SCORE, the London-Corbin Airport, Saint Joseph-London, and the executive board of the Chamber of Commerce. His contribution to the London-Laurel County Chamber of Commerce stemmed from a desire to grow the community economically. Through the Chamber of Commerce, Larry was able

to make an economic impact in London and improve the lives of his fellow Kentuckians.

Today, it is my honor to recognize Mr. Larry Corum for his contribution to the Laurel County economy through his own small business and his extensive service to the London-Laurel County Chamber of Commerce. His dedication to the community has made London, KY, an attractive area in which businesses can invest and grow. I ask my colleagues in the U.S. Senate to join with me in celebrating Mr. Larry Corum's service to the greater Laurel County, KY, area.

A recent article published in the Chamber News, a publication of the Laurel County-area newspaper the Sentinel Echo, highlighted Mr. Corum's accomplishments. I ask unanimous consent that said article appear in the RECORD.

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

[From the Chamber News: The Sentinel Echo, May 30, 2012]

BOARD OF DIRECTORS: LARRY CORUM

Larry Corum has served as manager of the London-Corbin Airport since February 2008. The airport is the sixth-largest and one of the busiest general aviation airports in the state of Kentucky. It serves as one of the important gateways for business and commerce to Laurel County and eastern Kentucky.

In 1990, Larry moved to Laurel County with his wife, Lois, and children, Chris and Gienah. Seeing a business opportunity and using his wife and sister for labor and as partners, he opened an American Speedy Printing franchise in the London Shopping Center. The business began to grow and was able to move to a stand-alone building on South Main Street in 1994. In 1998, a second building was acquired through the purchase of Durham Printing and the business name was changed to Allegra Print and Imaging. After completing college, both Chris and Gienah joined Larry in the business. Larry continued in the business until 2008, when he turned over the operation to his son, Chris, who has added sign-making capability. He now operates the business under the name of Allegra Print Sign and Design.

Larry grew up in Clay County, graduating from Clay County High School in 1958. He later attended Sue Bennett College and Eastern Kentucky University, graduating from EKU in 1965. Larry worked several jobs while completing his education, including teaching school in Clay County, Cleveland, Ohio, and Miami, Fla. In 1967, Larry joined the U.S. Air Force and became an officer. He then married his wife, Lois, and they began a grand adventure together traveling the world and making a career. In 1969, Larry was awarded his wings, assigned to an airplane in the strategic air command and moved to a permanent military base. Over the next 20 years, Larry served the Air Force as a flight crew member, flight instructor, flight evaluator, and command evaluator in the EC, KC, and RC–135 Aircraft. Larry, Lois, and their children lived in or visited most all of the 50 states and many foreign countries. Larry retired from the Air Force as a lieutenant colonel and the commander of the 384th Transportation Squadron, McConnell AFB, Wichita, Kan., in 1989.

Larry's involvement in the London-Laurel County Chamber of Commerce began when he opened his business in London with a ribbon cutting in 1990. He was later invited to join the board of directors. In addition, he has served on the board of the American Red Cross, the United Way of Laurel County, SCORE, London-Corbin airport, Saint Joseph-London, and the executive board of the Chamber. Larry is an active member, Sunday school teacher, and deacon of the First Baptist Church of London.

Larry believes that London and Laurel County is one of the best places in America to bring up a family and grow a small business. He feels that the Chamber can and will help with growth and community improvement. He is proud to be a member of this community and the London-Laurel County Chamber of Commerce Executive Board.

TRIBUTE TO COMMANDER JEFFREY SMITH

Mr. MCCONNELL. Madam President, today I rise in recognition of U.S. Navy CDR Jeffrey Smith, captain of the USS *Kentucky*. Commander Smith, a Kentucky native, is the youngest commanding officer of an *Ohio*-class submarine. The commander has accomplished great feats in his naval career and he proudly represents the State of Kentucky with everything he does. I know he is especially honored to command the ship that bears the name of our beloved Commonwealth.

Commander Smith was born in Covington, KY, and moved to Independence, KY, shortly thereafter. Upon graduating from Simon Kenton High School, he attended Xavier University and then transferred to the University of Kentucky. In 1995, Commander Smith graduated with a degree in physics and was commissioned in the Navy, where he began nuclear power training in Florida.

His dedicated service to the U.S. Navy brought him to the post of commanding officer of an *Ohio*-class submarine. The youngest man in his position, Commander Smith leads both the Gold and Blue Teams and is charged with overseeing the drills, maintenance, and day to day operations of the USS *Kentucky*.

Respected as a leader by his crew, Commander Smith also makes time to share his love of his State, the namesake of the submarine, with his men. After each announcement, it has become his trademark to lead the men in a round of ''Go Big Blue'' cheers. A true Kentucky Wildcats fan, he loves to talk University of Kentucky basketball and ''bracketology'' with his men come NCAA Tournament time. By sharing some of these beloved hallmarks of the Bluegrass State, Commander Smith not only shows his own pride in being a Kentuckian, but also provides his men a sense of attachment to the place for which their ship was named.

Commander Smith, besides being an avid UK Wildcats fan, enjoys reading, playing video games, and spending time with his four children. He credits his interests and leadership capabilities to his education from the University of Kentucky. From physics and engineering courses which enable him to effectively operate the ship, to psychology courses which allow him to understand his men and their attitudes in different situations, a diverse educational and experiential background allows Commander Smith to lead his men effectively.

It is my privilege today to recognize a Kentuckian who has truly devoted his life to the service of this Nation. A rising star in the U.S. Navy, CDR Jeffrey Smith has committed himself to excellence and to proudly representing the State of Kentucky. I ask my colleagues in the U.S. Senate to join me in saluting U.S. Navy CDR Jeffrey Smith.

A recent publication by the University of Kentucky newspaper the Kentucky Kernel highlighted the accomplishments of the Commander. Mr. President, I ask unanimous consent that said article appear in the RECORD.

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

[From University of Kentucky, Kentucky Kernel, July 3, 2012]

USS KENTUCKY'S COMMANDER IS A PROUD UK ALUM

(By Sarah Geegan)

There's just no telling where an education from the University of Kentucky can take you.

For U.S. Navy Cmdr. Jeffrey Smith, the journey that began at UK has taken him around the world and deep below the ocean's surface, as captain of the USS Kentucky, a nuclear submarine.

''Having been born in Kentucky and growing up there, I can't imagine any pride greater than serving as commander of the ship that bears my home state's name,'' says Smith, whose parents and sister still live in Kentucky.

Born in Covington and raised in Independence, Smith graduated from Simon Kenton High School and attended Xavier University for a year before transferring to UK. After graduating in 1995 with a bachelor's degree in physics, Smith was commissioned in the Navy and went to officer candidate school in Pensacola, Fla., where he began nuclear power training.

At 39, Smith is the youngest commanding officer of an Ohio-class submarine. The Kentucky—560 feet long and 42 feet in diameter, and producing around 18,000 tons of displacement—is about the size of the largest ships that worked during World War II. It has a crew complement of 160, and it is capable of sinking more than 800 feet and traveling faster than 25 knots. (''That's pretty much freeway speed for a submarine,'' Smith says.) The Kentucky's primary mission, as a strategic nuclear deterrent, is to provide a credible, survivable launch platform for ballistic missiles from sea.

The ship is really a world of its own, Smith says, and it's a complex world with tens of thousands of moving parts. For the commander of the Kentucky, a day's work involves taking care of the ship and making sure its crew members are prepared for any situation they could face while at sea.

''Life aboard a nuclear submarine is all about mitigating risk, while still making sure that you are able to perform your mission,'' Smith says. ''A submarine at sea is really a dangerous environment. Everywhere within reach, there are cables carrying high-voltage electricity. There are pipes containing rapidly moving sea water. There are

high-pressure hydraulics lines. And we live constantly within just a few feet of the most unforgiving, deadly, crushing environment, right on the other side of our hull—the deep sea. It's of paramount importance that we keep it on the other side of that hull.''

A naval submarine will operate at sea for about 50 to 100 days before coming back to port for a couple of months, during which time it undergoes a regimen of critical maintenance and a crew rotation. The Kentucky has two crews, a Blue Team and a Gold Team. Smith commands both.

While the Kentucky is under way, the daily routine is one of training, planning and maintenance. Breakfast begins at 05:00 (5 a.m.) and is over by 06:30, at which time the crew receives briefings before commencing drills at 08:00. Drills consist of simulations of various different situations that could be encountered aboard the ship, such as fires, floodings, and casualties.

On some days, the crew performs strategic exercises, in which the crew practices the tasks they could be asked to perform while on a mission—everything from processing messages to walking through a strategic launch. This part of the day is usually done by 15:00 (3 p.m.), followed by a few hours of planning, training, and debriefing before dinner at 17:00 hours. There's usually a movie for the crew around 20:00, and then it's lights out.

Running parallel to that daily routine, the ship maintains a regular watch schedule, in which at any given time, one-third of the crew is manning a watch station on their part of the ship. The watch shifts run for six hours in an 18-hour rotation.

In port, the routine centers around maintenance, with anywhere from 50 to 150 separate scheduled maintenance items every time the ship comes in.

''The scheduled maintenance on a car is a good comparison,'' Smith says. ''Think of all of the things that you have to check on your car every 5,000 miles. Well, a submarine is a lot bigger and a lot more complex than a car. And a typical car owner might keep their car for five or six years, while a submarine has to last for 40. So we have to ensure that the ship is in good shape for another whole generation of submariners.''

Smith says he works conscientiously to instill a sense of Kentucky pride in his crew. One of the first things he did after taking command was to implement ''Go Big Blue!'' as the ship's rallying cry. He ends every shipboard announcement over the loudspeaker with that call, and the crew echoes it back.

''I think you'll find it's true, on any of the ships named after a state, that the commanders will try to get the whole state-pride thing going among the crew,'' Smith says. ''I have just a little extra fire in my belly, being a native of Kentucky and a graduate of UK. My crew definitely knows that we're representing a great state.''

Smith says the education he received at UK has helped to prepare him for his role in the Navy in ways he couldn't even have imagined when he was a student some 20 years ago.

''The experience that I had in college—not just in physics, but the whole multidisciplinary aspect of what college is—has served me very well throughout my career,'' he says. ''I use the physics every day, and the engineering and math. But there's also philosophy—particularly the connection between philosophy and anthropology: How do we live in a multinational society? There's psychology, which helps me to be able to interpret the reactions of my crew in an objectively harsh environment. I use business management and financial accounting. Even the Russian I studied has served me well. There was not a single class that I took at UK that I have not gone back and leveraged in my career at some point.''

A lifelong Wildcat fan, Smith says he was thrilled to see the Cats bring home their eighth NCAA Championship this year. He offers his own, admittedly biased, take on bracketology:

''I tell my fellow officers that when you pick your bracket for the NCAA tournament, you need to realize that there is a Center of Awesomeness in the Universe, which is Rupp Arena, and the farther any team is based from there, the less of a chance they are going to have of making it to the Final Four.''

Smith is also father to four children. In his spare time, he enjoys reading broadly on diverse topics, including philosophy, poetry, and music. He is an avid video gamer, who welcomes challenges from his crew in just about any game imaginable.

''I try to remain as interdisciplinary as possible,'' he says.

TRIBUTE TO GLENN ''BUDDY'' WESTBROOK

Mr. MCCONNELL. Madam President, I rise today in recognition of Mr. Glenn ''Buddy'' Westbrook of London, Kentucky, and his service to both this nation and the State of Kentucky, specifically Laurel County and the surrounding region. Passionate about development of the London community, Mr. Westbrook worked to build the Laurel County economy and strengthen the tourism industry in southeastern Kentucky.

Born in 1930 to J. Hamp and Flo Pearl Westbrook, Buddy Westbrook was raised in London, Kentucky. His nickname, Buddy, stuck when his older sister, Madge, called him Buddy because she could not say Glenn. He began working at an early age when he helped his father separate type for the printing shop the family owned. Buddy enjoyed working because it made him feel grown up. However, like all boys, he enjoyed spending time outdoors, especially at Kidds Pond, and he also had a knack for getting into mischief, such as climbing telephone poles.

Buddy graduated from high school in London but during his sophomore year attended classes at Berea College to study chemistry. After high school he attended Sue Bennett College and worked in his father's gas and LP appliance store. Throughout his life, he was taught that civic duty and serving others was an important part of being a member of a community. In 1950, Buddy joined the U.S. Army and served in Germany during the Korean War.

When he returned to London, Buddy took over his family store. As an active member of the Jaycees, an organization that promotes community development, he was able to attend a conference in Ashland where he met his wife, Jeanne. The couple had eight children. In 1970, Governor Wendell Ford named Buddy to the Kentucky Institute for Children.

In 1975, Buddy was offered a position with the Cumberland Valley Area Development District. His service through this post was especially of benefit to the tourism industry in the region. Not only did Buddy and members of the commission share information about the region at travel shows, but he also organized the first Tourism Industry Development Symposium held in Lexington.

After the death of his wife, Jeanne, and son, Don, in 1983 and 1984, respectively, Buddy understandably endured some difficult times. However, a friend, Susan Mitchell, who later became his wife, helped him through this dark period. After retiring in 1993, Buddy organized Vision 2000 for London, Kentucky, a plan to define goals for the city which ultimately came to fruition during the new millennium.

Buddy Westbrook is truly an outstanding citizen of the London, Kentucky, community. Passionate about the development of Laurel County and the surrounding region, his lifetime commitment to economic and tourism development have proved to be invaluable to southeastern Kentucky. Buddy's dedication to his community is exemplary, and I am privileged today to recognize his many contributions to Kentucky. I ask my colleagues in the U.S. Senate to join me in celebrating Mr. Glenn ''Buddy'' Westbrook. A recent article published in the Sentinel-Echo, a Laurel County-area publication, highlighted his accomplishments. Mr. President, I ask unanimous consent that said article appear in the RECORD.

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

[From the Sentinel-Echo, May 2, 2012]

WESTBROOK: 'THIS IS MOST EXCITING TIME IN HISTORY'

(By Tara Kaprowy)

Upon opening the door for his Living Treasures interview, 81-year-old Glenn ''Buddy'' Westbrook announces he just has a couple of hours to chat; he's going four-wheeling on the Salt River with a friend and, with the spring morning warm and clear, time's, as they say, a-wastin'.

But upon stepping into his kitchen, it's clear Westbrook's interest hasn't completely been kidnapped by the prospect of ATVing. He's laid out his dining room table with croissants, marmalade and several types of tea in anticipation of the impending discussion—and, in his characteristic way, to make things lovely and enjoyable.

Westbrook was born June 14, 1930, to J. Hamp and Flo Pearl (Eversole) Westbrook. His mother was born in London and her maternal grandfather, J.N. Robinson, was the first photographer and jeweler in town. ''My mother's father was Roscoe Eversole, and he was the cashier of the First National Bank in London and was also mayor when they first started putting in sidewalks and culverts. Before that, it was boardwalks. And so I grew up with examples of leadership, a love of London and Laurel County, and an appreciation of the people.''

His father came from the cotton farms of Georgia and, together, he and Flo Pearl made a cozy home with their young family in an apartment above First National Bank. Westbrook's sister Madge was two years his elder and, unable to pronounce the name ''Glenn,'' he soon acquired the nickname

''Buddy,'' a moniker by which he is still known.

Hamp worked at the Corbin Times and later owned a printing shop in Corbin. From a young age, Westbrook helped his father, learning ''to separate cold type in a California box,'' he said.

''It wasn't done by a-b-c-d-e-f-g,'' he said. ''It was by the most-used letters, 'e' was in the center in the bigger box. It made me feel grown up.''

After Madge and Westbrook started attending school at Sue Bennett grade school, Flo Pearl went to work at First National Bank, a job she kept for the next 50 years.

With the family settling in a home his father built on East Fifth Street, Westbrook remembers a happy childhood. ''This was a wonderful place to grow up,'' he said. ''If you made any mistakes while you were in town, like climbing telephone poles or things like that, your parents knew by the time you got home. You got a lecture and often your backside got warmed.''

London was a friendly place to live, and ''people would come to town on Saturdays from farms, park their cars, park their horses and wagons behind the jail on Broad Street, and they'd come up on Main Street where all the businesses were located,'' he said. ''It was a time when doctors cared about you. They knew you, they loved you, and they wanted to heal you.''

Westbrook also described strict but caring teachers. ''We learned about patriotism and civic things,'' he said. ''We started learning at an early age that we were part of a whole.''

Evenings at the Westbrook house included the family ''watching the radio'' to listen to the evening news. Flo Pearl would read to her children from English and American authors and classic mythology. On warm summer afternoons, Westbrook said he and his friends would head to a small lake south of London close to the entrance of Levi Jackson Wilderness Road State Park.

''It was Kidds Pond,'' he said. ''They had dressing rooms and they charged you a quarter to swim all day and sometimes it was 10 cents. Of course, back then you could get a Coke for a nickel and hamburgers were a nickel.''

When he was looking for something to do, Westbrook would head to his grandmother's farm next to where E.C. Porter's IGA currently stands, where he learned how to ''milk a cow and how to churn and make butter.''

On December 7, 1941, Westbrook remembers ''playing in the front yard on his bicycle'' when his parents told him President Roosevelt had announced the Japanese had attacked Pearl Harbor. From that moment on, Westbrook's childhood changed. ''We followed everything about the war,'' he said. ''I saw the National Guard troops mount up over where the fire department is now on Dixie Street. They had horses and stables and they had a drill hall filled with sand with a roof over it and they would take the horses in there and do their formations in there. I remember seeing the troops mount up in the armory after World War II started and march up Main Street, go down to the depot and get on a train to go off to war.''

By the time he reached high school, Westbrook had decided he would become a ''brilliant chemist for Dupont'' and even went to Berea College in his sophomore year to study chemistry. He returned to London the following year to graduate. ''That was a wonderful experience,'' he said. ''London had a good basketball team, good cheerleaders and good teachers who cared.''

Following graduation, Westbrook enrolled in Sue Bennett College. Later, he worked at the appliance and LP gas store with his father. Westbrook said he was lucky to learn from his father ''how to build a business, care for customers, find what they needed, and have it for them.''

But Westbrook was lucky—jobs were scarce and veterans returning from WWII wanted to be able to live in Laurel County. That desire was granted when in 1949, London was chosen to be Kentucky's first ''Test City,'' an experiment in community development sponsored by the Kentucky Chamber of Commerce. Over the next 10 years, the effort attracted 2,500 new jobs to the area.

Part of the effort involved ''a big clean-up, paint-up, fix-up'' campaign in preparation for visits from industries, Westbrook said. ''Gradually the ramshackle buildings and sheds were torn down,'' he said. ''There was no law or anything, there was just pride. They wanted it to be part of helping it succeed. Weeded lots were mowed, progress reports were given every week in the newspaper.''

The experience profoundly affected Westbrook, who was greatly inspired by the community leaders who were spurring the effort. ''The leadership I saw, the people I respected, the veterans who came back from World War II and other leaders, they got together and I saw them cooperating and really dreaming, saying we could do this and let's try this to create jobs. Even though there would be the potential embarrassment of trying something and it not working, at least you felt like you should try it.''

Westbrook joined the Jaycees, the young men's organization active in community development.

In 1950, Westbrook was drafted in the U.S. Army during ''the Korean Police Action,'' but rather than be sent to Asia, was shipped to Germany where he taught soldiers about weapon surveillance and fire direction control in his artillery unit. He was also given the task of purchasing German wines for the military base.

Westbrook took full advantage of his time in Europe and sunk happily in its cultures. He learned to ski in the Alps, took photography lessons from ''an old German,'' learned French, German, and Italian, ate pizza and weinerschnitzel for the first time, and spent his time off travelling. ''I spent a week in Paris and got to go to every museum,'' he said. ''It was fun to be discovering these things. I got to see the Louvre. When I went in there, on the first landing, there was the Winged Victory of Samothrace and I said, Wow! They've got it here.' ''

When he was discharged in 1953, Westbrook returned to London, shed his dreams of becoming a chemist, and took over the family business. He quickly re-joined the Jaycees and upon his first annual meeting in Ashland, met the woman who was to become his first wife. ''The only single one was Jeanne Watts,'' he said. ''A year and a half later, we were married.''

They wed in Ashland and Westbrook returned to London with his bride. ''She was intelligent, she had her own way of doing things, she was thoughtful and caring, but she was also very independent,'' he said of Jeanne.

Together they had eight children—Joe, Amy, Don, Robert, David, Mary, Susan, and Leann. Jeanne kept the books and Buddy continued working at his businesses and diving into community issues. In 1970, he was appointed by Gov. Wendell Ford and later Gov. Julian Carroll to the Kentucky Commission for Children, which was renamed the Kentucky Institute for Children, and attended the president's 1970 White House Conference on Children and Youth.

After decades in the gas business, Westbrook decided to go into the wholesale kitchen-design business, one that later expanded into institutional food service for schools, hospitals and resorts.

With the majority of his business in eastern Kentucky, Westbrook soon discovered it was cheaper to get his instrument pilot's license and fly his men to Pikeville than it was to drive, so he bought a six-passenger Cessna and began his career in the air, flying the equivalent of eight times around the world.

''On the weekend, I could take my family and we'd leave here at noon and be on the beach in Florida in five hours,'' he remembered.

Spending time with his family was paramount to Westbrook, though he admits he was a ''strict disciplinarian.''

''I believe discipline is proof that you care about values that are important in life,'' he said. ''When my daughter Leann was born with Down syndrome, she thrived because of the help of her brothers and sisters. I stopped playing golf and our family did things together and we traveled as a family. We tried to teach them the need for unconditional love. They went to church and learned to pray. They still go to church.''

In 1975, still with a passion for leadership, Westbrook was asked to work for the Cumberland Valley Area Development District. Later, he worked to develop a stronger tourism industry in the region. ''We'd take our brochures and our booths and our pictures and travel to shows in Chicago and Indianapolis and Cincinnati and Detroit and people would come and see where to go on vacation,'' he said.

Eight years later, Jeanne was diagnosed with lung cancer and, with little treatment available, died August 2, 1983. Nine months later, Westbrook's son Don died after having an allergic reaction to a flu shot. It was a devastating time for Westbrook, who was still working and taking care of Leann.

Though he continued to go to work every day, he admitted he fell into a deep depression. ''When a child dies, it pulls something out of you and you're never, ever the same,'' he said.

Eventually, Westbrook was able to recover, in part with the help of Susan Mitchell, who would later become his wife. ''She helped me through the most difficult times of the grieving,'' he said. ''I was certainly not a very pleasant person to be around, and she told me years later I was the saddest person she had ever seen. I was so thankful to have a friend who knew what I was going through. She was my cheerleader.''

Together, Susan and Westbrook have a son, Reuben, and though no longer married, remain friends.

After 18 years with the development district, during which he organized the first Tourism Industry Development Symposium in Lexington, Westbrook retired in 1993. In advance of the new millennium, he organized Vision 2000, an effort to define London's goals and aspirations, many of which came to fruition. In 2010, he wrote a cookbook, ''Grandma's Heirloom Kentucky and Southern Recipes.'' He continues to live with Leann, ''who babysits her dad,'' and enjoys seeing his other children, 13 grandchildren, and five great-grandchildren. He attends St. William Catholic Church. And he remains deeply committed to London and his passion for progress.

At the end of his interview, he outlines ways to think outside the box, drawing several adjacent squares on a sheet of paper and asking how many are actually there. Pointing out how several small boxes form several larger ones, he talks about the importance of expanding one's mind. ''You have to be open minded, you can't just be closed to what was. It's exciting. This is the most exciting time in the history of mankind to be alive,'' he said and puts his pencil down.

HONORING OUR ARMED FORCES

SERGEANT MICHAEL E. RISTAU

Mr. GRASSLEY. Madam President, I rise to pay tribute to the life and service of SGT Michael E. Ristau, a native of Cascade, IA. He was killed on July 13, 2012 in Qalat, Zabul Province, Afghanistan while serving his country as part of Operation Enduring Freedom. He leaves behind his wife, Elizabeth, two sons, Hyle and Bradley, his parents, Randy and Suzanne, and many other family and friends. My prayers go out to them as they grieve his loss.

By all accounts, he was a brave soldier who was proud of serving his country. He had a long list of awards and decorations, including the Bronze Star and Purple Heart, Army Achievement Medal, Army Good Conduct Medal, with Oak Leaf Cluster, National Defense Service Medal, Afghanistan Campaign Medal, with Bronze Service Star, Iraq Campaign Medal, with two Bronze Service Stars, Global War on Terrorism Service Medal, Army Service Ribbon, NATO Medal, Non-Commissioned Officer Professional Development Ribbon, Valorous Unit Award, Meritorious Unit Commendation, and Combat Infantryman Badge.

Our Nation is truly blessed to have patriots like Sergeant Ristau who volunteer to serve their country, prepared to endure the daily sacrifices of a deployment and the horrors of combat, and knowing that they could make the ultimate sacrifice. About his military service, his family said, ''Michael had a passion for the military and was going to re-enlist.'' They also said that ''Michael was always looking out for others and helping them in any way possible.'' There is certainly no more selfless act than to give one's life to ensure that others may live in freedom. We cannot hope to ever fully repay the debt we owe Michael Ristau, but as he joins the illustrious ranks of our fallen patriots from the birth of our Nation to the present day, we have an obligation to honor his life and his sacrifice. We must always remember heroes like Michael Ristau and never take for granted the gift of liberty they have won for us.

ADDITIONAL STATEMENTS

HONORING KENNETH SAAVEDRA, JR.

• Mr. BLUMENTHAL. Madam President, for a few minutes, let us recall a young patriot, a military veteran, and a Connecticut son who tragically passed away on July 15, 2012. His name was Kenneth Saavedra, Jr. He was just 29 years old.

Kenneth was born in Bridgeport, CT and lived in Shelton for most of his life. He graduated from Shelton High School and the University of Connecticut. Kenneth was an electrician and worked for Sikorsky Aircraft.

But I speak about Kenneth today because of another job a different distinction that he held for a number of years: sergeant in the U.S. Army.

Kenneth Saavedra, Jr., served with the Army's 1st Battalion, 102nd Infantry Regiment, including two tours of duty in Afghanistan, and served with the National Guard for almost 10 years.

Kenneth was an American patriot. He selflessly dedicated his life to serving his country and never asked what he would receive in return. And after he came home from two tours in Afghanistan, he continued to stay active in veterans' causes as vice chair of the Teamsters Veterans Caucus Connecticut Chapter 1 and an avid supporter of the Wounded Heroes Fund.

This Saturday, Kenneth will be laid to rest in the Connecticut Veterans' Cemetery in Rocky Hill with full military honors. We owe a debt of gratitude to Kenneth Saavedra, Jr., and to military men and women like him who have risked everything to protect our Nation, and served and sacrificed, often at great cost to themselves. We must keep faith with them and make sure that we leave no veteran behind.

I want to offer my sincere condolences to Kenneth's parents, Evelyn and Kenneth Sr., as well as to his many family members and friends who are mourning his loss.•

GARDEN CITY, SOUTH DAKOTA

• Mr. JOHNSON of South Dakota. Madam President, today I wish to pay tribute to the 125th anniversary of the founding of Garden City, SD. Located in northeastern Clark County, Garden City is a proud small town, known for potato farming.

The townsite of Garden City was established in 1882 on 40 acres of land donated by Clarence Hayward, an early resident. Hayward was known as the father of the town because of his steadfast dedication to the well-being and improvement of Garden City. It is said that were it not for his aggressive advocacy, Garden City would not be a town.

The Chicago, Milwaukee & St. Paul Railroad was built in the town in 1887, bringing with it great prosperity. At that time, R.S. Carpenter donated a 40-acre parcel of land located just south of Garden City to the town. His wife is credited with naming the town, an honor granted to her by the railroad workers who were impressed by her hospitality. She had a love of flowers and saw parallels between the townsite and the Garden of Eden.

The year 1887 was important in the early history of Garden City. Besides the establishment of the railroad, 1887 was when the first buildings were constructed. There was a grocery store and hardware business built by William Morise and Charley Edwards, as well as a post office and a railroad depot. In following years, many business and civic organizations popped up to serve the growing population.

In the 20th century, Garden City earned notoriety for being a center of potato farming in South Dakota. Commercial potato farming first arrived around 1908, and by the 1940s, Garden City farms were yielding half a million bushels of potatoes each year.

Residents of Garden City plan to celebrate their town's 125th anniversary with a day full of activities for the whole family. Festivities will begin with a tractor parade, followed by a pork loin dinner, bean bag and horseshoe tournaments, and musical entertainment, all held in the park. At the Opera House, numerous mementos and antiquities will be on display to showcase the rich history of Garden City.

Garden City was founded by a determined group of pioneers, who fought hard for the preservation and advancement of their town. This legacy is evident to this day in the can-do spirit of its residents. I congratulate Garden City on reaching this historic milestone and wish them the best in the future.•

TRIBUTE TO VINCENT J. VACCA

• Mr. TESTER. Madam President, I wish to pay tribute to Vincent J. Vacca, a veteran of the first Gulf War. Vince, on behalf of all Montanans and all Americans, I stand to say thank you for your service to this nation. It is my honor to share the story of Vince Vacca's service in Operation Desert Storm, because no story of heroism should ever fall through the cracks.

Vince was born in New York but grew up in Libby, MT. When he was just a junior in high school, Vince decided to join the Navy headed to boot camp right after he graduated. On his first deployment, he was stationed on the U.S.S. Sylvania as an electricians mate.

Vince served in Operation Desert Storm from 1990 to 1991. He separated from the Navy in May of 1992 but re-enlisted in the Armed Services, this time in the U.S. Army in December of 1992.

In the Army, Vince graduated third in his class as a fire direction specialist in field artillery. Vince served in the Army until 1999. After his service, Vincent Vacca never received the medals he earned from either the Army or the Navy. Vince recently received his Army medals but couldn't get his Navy medals.

Earlier this month, in the presence of his family, it was my honor to finally present to Vince: the Navy Good Conduct Medal, the National Defense Service Medal, Southwest Asia Service Medal with two bronze stars, and the Navy Unit Commendation Ribbon. I also had the honor of presenting to Vince, the Kuwait Liberation Medal, based in Kuwait, the Sea Service Deployment Ribbon with one bronze star, and the Kuwait Liberation Medal, based in Saudi Arabia.

These seven decorations are small tokens, but they are powerful symbols of true heroism, sacrifice, and dedication to service.

These medals are presented on behalf of a grateful Nation.•

LANDSAT SATELLITE PROGRAM

• Mr. UDALL of Colorado. Madam President, I wish to recognize and commemorate the Landsat satellite program on the 40th anniversary of the launch of the first Landsat satellite. While perhaps not as well known as some of our other satellite programs, the Landsat satellites are nevertheless wildly successful and critically important to scientific research and policymaking.

On September 21, 1966, Secretary of the Interior Stewart Udall announced the commencement of Project EROS—Earth Resources Observation Satellites. The goal of Project EROS was to create a program responsible for mapping the characteristics of the surface of the Earth, thereby helping us better understand Earth's natural resources and changing climate.

In the years following, the Department of the Interior, through the U.S. Geological Survey and partnering with the National Aeronautics and Space Administration, established the EROS Program, and on July 23, 1972, launched the first Landsat satellite responsible for Earth surface imaging. Over the last 40 years the United States launched six more Landsat satellites, ensuring continuous observation and creating a national archive of natural resource information. The next Landsat is scheduled to be launched in 2013.

Today Landsat is crucial, not only to environmental research and study, but to national policy and decisionmakers at all levels. Landsat collects data from across the United States from the forests of Washington and Oregon, to the changing wetlands and waterways of coastal Louisiana. It also collects data globally, mapping, for example, the arid regions of Saudi Arabia and Mexico and the shrinking Aral Sea and Lake Chad. Using the information gathered by these satellites, researchers are able to catalogue and compare changes in the land due to urbanization, deforestation, population growth, climate change, and natural disasters. This kind of analysis is critically important to local governments, farmers and ranchers, land managers, and many other decisionmakers.

For example, my home State of Colorado has been deeply affected by wildfires this year. Drought, climate change, and fire suppression have combined to make this one of the most destructive wildfire seasons in Colorado history. Landsat satellites collect data measuring water consumption by plants, bark beetle infestation, forest health, fuel loads, and even environmental recovery data from these damaging fires. Given this information, we can better combat wildfires both on the front lines and through our decisions here in Washington.

Not only does Landsat data benefit Colorado decisionmakers, but the satellites themselves have a strong Colorado pedigree. Ball Aerospace, located in Boulder, CO, is a key contributor to the development and progress of the Landsat program. Ball developed and constructed several vital components of the Landsat mission, most notably the Operational Land Imager, which allows for detailed imaging and a complete scan of the entire globe every 16 days.

I want to congratulate all those who have been associated with the Landsat legacy over the past 40 years on fulfilling Secretary Udall's vision so ably. Their tireless dedication has been a true benefit to all Americans and the world.•

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY ORIGINALLY DECLARED IN EXECUTIVE ORDER 13536 ON APRIL 12, 2010 WITH RESPECT TO SOMALIA, RECEIVED DURING ADJOURNMENT OF THE SENATE JULY 20, 2012—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), I hereby report that I have issued an Executive Order (the ''order'') taking additional steps with respect to the national emergency declared in Executive Order 13536 of April 12, 2010 (E.O. 13536).

In E.O. 13536, I found that that the deterioration of the security situation and the persistence of violence in Somalia, and acts of piracy and armed robbery at sea off the coast of Somalia, which have repeatedly been the subject of United Nations Security Council resolutions, and violations of the arms embargo imposed by the United Nations Security Council in Resolution 733 of January 23, 1992, and elaborated upon and amended by subsequent resolutions, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. To address that threat, E.O. 13536 blocks the property and interests in property of persons listed in the Annex to E.O. 13536 or determined by the Secretary of the Treasury, in consultation with the Secretary of State, to meet criteria specified in E.O. 13536.

In view of United Nations Security Council Resolution 2036 of February 22, 2012, and Resolution 2002 of July 29, 2011, I am issuing the order to take additional steps to deal with the national emergency declared in E.O. 13536 and to address exports of charcoal from Somalia, which generate significant revenue for al-Shabaab; the misappropriation of Somali public assets; and certain acts of violence committed against civilians in Somalia, all of which contribute to the deterioration of the security situation and the persistence of violence in Somalia.

The order prohibits the importation into the United States, directly or indirectly, of charcoal from Somalia. It also amends the designation criteria specified in E.O. 13536. As amended by the order, E.O. 13536 provides for the designation of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to:

Have engaged in acts that directly or indirectly threaten the peace, security, or stability of Somalia, including but not limited to: Acts that threaten the Djibouti Agreement of August 18, 2008, or the political process; acts that threaten the Transitional Federal Institutions or future Somali governing institutions, the African Union Mission in Somalia (AMISOM), or other future international peacekeeping operations related to Somalia; or acts to misappropriate Somali public assets;

Have obstructed the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;

Have directly or indirectly supplied, sold or transferred to Somalia, or to have been the recipient in the territory of Somalia of, arms or any related materiel, or any technical advice, training, or assistance, including financing and financial assistance, related to military activities;

Be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of acts of violence targeting civilians in Somalia, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals, taking hostages, and forced displacement;

Be a political or military leader recruiting or using children in armed conflict in Somalia;

Have engaged, directly or indirectly, in the import or export of charcoal from Somalia on or after February 22, 2012;

Have materially assisted, sponsored, or provided financial, material, logistical or technical support for, or goods or services in support of, the activities described above or any person whose property and interests in property are blocked pursuant to E.O. 13536; or

Be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to E.O. 13536.

The designation criteria will be applied in accordance with applicable Federal law including, where appropriate, the First Amendment to the United States Constitution. In view of United Nations Security Council Resolution 2002 of July 29, 2011, persons who engage in non-local commerce via al-Shabaab-controlled ports that constitutes support for a person whose property and interests in property are blocked pursuant to E.O. 13536 may be subject to designation pursuant to E.O. 13536, as amended by the order.

The order was effective at 2:00 p.m. eastern daylight time on July 20, 2012. I have delegated to the Secretary of the Treasury, in consultation with the Secretary of State, the authority to take such actions, including the promulgation of rules and regulations, and to employ all power's granted to the President by IEEPA as may be necessary to carry out the purposes of the order. All agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the order.

I am enclosing a copy of the Executive Order I have issued.

BARACK OBAMA.

THE WHITE HOUSE, *July 20, 2012*.

MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5856. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2013, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 133. Concurrent resolution authorizing the use of the rotunda of the United States Capitol for an event to present the Congressional Gold Medal to Arnold Palmer, in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2527) to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5856. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2013, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 3414. A bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

H.R. 5872. An act to require the President to provide a report detailing the sequester required by the Budget Control Act of 2011 on January 2, 2013.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3420. A bill to permanently extend the 2001 and 2003 tax cuts, to provide for permanent alternative minimum tax relief, and to repeal the estate and generation-skipping transfer taxes, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 1039. A bill to impose sanctions on persons responsible for the detention, abuse, or death of Sergei Magnitsky, for the conspiracy to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against Hermitage, and for other gross violations of human rights in the Russian Federation, and for other purposes (Rept. No. 112–191).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. REED (for himself and Mr. GRASSLEY):

S. 3416. A bill to enhance civil penalties under the Federal securities laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself and Mr. MCCONNELL):

S. 3417. A bill to amend the Internal Revenue Code of 1986 to temporarily extend tax relief provisions enacted in 2001 and 2003, to provide for temporary alternative minimum tax relief, to extend increased expensing limitations, and to provide instructions for tax reform; to the Committee on Finance.

By Mr. WYDEN:

S. 3418. A bill to amend title 10, United States Code, to require the Secretary of Defense to use only human-based methods for training members of the Armed Forces in the treatment of severe combat injuries; to the Committee on Armed Services.

By Mr. SANDERS (for himself, Mr. LEAHY, Mr. BROWN of Ohio, Mr. BLUMENTHAL, and Mr. AKAKA):

S. 3419. A bill to provide for the establishment of the United States Employee Ownership Bank, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEE (for himself, Mr. RUBIO, Mr. RISCH, Mr. DEMINT, Mr. CORNYN, Mr. VITTER, and Mr. JOHNSON of Wisconsin):

S. 3420. A bill to permanently extend the 2001 and 2003 tax cuts, to provide for permanent alternative minimum tax relief, and to repeal the estate and generation-skipping transfer taxes, and for other purposes; read the first time.

By Mr. SANDERS (for himself, Mr. LEAHY, Mr. BROWN of Ohio, Mr. BLUMENTHAL, and Mr. AKAKA):

S. 3421. A bill to establish an Employee Ownership and Participation Initiative, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 3422. A bill to prohibit the sale of billfish and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REED (for himself, Mr. LIEBERMAN, and Mr. WHITEHOUSE):

S. 3423. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in the States of Connecticut and Rhode Island for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KERRY (for himself, Mr. LUGAR, Mr. WEBB, Mr. INHOFE, Mr. LIEBERMAN, and Mr. MCCAIN):

S. Res. 524. A resolution reaffirming the strong support of the United States for the 2002 declaration of conduct of parties in the South China Sea among the member states of ASEAN and the People's Republic of China, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 102

At the request of Mr. MCCAIN, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 102, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 202

At the request of Mr. PAUL, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 202, a bill to require a full audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks by the Comptroller General of the United States before the end of 2012, and for other purposes.

S. 343

At the request of Mr. BINGAMAN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 343, a bill to amend Title I of PL 99–658 regarding the Compact of Free Association between the Government of the United States of America and the Government of Palau, to approve the results of the 15-year review of the Compact, including the Agreement Between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review, and to appropriate funds for the purposes of the amended PL 99–658 for fiscal years ending on or before September 30, 2024, to carry out the agreements resulting from that review.

S. 387

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

S. 845

At the request of Mr. ENZI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.

845, a bill to amend the Internal Revenue Code of 1986 to provide for the logical flow of return information between partnerships, corporations, trusts, estates, and individuals to better enable each party to submit timely, accurate returns and reduce the need for extended and amended returns, to provide for modified due dates by regulation, and to conform the automatic corporate extension period to longstanding regulatory rule.

S. 866

At the request of Mr. TESTER, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 866, a bill to amend title 10, United States Code, to modify the per-fiscal year calculation of days of certain active duty or active service used to reduce the minimum age at which a member of a reserve component of the uniformed services may retire for non-regular service.

S. 896

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 896, a bill to amend the Public Land Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service opportunities for young Americans; help restore the nation's natural, cultural, historic, archaeological, recreational and scenic resources; train a new generation of public land managers and enthusiasts; and promote the value of public service.

S. 933

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 933, a bill to amend the Internal Revenue Code of 1986 to extend and increase the exclusion for benefits provided to volunteer firefighters and emergency medical responders.

S. 996

At the request of Mr. ROCKEFELLER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 996, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2016, and for other purposes.

S. 1299

At the request of Mr. MORAN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

S. 1368

At the request of Mr. ROBERTS, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 1368, a bill to amend the Patient Protection and Affordable Care Act to repeal distributions for medicine qualified only if for prescribed drug or insulin.

S. 1372

At the request of Mr. REED, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1372, a bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes.

S. 1460

At the request of Mr. BAUCUS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1460, a bill to grant the congressional gold medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II.

S. 1806

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1806, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate overpayments of tax as contributions to the homeless veterans assistance fund.

S. 1832

At the request of Mr. ENZI, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 1832, a bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

S. 1843

At the request of Mr. ISAKSON, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 1843, a bill to amend the National Labor Relations Act to provide for appropriate designation of collective bargaining units.

S. 1911

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1911, a bill to amend the Internal Revenue Code of 1986 to provide recruitment and retention incentives for volunteer emergency service workers.

S. 1929

At the request of Mr. BLUMENTHAL, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1929, a bill to require the Secretary of the Treasury to mint coins in commemoration of Mark Twain.

S. 1956

At the request of Mr. THUNE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1956, a bill to prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, and for other purposes.

S. 2093

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 2093, a bill to establish pilot programs to encourage the use of shared appreciation mortgage modifications, and for other purposes.

S. 2201

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2201, a bill to amend the Internal Revenue Code of 1986 to extend the renewable energy credit.

S. 2283

At the request of Mr. TESTER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2283, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to include procedures for requests from Indian tribes for a major disaster or emergency declaration, and for other purposes.

S. 2342

At the request of Mr. TESTER, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2342, a bill to reform the National Association of Registered Agents and Brokers, and for other purposes.

S. 2620

At the request of Mr. SCHUMER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2620, a bill to amend title XVIII of the Social Security Act to provide for an extension of the Medicare-dependent hospital (MDH) program and the increased payments under the Medicare low-volume hospital program.

S. 3248

At the request of Mr. ENZI, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 3248, a bill to designate the North American bison as the national mammal of the United States.

S. 3290

At the request of Mr. VITTER, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 3290, a bill to prohibit discrimination against the unborn on the basis of sex or gender, and for other purposes.

S. 3325

At the request of Mr. BEGICH, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 3325, a bill to authorize the Secretary of Health and Human Services, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, in coordination with the Secretary of Education, to carry out a 5-year demonstration program to fund mental health first aid training programs at 10 institutions of higher education to improve student mental health.

S. 3352

At the request of Mr. BINGAMAN, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 3352, a bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes.

S. 3372

At the request of Mr. WEBB, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Montana

(Mr. BAUCUS), the Senator from Colorado (Mr. BENNET), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. BROWN), the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Mr. CARDIN), the Senator from Delaware (Mr. CARPER), the Senator from Pennsylvania (Mr. CASEY), the Senator from Delaware (Mr. COONS), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Minnesota (Mr. FRANKEN), the Senator from New York (Mrs. GILLIBRAND), the Senator from North Carolina (Mrs. HAGAN), the Senator from Iowa (Mr. HARKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. MANCHIN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Oregon (Mr. MERKLEY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Florida (Mr. NELSON), the Senator from Nebraska (Mr. NELSON), the Senator from Arkansas (Mr. PRYOR), the Senator from Rhode Island (Mr. REED), the Senator from Nevada (Mr. REID), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Vermont (Mr. SANDERS), the Senator from New York (Mr. SCHUMER), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Michigan (Ms. STABENOW), the Senator from New Mexico (Mr. UDALL), the Senator from Rhode Island (Mr. WHITEHOUSE), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 3372, a bill to amend section 704 of title 18, United States Code.

S. 3392

At the request of Mr. BROWN of Ohio, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 3392, a bill to amend the Securities Exchange Act of 1934, to require the disclosure of the total number of the domestic and foreign employers of issuers.

S. 3394

At the request of Mr. JOHNSON of South Dakota, the names of the Senator from Alaska (Mr. BEGICH), the Senator from Illinois (Mr. KIRK), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 3394, a bill to address fee disclosure requirements under the Electronic Fund Transfer Act, to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection, and for other purposes.

S. RES. 494

At the request of Mr. CORNYN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 494, a resolution condemning the Government of the Russian Federation for providing weapons to the regime of President Bashar al-Assad of Syria.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself and Mr. GRASSLEY):

S. 3416. A bill to enhance civil penalties under the Federal securities laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Today I am introducing bipartisan legislation to address a matter that I explored as chairman of the Banking Subcommittee on Securities, Insurance, and Investment. During a series of hearings, it became increasingly clear to me that in order to protect taxpayers and investors, we need tougher anti-fraud laws and better oversight of Wall Street. Some of these institutions that are ''too big to fail'' have also become ''too big to care.'' We need to end the cycle of misconduct where such institutions can look at the bottom line and see they can break the law, get caught, pay a nominal fine, and still profit.

At a Securities and Exchange Commission, SEC, oversight hearing I held in November 2011, I asked Robert Khuzami, director of the Division of Enforcement at the SEC, why a recently proposed settlement with Citigroup had been thrown out by a Federal judge in the Southern District of New York, who believed it to be egregiously low. Mr. Khuzami replied that the SEC's ability to assess penalties was actually limited by the statute. In follow-up questions, I directly asked if Congress should consider raising these limits, especially in cases involving repeated offenders. I subsequently received a letter from SEC Chairman Schapiro, and written answers from Mr. Khuzami, supporting the need to raise the limits and make other improvements to the SEC civil enforcement statute.

As a result, I am introducing today with my colleague, Senator CHUCK GRASSLEY, the Stronger Enforcement of Civil Penalties Act of 2012 or the SEC Penalties Act. This bill will strengthen the ability of the SEC to crack down on violations of securities laws by updating its civil penalties statute. This legislation will ensure that the punishment better fits the crime by increasing the statutory limits on civil monetary penalties, directly linking the size of these penalties to the scope of harm and associated investor losses, and substantially raising the financial stakes for repeat offenders of our nation's securities laws.

Our bill will increase the per violation cap for the most egregious securities laws violations to $1 million per offense for individuals and $10 million per offense for entities. This will help ensure that the SEC's most severe, or ''tier three,'' penalties will help deter people from engaging in the most serious offenses, rather than have such wrongdoing be viewed as just the cost of doing business. Under existing law, the SEC can only penalize individual securities law violators a maximum of $150,000 per offense and institutions $725,000 per offense.

Our bill will also toughen penalties by allowing penalties equal to three times the economic gain of the violator. It also provides a new calculation method that includes the amount of associated investor losses as part of the penalty determination. This should allow the SEC to address situations where the actual economic gain to the violator is relatively small compared to the extent of the wrongdoing or the harm caused to investors.

In the recent case involving Citigroup, existing law did not even entitle the SEC to recover the amount actually lost by investors. Estimated investors losses were about $700 million, but the SEC proposed to settle the case with Citigroup for only $285 million. This amount was what was estimated to be close to the total monetary recovery that the SEC itself could have obtained if it had gone to trial. Under our bill, this amount could have been much larger, and would have taken into account the economic gain to Citigroup, in addition to investor losses.

Recent reports have highlighted the level of repeat offenses that have occurred on Wall Street and gone unchecked. The SEC Penalties Act includes two statutory changes that would substantially improve the ability of the SEC's enforcement program to ratchet up penalties as recidivism occurs.

One would allow the SEC to triple the applicable penalty cap for recidivists who, within the preceding five years, have been criminally convicted of securities fraud or been the subject of a judgment or order imposing monetary, equitable, or administrative relief in any action alleging SEC fraud.

The other would allow the SEC to seek a civil penalty if an individual or entity has violated an existing federal court injunction or bar imposed by the SEC. Many believe this approach would be more efficient, effective, and flexible than the current civil contempt remedy.

Finally, under the SEC Penalties Act, the penalty relief available in administrative proceedings will be the same as it is in district court. In essence, the SEC will be able to assess these types of penalties in-house, and not just obtain them in federal court.

Given the JP Morgan trading scandal, issues arising from the Facebook IPO, and the manipulation of LIBOR, it

is clear much still needs to be done to improve transparency and restore confidence in our financial system. The nearly one-half of all U.S. households that own securities deserve a strong cop on the beat that has the tools it needs to go after fraudsters and the difficult cases arising from our increasingly complex financial markets. Our economy's success depends in no small part on restoring confidence in our capital markets.

The SEC Penalties Act will help by giving the SEC more tools to demand meaningful accountability from Wall Street. It will enhance the SEC's ability to protect investors and crack down on fraud and I urge my colleagues to cosponsor and join us in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stronger Enforcement of Civil Penalties Act of 2012''.

SEC. 2. UPDATED CIVIL MONEY PENALTIES FOR SECURITIES LAWS VIOLATIONS.

(a) SECURITIES ACT OF 1933.—

(1) MONEY PENALTIES IN ADMINISTRATIVE ACTIONS.—Section 8A(g)(2) of the Securities Act of 1933 (15 U.S.C. 77h–1(g)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking ''$7,500'' and inserting ''$10,000''; and

(ii) by striking ''$75,000'' and inserting ''$100,000'';

(B) in subparagraph (B)—

(i) by striking ''$75,000'' and inserting ''$100,000''; and

(ii) by striking ''$375,000'' and inserting ''$500,000''; and

(C) by amending subparagraph (C) to read as follows:

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such act or omission shall not exceed the greater of—

''(i) $1,000,000 for a natural person or $10,000,000 for any other person;

''(ii) 3 times the gross amount of pecuniary gain to the person who committed the act or omission; or

''(iii) the amount of losses incurred by victims as a result of the act or omission, if—

''(I) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

''(II) such act or omission directly or indirectly resulted in—

''(aa) substantial losses or created a significant risk of substantial losses to other persons; or

''(bb) substantial pecuniary gain to the person who committed the act or omission.''.

(2) MONEY PENALTIES IN CIVIL ACTIONS.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking ''$5,000'' and inserting ''$10,000''; and

(ii) by striking ''$50,000'' and inserting ''$100,000'';

(B) in subparagraph (B)—

(i) by striking ''$50,000'' and inserting ''$100,000''; and

(ii) by striking ''$250,000'' and inserting ''$500,000''; and

(C) in subparagraph (C), by striking ''greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation'' and inserting the following: ''greater of—

''(i) $1,000,000 for a natural person or $10,000,000 for any other person;

''(ii) 3 times the gross amount of pecuniary gain to such defendant as a result of the violation; or

''(iii) the amount of losses incurred by victims as a result of the violation''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) MONEY PENALTIES IN CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i)—

(i) by striking ''$5,000'' and inserting ''$10,000''; and

(ii) by striking ''$50,000'' and inserting ''$100,000'';

(B) in clause (ii)—

(i) by striking ''$50,000'' and inserting ''$100,000''; and

(ii) by striking ''$250,000'' and inserting ''$500,000''; and

(C) in clause (iii), by striking ''greater of (I) $100,000 for a natural person or $500,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation'' and inserting the following: ''greater of—

''(I) $1,000,000 for a natural person or $10,000,000 for any other person;

''(II) 3 times the gross amount of pecuniary gain to such defendant as a result of the violation; or

''(III) the amount of losses incurred by victims as a result of the violation''.

(2) MONEY PENALTIES IN ADMINISTRATIVE ACTIONS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(A) in paragraph (1)—

(i) by striking ''$5,000'' and inserting ''$10,000''; and

(ii) by striking ''$50,000'' and inserting ''$100,000'';

(B) in paragraph (2)—

(i) by striking ''$50,000'' and inserting ''$100,000''; and

(ii) by striking ''$250,000'' and inserting ''$500,000''; and

(C) by amending paragraph (3) to read as follows:

''(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), the amount of penalty for each such act or omission shall not exceed the greater of—

''(A) $1,000,000 for a natural person or $10,000,000 for any other person;

''(B) 3 times the gross amount of pecuniary gain to the person who committed the act or omission; or

''(C) the amount of losses incurred by victims as a result of the act or omission, if—

''(i) the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) MONEY PENALTIES IN ADMINISTRATIVE ACTIONS.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking ''$5,000'' and inserting ''$10,000''; and

(ii) by striking ''$50,000'' and inserting ''$100,000'';

(B) in subparagraph (B)—

(i) by striking ''$50,000'' and inserting ''$100,000''; and

(ii) by striking ''$250,000'' and inserting ''$500,000''; and

(C) by amending subparagraph (C) to read as follows:

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such act or omission shall not exceed the greater of—

''(i) $1,000,000 for a natural person or $10,000,000 for any other person;

''(ii) 3 times the gross amount of pecuniary gain to the person who committed the act or omission; or

''(iii) the amount of losses incurred by victims as a result of the act or omission, if—

''(I) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

''(II) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(2) MONEY PENALTIES IN CIVIL ACTIONS.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking ''$5,000'' and inserting ''$10,000''; and

(ii) by striking ''$50,000'' and inserting ''$100,000'';

(B) in subparagraph (B)—

(i) by striking ''$50,000'' and inserting ''$100,000''; and

(ii) by striking ''$250,000'' and inserting ''$500,000''; and

(C) in subparagraph (C), by striking ''greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation'' and inserting the following: ''greater of—

''(i) $1,000,000 for a natural person or $10,000,000 for any other person;

''(ii) 3 times the gross amount of pecuniary gain to such defendant as a result of the violation; or

''(iii) the amount of losses incurred by victims as a result of the violation''.

(d) INVESTMENT ADVISERS ACT OF 1940.—

(1) MONEY PENALTIES IN ADMINISTRATIVE ACTIONS.—Section 203(i)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking ''$5,000'' and inserting ''$10,000''; and

(ii) by striking ''$50,000'' and inserting ''$100,000'';

(B) in subparagraph (B)—

(i) by striking ''$50,000'' and inserting ''$100,000''; and

(ii) by striking ''$250,000'' and inserting ''$500,000''; and

(C) by amending subparagraph (C) to read as follows:

''(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such act or omission shall not exceed the greater of—

''(i) $1,000,000 for a natural person or $10,000,000 for any other person;

''(ii) 3 times the gross amount of pecuniary gain to the person who committed the act or omission; or

''(iii) the amount of losses incurred by victims as a result of the act or omission, if—

''(I) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

''(II) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.''.

(2) MONEY PENALTIES IN CIVIL ACTIONS.—Section 209(e)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking ''$5,000'' and inserting ''$10,000''; and

(ii) by striking ''$50,000'' and inserting ''$100,000'';

(B) in subparagraph (B)—

(i) by striking ''$50,000'' and inserting ''$100,000''; and

(ii) by striking ''$250,000'' and inserting ''$500,000''; and

(C) in subparagraph (C), by striking ''greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation'' and inserting the following: ''greater of—

''(i) $1,000,000 for a natural person or $10,000,000 for any other person;

''(ii) 3 times the gross amount of pecuniary gain to such defendant as a result of the violation; or

''(iii) the amount of losses incurred by victims as a result of the violation''.

SEC. 3. PENALTIES FOR RECIDIVISTS.

(a) SECURITIES ACT OF 1933.—

(1) CEASE-AND-DESIST PROCEEDINGS.—Section 8A(g)(2) of the Securities Act of 1933 (15 U.S.C. 77h–1(g)(2)) is amended by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the maximum amount of penalty for each such act or omission shall be 3 times the otherwise applicable amount in such subparagraphs if, within the 5-year period preceding such act or omission, the person who committed the act or omission was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that person.''.

(2) INJUNCTIONS AND PROSECUTION OF OFFENSES.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the maximum amount of penalty for each such violation shall be 3 times the otherwise applicable amount in such subparagraphs if, within the 5-year period preceding such violation, the defendant was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that defendant.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended by adding at the end the following:

''(iv) FOURTH TIER.—Notwithstanding clauses (i), (ii), and (iii), the maximum amount of penalty for each such violation shall be 3 times the otherwise applicable amount in such clauses if, within the 5-year period preceding such violation, the defendant was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that defendant.''.

(2) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended by adding at the end the following:

''(4) FOURTH TIER.—Notwithstanding paragraphs (1), (2), and (3), the maximum amount of penalty for each such act or omission shall be 3 times the otherwise applicable amount in such paragraphs if, within the 5-year period preceding such act or omission, the person who committed the act or omission was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that person.''.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY OF CERTAIN UNDERWRITERS AND AFFILIATES.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the maximum amount of penalty for each such act or omission shall be 3 times the otherwise applicable amount in such subparagraphs if, within the 5-year period preceding such act or omission, the person who committed the act or omission was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that person.''.

(2) ENFORCEMENT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the maximum amount of penalty for each such violation shall be 3 times the otherwise applicable amount in such subparagraphs if, within the 5-year period preceding such violation, the defendant was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that defendant.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended—

(1) in section 203(i)(2) (15 U.S.C. 80b–3(i)(2)), by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the maximum amount of penalty for each such act or omission shall be 3 times the otherwise applicable amount in such subparagraphs if, within the 5-year period preceding such act or omission, the person who committed the act or omission was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that person.''; and

(2) in section 209(e)(2) (15 U.S.C. 80b–9(e)(2)) by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the maximum amount of penalty for each such violation shall be 3 times the otherwise applicable amount in such subparagraphs if, within the 5-year period preceding such violation, the defendant was criminally convicted for securities fraud or became subject to a judgment or order imposing monetary, equitable, or administrative relief in any Commission action alleging fraud by that defendant.''.

SEC. 4. VIOLATIONS OF INJUNCTIONS AND BARS.

(a) SECURITIES ACT OF 1933.—Section 20(d) of the Securities Act of 1933 (15 U.S.C. 77t(d)) is amended—

(1) in paragraph (1), by inserting after ''the rules or regulations thereunder,'' the following: ''a Federal court injunction or a bar obtained or entered by the Commission under this title,''; and

(2) by amending paragraph (4) to read as follows:

''(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF AN INJUNCTION OR CERTAIN ORDERS.—

''(A) IN GENERAL.—Each separate violation of an injunction or order described in subparagraph (B) shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such injunction or order, each day of the failure to comply with the injunction or order shall be deemed a separate offense.

''(B) INJUNCTIONS AND ORDERS.—Subparagraph (A) shall apply with respect to any action to enforce—

''(i) a Federal court injunction obtained pursuant to this title;

''(ii) an order entered or obtained by the Commission pursuant to this title that bars, suspends, places limitations on the activities or functions of, or prohibits the activities of, a person; or

''(iii) a cease-and-desist order entered by the Commission pursuant to section 8A.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)) is amended—

(1) in subparagraph (A), by inserting after ''the rules or regulations thereunder,'' the following: ''a Federal court injunction or a bar obtained or entered by the Commission under this title,''; and

(2) by amending subparagraph (D) to read as follows:

''(D) SPECIAL PROVISIONS RELATING TO A VIOLATION OF AN INJUNCTION OR CERTAIN ORDERS.—

''(i) IN GENERAL.—Each separate violation of an injunction or order described in clause (ii) shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such injunction or order, each day of the failure to comply with the injunction or order shall be deemed a separate offense.

''(ii) INJUNCTIONS AND ORDERS.—Clause (i) shall apply with respect to an action to enforce—

''(I) a Federal court injunction obtained pursuant to this title;

''(II) an order entered or obtained by the Commission pursuant to this title that bars, suspends, places limitations on the activities or functions of, or prohibits the activities of, a person; or

''(III) a cease-and-desist order entered by the Commission pursuant to section 21C.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 42(e) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)) is amended—

(1) in paragraph (1), by inserting after ''the rules or regulations thereunder,'' the following: ''a Federal court injunction or a bar obtained or entered by the Commission under this title,''; and

(2) by amending paragraph (4) to read as follows:

''(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF AN INJUNCTION OR CERTAIN ORDERS.—

''(A) IN GENERAL.—Each separate violation of an injunction or order described in subparagraph (B) shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such injunction or order, each day of the failure to comply with the injunction or order shall be deemed a separate offense.

''(B) INJUNCTIONS AND ORDERS.—Subparagraph (A) shall apply with respect to any action to enforce—

''(i) a Federal court injunction obtained pursuant to this title;

''(ii) an order entered or obtained by the Commission pursuant to this title that bars, suspends, places limitations on the activities or functions of, or prohibits the activities of, a person; or

''(iii) a cease-and-desist order entered by the Commission pursuant to section 9(f).''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 209(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9(e)) is amended—

(1) in paragraph (1), by inserting after ''the rules or regulations thereunder,'' the following: ''a federal court injunction or a bar obtained or entered by the Commission under this title,''; and

(2) by amending paragraph (4) to read as follows:

''(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF AN INJUNCTION OR CERTAIN ORDERS.—

''(A) IN GENERAL.—Each separate violation of an injunction or order described in subparagraph (B) shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such injunction or order, each day of the failure to comply with the injunction or order shall be deemed a separate offense.

''(B) INJUNCTIONS AND ORDERS.—Subparagraph (A) shall apply with respect to any action to enforce—

''(i) a Federal court injunction obtained pursuant to this title;

''(ii) an order entered or obtained by the Commission pursuant to this title that bars, suspends, places limitations on the activities or functions of, or prohibits the activities of, a person; or

''(iii) a cease-and-desist order entered by the Commission pursuant to section 203(k).''.

By Mr. WYDEN:

S. 3418. A bill to amend title 10, United States Code, to require the Secretary of Defense to use only human-based methods for training members of the Armed Forces in the treatment of severe combat injuries; to the Committee on Armed Services.

Mr. WYDEN. Mr. President, I rise today to discuss military medical training, and specifically, the use of live animals in trauma training.

Many Americans may be unaware that the Military still uses live pigs and goats in combat trauma training courses to train military personnel to treat battlefield injuries. This is an outdated and inefficient training method that does not fully prepare doctors and medics to treat wounded service members.

For many years, medical simulation has not been able to provide a training experience superior to animal-based live tissue training, but the newest generation of simulators can do just that. These simulators are based on human anatomy and recreate the feeling, the sights, and the sounds of treating a wounded service member.

In current military training, live pigs and goats are anesthetized while trainees perform critical procedures on them. In some cases, the animals are shot in the face or have limbs amputated while the trainees are instructed to keep them alive as long as possible. This is inhumane, but more importantly, it is like comparing apples and oranges—this does not teach service members how to treat a human soldier, only how to operate on a goat or pig. And while live tissue training has some value in getting trainees accustomed to the sight of blood, medical simulation can now do the same, and has become the new gold standard.

In civilian medical training courses, which teach many of the same procedures as the military, simulators have almost universally replaced the use of live animals. The reason for this is simple; to learn how to treat human injuries, you must learn on human anatomy. Medical simulation can now replicate that anatomy while providing the emotional and psychological pressure of working on a living, wounded soldier.

Let me say that I applaud the investments that the Department of Defense has made in the area of simulation. No one has invested more in simulation technology than the Military. But the problem that I see is that despite millions of dollars in investments, simulator technology is not being fully utilized.

Speaking of costs, in addition to providing superior training and reducing animal suffering, a move away from live tissue training would save taxpayer dollars. Due to the many hidden costs of animal use, such as housing and feeding the animals, purchasing drugs for euthanasia and anesthesia, and keeping a veterinarian on staff, simulation can offer a better training experience at a lower cost.

But at the end of the day this is about providing the best possible training for our troops, because in military medicine the difference between the best training and the next best can literally mean the difference between life and death.

For these reasons I introduced today the Battlefield Excellence through Superior Training Practices, or BEST Practices Act. This legislation lays out a timeline for the Department of Defense to develop and fully implement innovative simulator technology in medical training, and to phase out live tissue training on animals in the process.

I want to note that I designed this legislation with a specific waiver authority for the Secretary of Defense, so that if there is a specific procedure that can only be best taught with live tissue use, that option is not removed. But the BEST Practices Act is primarily designed to engage the Pentagon to embrace this technology, continue further development, and incorporate this technology in military training in all cases where simulators provide the best result.

Just as we have seen with other technologies, the advancements in medical simulation are increasing at an exponential rate. The capabilities currently in place and under development are truly amazing. The BEST Practices Act capitalizes on these present and future capabilities, and uses them to save the lives of our service members.

By Mr. REED (for himself, Mr. LIEBERMAN, and Mr. WHITEHOUSE):

S. 3423. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in the States of Connecticut and Rhode Island for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REED. Mr. President, today I am introducing, along with my colleagues from Rhode Island and Connecticut, Senators WHITEHOUSE and LIEBERMAN, legislation to authorize the National Park Service to study specific sections of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in Rhode Island and Connecticut for potential addition to the National Wild and Scenic Rivers System. Our legislation seeks to bring greater attention to and resources for efforts to protect and restore the health of these rivers through the evaluation of their recreational, natural, and historical qualities and whether they are suitable for designation as Wild and Scenic Rivers.

The recreational and scenic wealth of the Wood-Pawcatuck watershed is a natural treasure. The National Park Service's Rivers and Trails Conservation Assistance program conducted a planning and conservation study in the 1980s which concluded, in part, that the waters of the Wood and Pawcatuck Rivers corridor in Rhode Island ''are the cleanest and purest and its recreational opportunities are unparalleled by any other river system in the state.''

These rivers also provide opportunities for outdoor recreation and tourism that contribute to the local economy. Not only do its rivers provide easy access to the wilderness for family outings and school field trips, but they also offer ways to explore our heritage throughout the watershed, from Native American fishing grounds to Colonial and early industrial mill ruins. The rivers also provide opportunities for trout fishing, canoeing, bird watching, and hiking.

I have long supported the protection and restoration of Southern New England's watersheds and estuaries, including the Narragansett Bay, and this study is an important first step in determining future opportunities for protection and recreational enjoyment of the rivers in the Wood-Pawcatuck watershed. Our states have been excellent stewards of these rivers, and this study would enhance existing local and State efforts to preserve and manage this open space and its wildlife habitat.

Indeed, partnerships are key to broad restoration and management of our resources, and it is expected that this study would be conducted in close cooperation with the affected communities, state agencies, local governments, and other interested organizations. The partnership-based approach also allows for development of a proposed river management plan as part of the study, which could address issues ranging from fish passage to the restoration of wetlands to assist with flood mitigation, as well as balance the

recreational opportunities that contribute to the local economies with preservation of the natural resources.

This is a two State initiative that will encompass both Rhode Island and Connecticut, and will help protect these resources for future generations to enjoy.

I commend Representatives LANGEVIN and COURTNEY for spearheading this effort in the other body, and I look forward to working with all of my colleagues to initiate the process to study the rivers of the Wood-Pawcatuck Watershed for inclusion in the National Wild and Scenic Rivers System.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 524—REAFFIRMING THE STRONG SUPPORT OF THE UNITED STATES FOR THE 2002 DECLARATION OF CONDUCT OF PARTIES IN THE SOUTH CHINA SEA AMONG THE MEMBER STATES OF ASEAN AND THE PEOPLE'S REPUBLIC OF CHINA, AND FOR OTHER PURPOSES

Mr. KERRY (for himself, Mr. LUGAR, Mr. WEBB, Mr. INHOFE, Mr. LIEBERMAN, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 524

Whereas the Association of Southeast Asian Nations (ASEAN) plays a key role in strengthening and contributing to peace, stability, and prosperity in the Asia-Pacific region;

Whereas the vision of the ASEAN Leaders in their goals set out in the ASEAN Charter to integrate ASEAN economically, politically, and culturally furthers regional peace, stability, and prosperity;

Whereas the United States Government recognizes the importance of a strong, cohesive, and integrated ASEAN as a foundation for effective regional frameworks to promote peace and security and economic growth and to ensure that the Asia-Pacific community develops according to rules and norms agreed upon by all of its members;

Whereas the United States is enhancing political, security and economic cooperation in Southeast Asia through ASEAN, and seeks to continue to enhance its role in partnership with ASEAN and others in the region in addressing transnational issues ranging from climate change to maritime security;

Whereas the United States Government welcomes the development of a peaceful and prosperous China which respects international norms, international laws, international institutions, and international rules, and enhances security and peace, and seeks to advance a ''cooperative partnership'' between the United States and China;

Whereas ASEAN plays an important role, in partnership with others in the regional and international community, in addressing maritime security issues in the Asia-Pacific region and into the Indian Ocean, including open access to the maritime commons of Asia;

Whereas the South China Sea is a vital part of the maritime commons of Asia, including critical sea lanes of communication and commerce between the Pacific and Indian oceans;

Whereas, in the declaration on the conduct of parties in the South China Sea, the governments of the member states of ASEAN and the Government of the People's Republic of China have affirmed ''that the adoption of a code of conduct in the South China Sea would further promote peace and stability in the region'' and have agreed to work towards the attainment of a code of conduct;

Whereas, pending the peaceful settlement of territorial and jurisdictional disputes, the member states of ASEAN and the People's Republic of China have committed to ''exercise self-restraint in the conduct of activities that would complicate or escalate disputes and stability, including, among others, refraining from action of inhabiting presently uninhabited islands, reefs, shoals, and other features and to handle their differences in a constructive manner'';

Whereas, pending the peaceful settlement of territorial and jurisdictional disputes, the member states of ASEAN and the People's Republic of China affirmed their commitment ''to the freedom of navigation in and overflight of the South China Sea provided for by the universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea''; and

Whereas, although not a party to these disputes, the United States has national interests in freedom of navigation, the maintenance of peace and stability, respect for international law, and unimpeded lawful commerce: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms the strong support of the United States for the 2002 declaration of conduct of parties in the South China Sea among the member states of ASEAN and the People's Republic of China;

(2) supports the member states of ASEAN, and the Government of the People's Republic of China, as they seek to adopt a legally-binding code of conduct of parties in the South China Sea, and urges all countries to substantively support ASEAN in its efforts in this regard;

(3) strongly urges that, pending adoption of a code of conduct, all parties, consistent with commitments under the declaration of conduct, ''exercise self-restraint in the conduct of activities that would complicate or escalate disputes and stability, including, among others, refraining from action of inhabiting presently uninhabited islands, reefs, shoals and other features and to handle their differences in a constructive manner'';

(4) supports a collaborative diplomatic process by all claimants for resolving outstanding territorial and jurisdictional disputes, allowing parties to peacefully settle claims and disputes using international law;

(5) reaffirms the United States commitment—

(A) to assist the nations of Southeast Asia to remain strong and independent;

(B) to help ensure each nation enjoys peace and stability;

(C) to broaden and deepen economic, political, diplomatic, security, social, and cultural partnership with ASEAN and its member states; and

(D) to promote the institutions of emerging regional architecture and prosperity; and

(6) supports enhanced operations by the United States armed forces in the Western Pacific, including in the South China Sea, including in partnership with the armed forces of others countries in the region, in support of freedom of navigation, the maintenance of peace and stability, respect for international law, including the peaceful resolution of issues of sovereignty, and unimpeded lawful commerce.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2567. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3364, to provide an incentive for businesses to bring jobs back to America; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2567. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3364, to provide an incentive for businesses to bring jobs back to America; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. RIGHT TO WORK.

(a) AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT.—

(1) RIGHTS OF EMPLOYEES.—Section 7 of the National Labor Relations Act (29 U.S.C. 157) is amended by striking ''except to'' and all that follows through ''authorized in section 8(a)(3)''.

(2) UNFAIR LABOR PRACTICES.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended—

(A) in subsection (a)(3), by striking '': *Provided*, That'' and all that follows through ''retaining membership'';

(B) in subsection (b)—

(i) in paragraph (2), by striking ''or to discriminate'' and all that follows through ''retaining membership''; and

(ii) in paragraph (5), by striking ''covered by an agreement authorized under subsection (a)(3) of this section''; and

(C) in subsection (f), by striking clause (2) and redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

(b) AMENDMENT TO THE RAILWAY LABOR ACT.—Section 2 of the Railway Labor Act (45 U.S.C. 152) is amended by striking paragraph Eleven.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet during the session of the Senate on July 26, 2012, in room SD–628 of the Dirksen Senate Office Building, at 2:15 p.m., to conduct a hearing entitled ''Regulation of Tribal Gaming: From Brick & Mortar to the Internet.''

Those wishing additional information may contact the Indian Affairs Committee at (202) 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The hearing will be held on Tuesday, July 31, 2012, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 3385, a bill to authorize the Secretary of the Interior to use designated funding to pay for construction of authorized rural water projects, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify

by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, 304 Dirksen Senate Office Building, Washington, DC 20510–6150, or by email to john_assini@Kenergy.senate.gov.

For further information, please contact Patricia Beneke (202) 224–5451 or John Assini (202) 224–9313.

MEASURES PLACED ON THE CALENDAR—S. 3414 AND H.R. 5872

Mr. CONRAD. Madam President, I understand there are two bills at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will read the bills by title for the second time.

The legislative clerk read as follows:

A bill (S. 3414) to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

An act (H.R. 5872) to require the President to provide a report detailing the sequester required by the Budget Control Act of 2011 on January 2, 2013.

Mr. CONRAD. On behalf of the majority leader, I object to any further proceedings with respect to these bills en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will be placed on the calendar.

MEASURE READ THE FIRST TIME—S. 3420

Mr. CONRAD. Madam President, I understand there is a bill at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (S. 3420) to permanently extend the 2001 and 2003 tax cuts, to provide for permanent alternative minimum tax relief, and to repeal the estate and generation-skipping transfer taxes, and for other purposes.

Mr. CONRAD. I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for a second time on the next legislative day.

APPOINTMENTS

THE PRESIDING OFFICER. The Chair, on behalf of the majority leader and the Republican leader, pursuant to the Public Law 110–298, reappoints the following individual to serve as a member of the Federal Law Enforcement Congressional Badge of Bravery Board: Richard Gardner of Nevada.

THE PRESIDING OFFICER. The Chair, on behalf of the majority leader and the Republican leader, pursuant to the Public Law 110–298, appoints the following individual to serve as a member of the State and Local Law Enforcement Congressional Badge of Bravery Board: Mike Hettich of Kentucky, vice Nick DiMarco of Ohio.

ORDERS FOR TUESDAY, JULY 24, 2012

Mr. CONRAD. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, July 24; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the majority leader be recognized; that the first hour 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; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly conference meetings; finally, that at 3:40 p.m., the Senate observe a moment of silence in memory of Officer Jacob J. Chestnut and Detective John M. Gibson of the U.S. Capitol Police, who were killed 14 years ago in the line of duty defending this Capitol, the people who work here, and its visitors against an armed intruder.

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

PROGRAM

Mr. CONRAD. Madam President, today the majority leader filed cloture on the motion to proceed to S. 3412, the Middle Class Tax Cut Act. If no agreement is reached, that vote will be on Wednesday.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

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

There being no objection, the Senate, at 6:20 p.m., adjourned until Tuesday, July 24, 2012, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 23, 2012:

THE JUDICIARY

MICHAEL A. SHIPP, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.