

Evan Jonathan Wallach, of New York, to be United States Circuit Judge for the Federal Circuit?

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

Is there a sufficient second? There appears to be.

The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 199 Ex.]

YEAS—99

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

NOT VOTING—1

Sessions

The nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

RECESS

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

Thereupon, the Senate, at 12:45 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

3% WITHHOLDING REPEAL AND JOB CREATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will re-

sume consideration of the motion to proceed to H.R. 674, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (H.R. 674) to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

IRAN

Mr. KIRK. Mr. President, I rise to talk about two entirely different subjects; first, on the subject of Iran, the subject of a critical International Atomic Energy Agency report that will be issued likely tomorrow.

Credible press reports on the United Nations document tell us an important thing. Remember, it was the IAEA that urged caution with regard to the weapons of mass destruction program in Iraq. The record shows that the IAEA was largely correct on its determination there. Based on that credibility, we should listen to the IAEA and what they say in this groundbreaking report.

Their report makes six very important conclusions according to credible press reports: No. 1, the Islamic Republic of Iran has used military people to procure dual-use nuclear material; No. 2, they have developed an undeclared nuclear material production line separate from their commitments under the Nuclear Non-Proliferation Treaty; No. 3, they have now acquired outside international information on the development of nuclear weapons; No. 4, they have begun work on an indigenous design for a nuclear weapon; and, No. 5, they are already substantially in excess of the 3-percent enrichment for uranium-235 necessary to run a nuclear reactor as they originally claimed.

The sixth conclusion, though, appears to be the most important. The International Atomic Energy Agency concludes they may have also begun work on a new payload for their Shahab-3 missile. This is a missile that largely comes from North Korea called the No Dong and is able to hit U.S. bases in the Persian Gulf and our allies in Israel. According to the reports on this U.N. document, it says the Shahab-3 payload has the correct mass for a nuclear weapon; it has a generator aboard the warhead that would be necessary to initiate a nuclear detonation; it is designed for an airburst to make that detonation most effective; the weapon has multiple detonators in it—I think this is a key conclusion because a conventional munition only requires one detonator, but a nuclear weapon requires multiple detonators; and this has it—it does not issue any

submunitions, all the warhead is contained in one critical mass; and the Iranians have now prepared a 400-meter test shaft likely for a nuclear test shot.

If this is not a smoking gun, I do not know what is. I do not know what the word for “smoking gun” in Farsi is, but clearly the United Nations, not known for speaking clearly on many topics, is now telling us one clear thing: the Islamic Republic of Iran is designing and moving toward building nuclear weapons.

If we look at their record, we will see the Islamic Republic of Iran has transferred nearly every one of its advanced munitions it currently owns to terrorist organizations, including antishipping cruise missiles, which the Iranians transferred to Hezbollah.

We have also known several dangerous—actually, dangerously weird—things going on in the Islamic Republic of Iran, such as sentencing an Iranian actress to 90 lashes for appearing in an Australian film simply on the crime of not having her head covered—luckily, because the International Campaign for Human Rights in Iran called attention to this, apparently that sentence may be in abeyance—or credible reports this weekend that the Islamic Republic of Iran, under President Ahmadinejad, has arrested 70 fashion designers for anti-Islamic activity.

What we know for a fact is that the Islamic Republic of Iran has been a state sponsor of terror, as certified by Presidents Carter, Reagan, Bush, Clinton, Bush 2, and President Obama under Secretary of State Clinton. We know they are the leading paymasters for Hezbollah and Hamas.

What we can see clearly from this report is that this year, or likely the year after, they will have nuclear weapons. I think it is quite likely they would then transfer those nuclear weapons directly to Hezbollah and Hamas. This is something we cannot allow to happen, which is why action in the Senate and in the executive branch should occur on collapsing the Central Bank of Iran. We already have 92 Senators who have agreed, even in these partisan times, to collapse the Central Bank of Iran. Ninety-two Senators have signed on to the Kirk-Schumer letter to call for this action. This action was also just recommended in an overwhelmingly bipartisan fashion in the House Foreign Affairs Committee under the leadership of Congressman BERMAN to recommend this also in the House. I think the administration—that has leaked several times to the New York Times that they have this under consideration—should move in this direction.

For those countries that substantially purchase oil from the Islamic Republic of Iran, we should work with our Saudi allies to make sure their needs are met so we can go ahead and collapse the Central Bank of Iran and the Iranian currency, especially in the wake of this report.

Remember, this is the government that, according to Attorney General

Eric Holder, led a plot to blow up a Georgetown restaurant, possibly involving the death of many Americans, including, they described, Senators, in an effort to kill the Saudi Arabian Ambassador to the United States. This is singularly irresponsible activity and one that now, coupled with this IAEA report on nuclear weapons, should not be tolerated.

PROTECTING PRIVACY RIGHTS

Mr. President, I also rise to speak about another topic; which is that today the Supreme Court has agreed to hear oral arguments on the case of *United States v. Jones*. The case concerns our rights to privacy as American citizens. As an American, I believe our government is the greatest government for the potential of every human being and the dignity of that human being. Under our Constitution, we had the first of any major government in the world to begin to protect that right of privacy, even against the government. It is enshrined in the fourth amendment to the Constitution.

As the Founding Fathers defined it, I think our 18th century fourth amendment privacy rights—which are covered, including our house and our place of business—are well defined and well protected under our law.

The question is this: What about our rights to privacy in the 21st century? What about the mobile device we carry, the tablet computer, the GPS in our car, and the various other computer devices we have? Do we have a reasonable expectation of privacy with regard to this data or can the government access this data and decide they can find out where we have been, whom we have been with, and how long we have been there without a warrant?

Given the fact that the Supreme Court has just taken up oral arguments in this case, I think it is important for the Senate to back the Wyden-Kirk GPS Act. This is an act that basically says we should protect our rights of privacy in the 21st century as well as the 18th, 19th, and 20th centuries, that we should not only be secure in our house and our papers, but we should be secure in our GPS data as well; that if the government seeks to find out where we have been and whom we have been with, at least it needs a warrant—our right as an American citizen protected in that privacy before having access to that information.

I hope we consider this legislation as early as next year because I think we rise to our greatest potential in the Senate when we update our rights as Americans, to protect them not just in the 20th century but in the 21st century.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IAEA REPORT

Mr. LIEBERMAN. Mr. President, today the International Atomic Energy Agency has issued its latest report on the nuclear weapons development program of the Islamic Republic of Iran.

This latest IAEA report is the clearest warning about a potentially catastrophic threat to the United States since the Hart-Rudman Commission in January of 2001 predicted a major terrorist attack on our homeland, which, of course, occurred about 9 months later.

The IAEA's message today is similarly stark. The extremist terrorist regime that rules Iran is actively working to possess nuclear weapons, and the time to stop them is running out. The Obama administration deserves credit for rallying the international community to put unprecedented diplomatic and economic pressure on the Iranian regime. But the sad fact is nothing the United States and our international partners have done has changed Iran's egregious, threatening, and in many cases murderous behavior, its pursuit of nuclear weapons, its sponsorship of terrorism, its infiltration of neighboring countries, its responsibility for training and equipping terrorists and extremists who have killed literally hundreds of American citizens in Iraq and throughout the Middle East or its repression of its own people.

On the contrary, in all of these areas, notwithstanding the increasing international diplomatic and economic pressure on the regime in Iran, that regime's behavior has only grown more emboldened and more reckless.

I know some have argued that the United States and our international partners can live with a nuclear Iran and that we can contain it. But the recent discovery of an Iranian terrorist plot, which was to be carried out on U.S. soil, killing the Saudi Ambassador here, targeting Members of Congress, and perhaps eventually the Israeli Ambassador and Embassy provide the clearest possible evidence of why we cannot hope to contain a regime as fanatical, expansionist, and brutal as the one that now rules Iran, particularly when it has the fearsome club of nuclear weapons capacity.

If the Iranian regime acquires a nuclear weapons capability, it will be because the world, including us, allowed that to happen. It is still within our power to stop it. But it will require, in my opinion, more than further incremental pressure—which is to say more of what we have already been doing, which clearly has not changed the behavior of the regime in Tehran.

It is time for the United States and our international partners to undertake what I would call nonincremental measures against the Iranian regime, and among those I would include tough sanctions on its central bank. It is also time for Congress to pass the new and tougher Iran sanctions legislation,

which is in the Banking Committee and which over three-fourths of the Senate, in a very strong bipartisan statement, has cosponsored. There is no reason we cannot pass that bill before the end of this calendar year.

Finally, it is time for the United States and our international partners to move beyond the formulation that has grown routine—and I am afraid ultimately hollow—which is that “all options are on the table” when it comes to Iran's nuclear weapons development program and its terrorist actions. It is time for an unequivocal declaration—all the more so in response to the IAEA report today—that we will stop Iran from acquiring nuclear weapons capability, we and our international partners—by peaceful means, if we possibly can, but with military force if we absolutely must.

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

The PRESIDING OFFICER. (Mr. FRANKEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ENERGY PRODUCTION

Mr. VITTER. Mr. President, several weeks ago, on September 28 of this year, I joined three of my Senate colleagues—Senators SHELBY, CORNYN, and HUTCHISON—in requesting from the Obama administration and its Interior Department a detailed plan about what their new 5-year energy lease plan was going to be, as well as their plans for moving forward with scheduled leasing. We finally got some of the answers to that today as the administration released its new 5-year oil and gas lease plan. I guess that is the good news—we finally got our questions answered. There is a lot more bad news, unfortunately, which is what those answers are.

It is deeply disappointing that we are not moving forward in a far more aggressive and positive way in developing our own domestic energy resources. As I said, today Secretary Salazar introduced President Obama's plan for the next 5 years of energy production, specifically on the Outer Continental Shelf. For those Members in the Senate and for others who are not as familiar with energy production on the Outer Continental Shelf, this is basically the 5-year strategy for us as a nation in terms of oil and gas production domestically—what we are going to do in these next 5 years to produce more of our own energy.

The opportunity was enormous. As you remember, a few years ago, in 2008, there was a bipartisan agreement to lift the decades-long ban on new offshore drilling and to open new areas off the Atlantic coast, off the Pacific Coast, and off the Arctic coast. Those

opportunities were enormous. This map illustrates what the opportunities were given that 2008 lifting of the moratorium.

Previously, this had been off limits, this had been off limits—much of this had been off limits. But in 2008, on a bipartisan basis, Congress—even a Democratic Congress—heard the cry of the American people and said we need to develop more domestic energy resources, so we opened all of these possibilities.

Unfortunately, President Obama chose not to take advantage of those opportunities because this map represents his new 5-year plan announced today—the entire Atlantic coast, off limits; the entire Pacific Coast, off limits; much of the Alaska coast, off limits; the western gulf of Mexico, where there has traditionally been significant activity, of course, is still there, but even the eastern gulf has been withdrawn under related Federal law until 2022. That is deeply disappointing.

Put another way, in the previous 5-year lease plan, there were about 30 sale areas that were outlined to have lease sales, 30 specific areas around our Outer Continental Shelf. That was the previous 5-year plan. That plan existed when President Obama took office. One of the first things he did in the energy area, with his Secretary of Interior Ken Salazar was to throw that plan out the window almost immediately. This was well before the BP disaster. It was not in reaction to that disaster or anything else specific; they just threw that 5-year lease plan out the window. In this new 5-year lease plan—their first in the Obama administration, which they are announcing today—instead of 30 different areas, there are about 15. So they moved backward, cutting in half the number of lease sales that were planned in the 5-year plan.

Put another way, instead of having about six lease sales per year, there are only going to be three. As any fourth grader can tell you, doing that simple math, that is moving backward by a lot. That is going from about 30 lease sales to half that number—15. That is going from about six a year to half that number—three.

Our energy needs are not moving backward. Our desire and need for increased energy independence is not moving backward. Yet our effort and our ability to access our own domestic oil and gas on our own Outer Continental Shelf under this Obama plan is doing exactly that—it is moving backward.

Let me put it a different way. The Outer Continental Shelf of the United States is about 1.76 billion acres, almost 2 billion acres. But of all that vast expanse, only 38 million acres are actually leased. That is 2.16 percent of our entire Outer Continental Shelf. This new 5-year plan increases that a tiny amount at the margin. It keeps it under 3 percent. With a vast, energy-rich Outer Continental Shelf, we are still 3 percent or under of what we could access under this new plan.

Again, we are moving backward from the previous 5-year plan that President Obama threw out quickly upon taking office. That is deeply disappointing. If I am disappointed, I know there are some folks who are even more disappointed, including our colleagues in Virginia. Some select production and lease-sale activity off the Virginia coast was planned in the previous 5-year plan. That is out the window. As you can see, nothing can go on off the Atlantic. Also, four geologic basins off southern California and one geologic basin off northern California were in the previous 5-year plan. That is out the window. That is barred. There is nothing that can happen off the Pacific coast. Even in Alaska, the North Aleutian Basin and the Cook Inlet were in the previous 5-year plan. That is zeroed out. That is out the window. That is not in this new 5-year plan.

My basic question on this disappointing announcement is simple: How does excluding all of these areas and how does cutting back the previous 5-year plan to half that amount best meet our national energy needs? It seems to me it is clear it does not. In fact, it eliminates incredible job and revenue opportunities as well as our ability to increase energy independence, to produce more domestic energy, all of which we desperately need to do.

As the National Ocean Industries Association puts it:

A 5-year plan for the Outer Continental Shelf is the most important and defining action an administration takes in providing new oil and gas resources for building economic prosperity in this country.

They are right. It is the single most defining action with regard to Outer Continental Shelf energy production.

So with this action today, what is President Obama saying? What is his Interior Secretary saying? He is saying we are moving backward. He is saying we are going to do about half of what we were going to do in the previous 5-year plan which he canceled immediately upon taking office. That is very disappointing. It is disappointing for our energy picture. It is disappointing in terms of our need to lessen our reliance on foreign sources. It is also sadly disappointing in terms of the job picture because every lease sale that happens is thousands upon thousands of great American jobs to help build the economy and help to get us back out of this horrible recession.

Finally, it is even deeply disappointing with regard to our challenge of lowering the deficit and debt. You know what. With energy production, the more we do, the more revenue we bring into the Federal Treasury to lower deficit and debt. In fact, after the Federal income tax, this is the single biggest category of Federal revenue into the Federal Treasury—royalties on domestic energy production.

So it is domestic energy, it is great American jobs, and it is lowering the deficit and debt with more revenue. President Obama today has said no to all of that. He has taken an enormous step backward. He has said, compared

to the previous 5-year plan, that we are only doing half. He said that we are shutting off the Atlantic coast, we are shutting off the Pacific coast, and much of the coast off Alaska.

Today, I have written Secretary Salazar and expressed these concerns. I have asked the Secretary if they will reconsider this step backward because our country cannot afford it. We cannot afford it in energy terms. We cannot afford it in jobs terms. We cannot afford it in revenue terms when we need more revenue to lower deficit and debt. I will be following up aggressively on that letter, trying to understand the rationale behind this step backward and trying to get the Obama administration to reconsider.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

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

The PRESIDING OFFICER. Without objection.

JOBS CREATION

Mr. DURBIN. This last Sunday I was watching an ABC morning news show, and Christiane Amanpour was interviewing the Speaker of the House, JOHN BOEHNER of Ohio. Speaker BOEHNER was asked a number of questions. The one he clearly wanted to focus on is what he called the Republican jobs program. He handed to Ms. Amanpour a laminated card which he said was the Republican jobs program that had passed the House of Representatives and was dying in the Senate. It has never been called for passage. It struck me as odd because I missed that during the course of this last year that there was a Republican jobs program, and I was a little bit worried because we are looking for every opportunity we can to create jobs.

So I came back and said to my staff, can you get a copy of this laminated card? I want to see what is written on it. They produced the card for me, and I took a look at it. As a result, I would have to say the Republican view on how to create jobs and move the economy forward is considerably different than my own and considerably different than the views of most Americans. What Republicans have proposed doing is eliminating rules and regulations. They believe that is what is holding back the growth of the American economy. One of the areas they particularly focused on is known as the Dodd-Frank bill, the Wall Street reform bill.

Some of us are not suffering from political amnesia. We can recall what

happened just a few years ago all across America when at the end of the Bush administration we faced some of the worst choices I have ever heard when we were presented an opportunity by the Chairman of the Federal Reserve, Ben Bernanke, and the Secretary of the Treasury, Mr. Paulson, to literally bail out the Wall Street banks and major institutions to the tune of almost \$800 billion from the mistakes they had made. So we were given an ultimatum: If we didn't do it, we could see a collapse of our American economy and the global economy. Reluctantly, many of us voted for that, believing that we had no choice. What we did was to send billions of dollars to banks on Wall Street that had made serious mistakes, creating credit default swaps and derivatives, creating offices in London that could skirt the American laws and, literally, hanging the American economy out to dry. The net result of that, of course, is that people suffered all across America. Individuals lost their savings and their retirements. Families were facing hardship when they were laid off and faced unemployment. Businesses closed and restructured and downsized. The whole economy suffered because of what was clearly wrongdoing on the part of our financial communities. As a result of that, President Obama said, We need to change the rules and laws in America so there will be adequate oversight so that we never get in this mess again.

The first amendment on the Dodd-Frank bill in the Senate was offered by Senator BOXER of California, which said this is the end of too big to fail. We are never walking down this path again. So we put the financial institutions and corporations of America on notice that we were not going to bail them out in the future, should they make another colossal mistake, at the expense of workers and families and businesses across America.

Then we went through the entire regulatory law as it related to Wall Street, including the stock exchanges and all of the exchanges across America, and said, What do we need to do to make certain there is transparency, to make certain the banks that were overleveraged and loaning far more than they should are in a position where they are fiscally sound, financially sound, and how do we put cops on the beat on Wall Street through the Securities and Exchange Commission and the Commodities Futures Trading Commission to guard against this ever occurring again? We offered that as Wall Street reform, with the support of President Obama, but with the support of only three Republican Senators: Senators BROWN, SNOWE, and COLLINS. The majority of Republican Senators and Congressmen would not support us in this effort. We passed it anyway. The President signed it. It is now being implemented, moving forward and, I think, long overdue.

It turns out that is one of the first things the Republicans now want to

eliminate in their effort to build the American economy. I can tell my colleagues we would be building the American economy on a foundation of sand if we did that. If we ignored the experience we had a few years ago when we were forced into this bailout situation, sending billions to the biggest bankers in America, and having them turn around and declare bonuses for their top officers and employees—if we ignore that reality and that history and say we were going to follow the Republican lead and eliminate this oversight of Wall Street, it would invite another economic disaster. Yet, that is one of the House Republican plans for rebuilding the American economy.

The financial crisis of 2008 wiped out 8 million jobs in America. Twenty-four million Americans today are still suffering—unemployed or underemployed. Millions of families have lost their homes. A report in the Chicago newspapers this morning was stunning and troubling. Almost 50 percent of the homes in our region in Chicago are under water. What it means is families have borrowed more in their mortgages than their home is currently valued. That is a troubling development, but it is a reality. It reflects what happened when the overanxious and overinflated real estate market got out of hand. We don't want that to happen again. If we are going to avoid it, we have to have appropriate oversight and regulation.

Many families have seen their home values plummet, not just in Chicago but nationwide. Their retirement savings have been cut in half over the last 4 years. In Illinois and across America, solid, well-run companies, many in business for decades, have been shaken to the core for the lack of credit and the lack of customers.

So what do our Republican colleagues offer as a solution? What is the Republican jobs plan? Incredibly, they have responded to America's economic crisis not by rethinking their deregulation dogma, but by doubling down. Let me explain.

In addition to repealing Wall Street reform, Republicans are trying to change the most basic protections we have in America for clean air and pure drinking water. Think about this: The Republican majority in the House has voted 168 times this year—168 times—to undercut clean air and clean water laws and to block efforts to limit global warming, protect public health, protect the public lands we have been left by previous generations, and guard against things such as future oil spills. They voted 168 times just this year, and they are not finished.

Our colleagues on the other side of the aisle have attached more than 50 anti-environmental policy riders so far to spending bills for next year. They are unrelenting. I won't go into all of the environmental and public health protections the Republicans are trying to block. Let me focus on two. Republicans have used the Senate's expedited procedures to place bills blocking these

two new rules directly on the Senate calendar rather than going through the regular order.

It is their right to do that. They are saying, in effect, we don't have time for the normal rules. We don't have time to hear from scientists or the American people. We need to bury these rules right now.

The first rule they want to delay is the boiler MACT rule. It is an acronym that stands for maximum achievable controlled technology. The boiler MACT rule would reduce the amount of mercury, dioxins, acid gases, and other toxic pollutants that can be emitted by large industrial boilers and solid waste incinerators. Is that the key to building jobs in America, large industrial boilers spewing more toxic chemicals into the air, solid waste incinerators burning without the regulations to protect the people who happen to live downwind? These chemicals can cause cancer, heart, lung, and kidney disease, damage to eyes and skin, impair brain development in children and babies, and learning ability, and they can kill people. That is a fact.

The other new clean air rule in the crosshairs from the Republicans is the so-called cross-State air pollution rule. It would require significant reductions in two toxic chemicals—sulfur dioxide and nitrogen oxide—released by electric powerplants. These chemicals not only cause sickness and death, they can spread hundreds of miles downwind and across State lines.

Many States can't develop new jobs and industries because they have reached their air pollution limits under national clean air standards, not because of what they are doing in their States, but rather for the wind that is blowing from other States with pollution. It puts them over the limit for emissions that travel from old coal-burning powerplants in other States. That is not right, and it is not fair.

The cross-State air pollution rule would set new limits on sulfur dioxide and nitrogen oxide emissions and establish an emissions cap-and-trade system for 31 Eastern States and the District of Columbia. It is a reasonable, market-based solution to a serious public health threat. The Republicans would abolish it.

Both the boiler MACT rule and the cross-State air pollution rule replace rules that were developed by the EPA as far back as the Bush administration—rules that were stricken by the DC Circuit Court. In both cases, the court ordered the EPA to come up with a new rule. House Republicans have already passed a bill to delay these new air pollution quality standards for at least 15 months, and here in the Senate, they would delay them for up to 5 years. As for the cross-State air pollution rule, Senator RAND PAUL of Kentucky has introduced a resolution of disapproval to kill it altogether so there will be no standard, so if a person happens to live downwind from a polluting powerplant and that person's

State is trying to do its best to clean up its act, it is to no avail. The air pollution quality will be so bad in that State because of the neighboring State that people will face serious problems and restrictions in their own development.

The House has taken an even more radical approach. They voted almost entirely along party lines, passing a Republican bill called the TRAIN Act, that would delay indefinitely the cross-State air pollution rule, and another lifesaving rule, the mercury and air toxics standard. The TRAIN Act would also overturn the legal requirement that EPA's public health rules be based on the best advice of scientists, not the demands of politicians or their donors. It is the most serious attack on the Clean Air Act since the law was passed 40 years ago under Republican President Richard M. Nixon.

President Obama has already said he is going to veto any bills that would delay the new clean air rules. Our Republican colleagues know they don't have the votes to override his veto, so once again they are forcing the Senate to debate measures they know have no chance—zero chance—of becoming law.

And that is the Republican jobs plan. Republicans say Federal agencies should analyze the cost of business of every new regulation, whether it is meant to protect against Wall Street recklessness, offshore oil disasters, lead-based toys, or killer cantaloupes. If a regulation hurts the corporate bottom line, the Republicans argue it shouldn't be passed.

I have a counterproposal for my colleagues on the other side of the aisle. Any politician who proposes deregulating an industry ought to be required to tell the public how much money deregulation would cost, how many jobs might be lost, how many lives may be cut short, how many children and other members of our families may end up in the hospital, and how much of our Nation's natural treasures may be scarred or destroyed. Let's have an honest assessment on both sides of the ledger.

When I travel across my State, much like in the Presiding Officer's State, we have big cities and small towns. I go to schools and talk to kids, and usually they have the common questions—do you have a limousine, how much money do you make—things that kids ask. So I ask questions back to them. One question I have started asking in every school is the following: How many of you know someone who is suffering from asthma? Without fail, more than half the hands will go up. In Mount Sterling, IL, a small farm town down in Brown County in downstate Illinois, half the hands went up. I guarantee that in every classroom in the city of Chicago, more than half of the hands will go up. Asthma has become an epidemic in America and is related to many things, including the quality of the air we breathe. On the South Side of Chicago, it is hard to find a child who doesn't suffer from asthma.

In 2007, the cost of asthma-related hospitalizations in Illinois totaled \$280 million. The average stay costs \$15,000 for an asthma case, and nearly 60 percent of those hospital costs were paid for by taxpayers through Medicaid and Medicare. Air pollution makes asthma worse. If we reduce air pollution we can reduce asthma attacks, asthma-related deaths, and save taxpayers tens of billions of dollars a year just for the cost of treating that single disease. That is something we never hear when the disciples of deregulation start preaching.

Here are some other facts we won't hear about deregulation from the deregulation devotees. The new boiler MACT rule will create jobs, not eliminate them. It would prevent between 2,500 and 6,500 premature deaths each year, and it would save between \$22 billion and \$54 billion a year in health care costs.

The cross-State air pollution rule, which they would also abolish, would also net thousands of new jobs, prevent 400,000 cases of aggravated asthma and 34,000 premature deaths each year, and save \$280 billion in health care costs. In my State alone, the cross-State rule will save 1,500 lives a year and provide enough public health benefits to save our State \$12 billion. Twelve billion dollars in Illinois—that is more than Illinois spent on health, hospitals, and highways combined in the year 2009.

Deregulation is a costly gamble even for businesses that are deregulated. During the last administration, oil companies were allowed to self-regulate under the Bush administration. How did that work in the Gulf of Mexico with British Petroleum? The gulf oilspill is the worst industrial environmental disaster in U.S. history. Congratulations, self-regulators.

Local businesses suffered \$4 billion to \$12 billion in lost income because of self-regulation by a major oil company. BP alone is likely to spend \$40 billion in claims, fines, and other expenses from this historic, awful spill.

Those who push for deregulation tell us environmental rules are job killers and nothing but a burden on businesses and consumers. They are wrong. Regulations that are well designed are, to borrow a phrase from our Republican friends, job creators. They can spur innovation and create new products, new jobs, even whole new industries. A study published by the Political Economy Research Institute at the University of Massachusetts-Amherst estimates that new air pollution rules for electric powerplants "will provide long-term economic benefits across much of the United States in the form of highly skilled, well-paid jobs through infrastructure investment."

Specifically, researchers found that clean air investments could create 1.5 million new jobs in 2015 right here at home. Let me bring this story closer to home. Recently I made a trip in Illinois to a new coal-fired plant. It is a plant that is amazing. It is called the Prairie State Energy Campus and it is owned

by a number of electric cooperatives. It has a \$1 billion investment in the clean use of coal to produce electricity. They took a look at the law, and instead of hiring lawyers to fight it, they hired engineers to comply with it.

The plant is up and running. It is a marvel to behold. Right across from this plant is a coal mine, and the coal that is drawn from that mine goes into this plant and meets all the specifications required today by the EPA. The people who are running this plant are not whining and crying and begging for relief. They rolled up their sleeves and built a plant much cleaner than anything that existed in the United States, and they are proving it can be profitable.

I wish my Republican friends would come to the Prairie State Energy Campus. They should see and know that 4,000 union jobs were created for the construction of this plant, and they expect to have 500 permanent local jobs to boost the Illinois economy by \$785 million a year with our own local coal.

The campus includes two generators that will produce 1,600 megawatts of clean, low-cost energy for more than 2.5 million customers in the Midwest. It is going to go online by the end of this year.

By using the latest technology, the plant's carbon dioxide emissions will be 15 percent lower than what is typically discharged from U.S. coal-fired powerplants.

In addition, the plant is going to save an estimated 200,000 tons of carbon dioxide each year by using coal from an adjacent mine instead of mining it in some other place and shipping it to the site of the power generation.

One hundred-sixty coal miners are working in the adjacent mine. I went there. It was not my first visit to a coal mine, but it is always an eye-opener to go in and see how they mine coal today. Two weeks ago, Prairie State announced plans to hire even more miners.

In Illinois, incidentally, coal miners make a pretty decent wage, \$65,000 a year. So these are good jobs, right here in America, mining coal to be used in a clean coal plant. It can be done. The Republicans ought to acknowledge it can be done, and new jobs are being created in the process, while we are reducing air pollution.

In a recent survey, two out of three Americans say they support new clean air rules and oppose what the Republicans are trying to do in the name of job creation. Nearly 90 percent of all Americans—nearly 60 percent of Republicans and conservatives, I might add—said Congress should not prevent the EPA from enforcing the new rules. I wish my Republican friends, who are so dead set on eliminating these standards for air and water pollution, would listen to the people across America who want cleaner air and purer drinking water and are willing to see reasonable regulations to reach those goals.

The push to kill the new clean air rules is not coming from the American

people. It is part of a huge power grab. The U.S. Chamber of Commerce and Republicans in Congress have launched an unprecedented antiregulation campaign. The Chamber is reportedly spending millions of dollars to push the message that regulations are job killers. Their goal is to roll back existing environmental, health, financial, and other regulatory protections and to block any new protections. They are using the American jobs crisis to try to push through an agenda that will increase our deficit, actually take away jobs in America, and cause thousands of Americans to get sick and some to die.

Just cut taxes on millionaires and billionaires and get rid of government regulation and, they believe, we can get the economy humming again. That is their credo. If that were true, the last administration would have been the most prosperous in our history because that is the message and philosophy and agenda that guided the Bush administration. Instead, in the words of the Wall Street Journal—not exactly a Democratic publication—George Bush's administration produced “the worst jobs record on record.”

We have tried this. It does not work. We have seen this movie. We know how it ends. This notion of protecting millionaires from any taxes and repealing any laws related to the regulation of our economy did not work under the Bush administration and should not be tried again.

The reason 2 million Americans are out of work has nothing to do with excessive financial or environmental regulation. If anything, our economy is hurting because we do not have the appropriate regulation in place now to avoid the excesses of the past.

To say we cannot create jobs without allowing dangerous levels of toxic chemicals into our air and water is an absolutely false choice. We have to find an approach that protects the health of American families and balances the needs of business and is based on the reality of science.

For 40 years, Democrats and Republicans used to work together on this agenda. We need to do it again. In the meantime, if our Republican colleagues want to create good middle-class jobs here at home, let's pass the President's American Jobs Act. This will not only create jobs, it will fund infrastructure and road repairs. It will cut payroll taxes for working families, saving the average family about \$1,500 a year, and extend badly needed unemployment benefits for those out of work. It will keep hundreds of thousands of teachers in the classroom and cops and firefighters on the job in our neighborhoods and communities.

That is the way to create good jobs. America does not need dirty water and dirty air to create good-paying jobs. I hope the Republican agenda, even if it is laminated on a card passed out by Speaker JOHN BOEHNER, will realize we can do better in this country by not

compromising our public health and the great Nation in which we live.

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

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

VETERANS SUPPORT

Mr. BOOZMAN. Madam President, I would like to take a moment to honor and thank those who have earned the noble title of “veteran.”

The 11th hour of the 11th day of the 11th month marked the end of World War I. Since then, this date has been celebrated first as Armistice Day and now as Veterans Day, but no matter what we call it, it serves the purpose of honoring our Nation's heroes—those who have served in the military, our veterans.

As the son of a World War II veteran who served as a waist gunner on B-17s, I grew up in a family with values rooted in military tradition. My father remained in the military until he retired from the Air Force as a master sergeant after 20 years of service. At an early age, my brother, my sister, and I were taught about the sacrifices our men and women in uniform make. Growing up in this environment gave us an understanding of the unique challenges military families face—an understanding that guides my efforts today.

My mom would continually remind me of my responsibility as a public servant to keep our promises to those who served our Nation in uniform. Up until her recent passing, one of the first questions she would ask whenever I saw her would inevitably be: What have you done for veterans lately?

I was always able to answer that question with a clean conscience while serving in the House and now in the Senate. Despite how divided we can be on other issues, Democrats and Republicans come together—more often than not—to pass policies that will enhance the quality of life for both our veterans and their families.

Today, in the Senate Veterans' Affairs Committee, we are working to secure the benefits our veterans deserve and improve existing benefits to meet the needs of more than 23 million American veterans, including 257,000 who call Arkansas home.

It is most important for all of us to remember the reason we are working to improve veterans' benefits: the men and women of our Armed Forces and their families. Through their selfless sacrifice, we are protected from our enemies. They make the United States a safer place to live. They have heard our Nation's call and met the challenge with their service. It is now up to us to ensure our veterans have access to all

the opportunities our great Nation has to offer.

Taking care of our veterans is the responsibility of every American.

It is important that we all continue to serve our veterans and reflect on those who served in conflicts around the globe, as well as those who are serving today in support of the war on terror in Iraq and Afghanistan. Let's also reflect on the sacrifices of those who have given their last full measure of devotion.

In September I came to the Senate floor to honor the lives of five Arkansans who were killed in action this year. Last week, sadly, we lost a sixth member from Arkansas this year, SPC Sarina N. Butcher, who followed in the footsteps of her grandfather and brother and joined the military in April 2010. As a member of the Oklahoma National Guard, she served as an automated logistical specialist, but her ultimate goal was to become a nurse.

At the tender age of 19, this Crossett, AR, native and mother to a beautiful little girl was killed in an IED explosion in Afghanistan on November 1. We are grateful for her service and her sacrifice. We are forever indebted to her and to every American who has worn the uniform and sacrificed their own safety and security for that of the American people.

Every day the men and women of our Armed Forces stand in defense of our Nation and our cherished way of life. They do so regardless of costs, fully aware they may be called to pay the ultimate price for their country.

This week, communities across the country gather to express our undying gratitude for those who have worn our Nation's uniform. Let's always honor the service of those who have served and those on the front lines as we address the important challenges facing the Nation.

To all of our veterans and their families, I say thank you on behalf of a grateful nation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

POSTAL SERVICE

Mr. SANDERS. Madam President, there are two issues I would like to touch upon this afternoon which I think are significantly important to the people of our country.

On Sunday, 2 days ago, I held a town meeting in Montpelier, VT, on the issue of saving the Postal Service. Frankly, I was stunned by the number of people who came. As you know, Vermont is not the largest State in the Nation, and yet we had about 350 people crowding into the cafeteria at Montpelier High School to say very clearly that they do not want to see the Postal Service dismembered. They do not want to see policies develop that will create a death spiral for the post offices of America.

We heard a lot of testimony from many people, and the bottom line is that everybody in that room thought it

was terribly wrong that in the midst of a recession the post office is talking about cutting 120,000 good-paying jobs in our country. It didn't make sense to anybody in that room.

I find it ironic that at a moment when, appropriately enough—and I strongly support the effort—we are talking about creating jobs for veterans who are coming home from Iraq and Afghanistan, with high unemployment rates, many of the people who work in the post office are, in fact, veterans. On one hand, we are trying to create jobs for veterans; on the other hand, if the Postal Service does what it wants, we may end up losing 120,000 jobs, including many veterans.

I wanted to touch on some of the important issues that I think we have to deal with regarding the Postal Service. I want to just go over a letter that Senators LEAHY, GILLIBRAND, WYDEN, and myself sent to the chairpeople and ranking members of the Committee on Homeland Security and the subcommittee as well; that is, Senators LIEBERMAN, COLLINS, CARPER, and SCOTT BROWN. These are the points we made in the letter. These are points that will be incorporated into legislation that I will be introducing this week—legislation that I think is commonsense legislation, legislation that will help us create a business model so the Postal Service can be successful, legislation that will save 120,000 jobs.

This is what we wrote in the letter to the Homeland Security Committee. A lot of people don't know this. They say correctly that the Postal Service is having problems because we are in a digital age, and first class mail is going down because people are e-mailing. That is true.

Second, we are in the midst of a recession and many businesses are facing problems. But the most important financial problems facing the post office today are not those issues; they are the issues of accounting approaches that have done great disservice to the Postal Service.

The U.S. Postal Service uniquely has been forced to prefund 75 years' worth of future retiree health benefits in just 10 years. There is no other agency of government that comes close to that onerous requirement, nor do we believe there are any companies in the private sector that have been asked to do that. We are asking the Postal Service to come up with a huge amount of money and put it into a fund in a way that no other agency of government—and we think no other private company—has been forced to do.

This mandate costs the Postal Service between \$5.4 billion and \$5.8 billion per year, and it accounts for 100 percent of the Postal Service's \$20 billion debt. Without that onerous requirement, the USPS would still have significant borrowing authority with the U.S. Treasury to ride out the tough economic times we are seeing in the recession.

Furthermore, it is not only future retiree health benefits they are being

asked to come up with and fund, but the USPS needs to recoup the overpayments it has made to the CSRS and FERS, the Federal retirement system. According to studies by the Hay Group and the Segal Company, USPS has overpaid the CSRS by between \$50 billion and \$75 billion. If we look at those two issues, if we can deal with those issues and treat the Postal Service fairly, we will have gone a very long way toward addressing the immediate financial crisis the Postal Service is facing.

Second, what we want to be very careful about as we develop business models for the future is to not start cutting, cutting, cutting, and creating a Postal Service that will no longer have customer support and lay the groundwork for literally a death spiral and the destruction and demise of the Postal Service in years to come.

I come from a rural State. Post Offices are extremely important to the people of small towns above and beyond getting mail. They become, in a sense, in some ways, the identifying feature of a small town. It is where people come together and talk. It is very important, in my mind, that we not start cutting pell-mell hundreds and hundreds of small post offices in rural America. I think the legislation we will be offering this week addresses that problem in a sensible and reasonable way.

Second of all, the Postal Service can never be competitive if when you drop a letter into a postal box it takes 5 days for that letter to get to its destination. One of the ideas that the Postal Service is talking about is making very significant cuts in what they call processing centers. That is where the mail is gathered and forwarded. If we cut those centers—in my State, we have two that are on the line, Essex Junction and Wright River Junction. If we cut those and other processing centers all over the country, what will happen is that when we drop that letter into a mailbox, it could take up to 5 days for that letter to reach its destination. When we have that poor service, people are simply going to stop using the post office, and that continues the death spiral. People are not going to want to use the service.

Thirdly, and in the same vein, the Postal Service is now talking about cutting Saturday delivery. Again, that means there are a whole lot of folks who get prescription drugs on Saturday, and a whole lot of people who get a magazine or newspapers on Saturday—if we cut that back, people are going to say: No, I don't want to deal with the post office anymore. It is not worth it.

So it seems to me the choice we have is to do what the Postal Service is now talking about; that is, cut and eliminate rural post offices, end Saturday mail delivery, cut and eliminate significant numbers of processing centers, which will slow down the delivery of mail—that is one approach—and lay

off, by the way, some 120,000 American workers, including many veterans. That is a very bad idea.

The other approach is to come up with a business model that recognizes that we are in the 21st century; that the post office has to evolve and change and give the post office the freedom to compete in a way that addresses the needs of its customers. I will give an example.

The Presiding Officer comes from a rural State, as I do. A lot of people in our States want to get fishing licenses or hunting licenses. If they walked into a post office in rural New Hampshire or rural Vermont and said: Hey, can I fill out an application to get a fishing or hunting license, the post office would say they we don't do that, they are not permitted to do that.

If an individual literally wants to walk into a post office—and postmasters tell me this happens every day—and say: I have a letter, and I want it notarized, they may be a notary public, but they are not allowed by law to notarize that.

The issue of the digital revolution is obviously impacting post offices not only in the United States but around the world. Other countries are looking at these challenges in a way that we are not. I will give one more example.

For a lot of reasons—legal and otherwise—there are people who would like to see a document delivered to somebody in writing and not simply in e-mail. There are post offices now in other countries where one can send an e-mail, say, from Vermont to California, it gets printed, and on the same day that document gets delivered to a business or a home. The post office in America is not allowed to do that. So by law our post office is restricted from entering the 21st century.

If somebody walks into a post office now and says they want to print up 10 copies of a document, so where is the copying machine, the postmaster would say they don't have one, that they are not allowed to have a copy machine.

There are a lot of ideas out there that people are talking about as to how the Postal Service can address the needs of customers in the 21st century.

Last, but not least, on this issue, one of the people at the town meeting on Sunday got up and said: I want to say this. In our town, we know our letter carrier very well. Our letter carrier noticed that mail remained in the mail box of an elderly person, and the mailman got on the phone and called the police department because he suspected that something was wrong.

It turns out that something was wrong and that person's life was saved. I expect that happens all over this country. We have hundreds of thousands of letter carriers who know people, interact with people. They do play and can more so play an important role in providing services.

Bottom line, Madam President, I think it is a bad idea in the midst of a

recession to slash 120,000 jobs, including jobs of many of our veterans. Second, I do believe if we use our brains and entrepreneurial spirit, we can create a post office that is very relevant and can be profitable in the 21st century.

We will be introducing legislation addressing all of these issues, and I hope very much that my colleagues will co-sponsor that legislation.

TAX FAIRNESS

Madam President, there is another issue I want to talk about, and that is the work of the supercommittee. This country has a recordbreaking deficit. It has a \$14-plus trillion national debt, and I think all of the American people—or virtually all—want to see the supercommittee come up with a proposal which makes sense and which helps us address our deficit crisis. My suggestion to the supercommittee is that they, in fact, can do that by simply doing what the American people want them to do.

I have heard some of the ideas out there, where members of the supercommittee are talking about cutting Social Security, which has not contributed one nickel to our deficit and has a \$2½ trillion surplus, and another idea being that we have to cut Medicare and Medicaid. Well, we have 50 million people without any health insurance. I don't think it is a brilliant idea to throw more and more people off health insurance. So I think those are bad ideas, and every single poll I have seen tells me the American people agree those are dumb ideas.

Meanwhile, I have seen and talked to a whole lot of people who are asking me this question: How is it, when the wealthiest people in this country are becoming much wealthier, when the effective tax rates of the top 2 percent are the lowest in decades, that we are not asking those people who are doing phenomenally well to start paying their fair share of taxes?

This is not just a progressive idea and it is not just a Democratic idea. The polls suggest that all across the political spectrum, the American people are saying: Yes, it is right and appropriate that the wealthiest people in this country start paying their fair share of taxes.

I will just mention an ABC News-Washington Post October 5, 2011, poll reflecting that 75 percent of Independents support raising taxes on millionaires. In that same poll, 57 percent of Republicans support raising taxes on millionaires. In that same poll, 55 percent of tea party supporters—supposedly the extreme rightwing who want to abolish Social Security and Medicare and Medicaid, which turns out not to be the case at all—agree with raising taxes on millionaires. According to a June 2011 Washington Post poll, 72 percent of Americans support raising taxes on incomes over \$250,000.

So I think we know what the American people want. They do not want, in poll after poll, to cut Social Security,

Medicare, and Medicaid because they know how vitally important those programs are to the well-being of tens of millions of Americans. For example, according to a February 2011 NBC News-Wall Street Journal poll, 77 percent of Americans are opposed to cutting Social Security to reduce the deficit.

So where are we as a country? We are pretty united. We are in agreement. What the American people are saying is that the rich are getting richer, their effective real tax rates have gone down, and they have to pay more in taxes to help us through deficit reduction and to create jobs.

The American people also understand there are huge corporate loopholes out there, with oil companies making money hand over fist and getting huge tax breaks and Wall Street getting huge tax breaks. We lose \$100 billion a year because large companies and the wealthy put their money into tax havens in the Cayman Islands, in Bermuda, and in Panama. The people of this country know that is wrong.

I hope very much that the supercommittee will do nothing more than listen to the American people. That is all. If they do that, they will do the right thing. They will not suggest that we cut Social Security, Medicare, and Medicaid, but they will suggest that the wealthiest people in this country start paying their fair share of taxes. They will recommend that we do away with these outrageous loopholes large profitable corporations enjoy. If they do that, we will, in fact, come up with an agreement that will help us reduce the deficit, and we will win the support of Democrats, Republicans, and Independents.

With that, Madam President, I yield the floor, and I suggest the absence of a quorum.

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

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. WICKER. I ask unanimous consent to speak as if in morning business.

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

HUMAN RIGHTS IN RUSSIA

Mr. WICKER. Madam President, I have come to the floor on a number of occasions to voice my concern about the deteriorating rule of law and the lack of respect for human rights in Russia, primarily highlighting the cases of Mikhail Khodorkovsky and Platon Lebedev.

The fact that Khodorkovsky and Lebedev remain in jail is deplorable. But I rise to speak about another case, in which a man who opposed the government not only went to jail but died there. I choose my words carefully this

afternoon, knowing that they will be disturbing to many and that a number of people within the Russian Government will take great offense. But I want everyone within the sound of my voice to know that I am choosing my words carefully.

Sergei Magnitsky was a lawyer and a partner with an American-owned law firm based in Moscow. He was married, with two children. His clients included the Hermitage Fund, which is the largest foreign portfolio investor in Russia.

Through Sergei Magnitsky's investigative work on behalf of Hermitage, it was discovered that Russian Interior Ministry officers, tax officials, and organized criminals worked together to steal \$230 million in public funds, orchestrating the largest tax rebate fraud in Russian history. As Magnitsky would come to find out, this group had fraudulently reregistered three investment companies of the Hermitage Fund and embezzled from the Russian Treasury all of the profits, taxes, that these companies had paid, and did so under the guise of a tax refund.

In October of 2008, Magnitsky voluntarily gave sworn testimony against officials from the Interior Ministry, against Russian tax departments, and the private criminals who he found had perpetrated the fraud. A month later, Interior Ministry officers came to his Moscow apartment, arrested him in front of his wife and two children, and threw him in pretrial detention.

At the same time, the Russian Federal Security Service claimed there was evidence that Magnitsky had applied for a U.K. visa and that he was considered a flight risk. The Russian courts used this to prolong the term of his detention without a trial to 12 months. I should note that the British Embassy in Moscow has confirmed that Mr. Magnitsky had not applied for a U.K. visa since the year 2002, and so the pretrial detention was based on a fabrication.

Once in custody, Magnitsky was pressured and tortured by officials, hoping he would withdraw his testimony, and asking him to falsely incriminate himself and his client. They placed Mr. Magnitsky in an overcrowded cell with no heat, no window panes, no toilet, and kept lights on all night in order to deprive him of sleep. Each time he refused to withdraw his testimony against the officials, his conditions worsened—as did his health. He lost 40 pounds and developed severe pancreatitis and gallstones.

On July 25, 2009, 1 week before a planned operation by detention center doctors, Mr. Magnitsky was transferred to a maximum security detention center with no medical facilities. He spent the next 4 months of his life without any medical care. All of his requests for medical examination and surgery were denied by the Russian Government officials.

The Interior Ministry officials managing Magnitsky's detention refused

family visits as “inexpedient to the investigation.” From the time of his arrest, Magnitsky saw his wife only once. He never saw his children again after his arrest.

During his 358 days in detention, Mr. Magnitsky wrote more than 450 petitions requesting medical attention and challenging his cruel treatment, the denial of legal remedies, and protesting his being taken hostage by the very Interior Ministry officials he had testified against. Every petition filed was either ignored or rejected by Russian authorities.

On November 13, 2009, Sergei Magnitsky’s condition worsened dramatically. Doctors saw him on November 16, when he was transferred to a Moscow detention center that had medical facilities. Instead of being delivered to the detention center hospital and actually treated immediately, Mr. Magnitsky was placed in an isolation cell, reportedly handcuffed, beaten, and he died in that cell.

On the day following Mr. Magnitsky’s death, detention center officials informed his lawyers that he had died from a rupture of his abdominal membrane and toxic shock. That same day, although detention center facilities had said abdominal membrane and toxic shock, the official cause of his death was changed to heart failure. Indeed.

Two requests by his family for an independent autopsy were rejected by Russian authorities. A week after Mr. Magnitsky’s death, senior Russian Interior Officials publicly claimed that Magnitsky was not sick at all in detention. Seven months after his death, Interior Ministry officials claimed they were not aware of Magnitsky’s complaints and requests for medical assistance. Ten months after his death, the Russian state investigative committee claimed that Magnitsky was not pressured and tortured but died naturally of heart disease. His death, the committee claimed, was “nobody’s fault.” Nearly 2 years after Magnitsky’s death, not a single person has been prosecuted for his false arrest, for his torture, for his murder in custody, or for the \$230 million theft he exposed.

Some may question the facts I have outlined today. Are they in dispute? I would point out that on November 23, 2009, 1 week after Mr. Magnitsky’s death, the chair of President Medvedev’s Human Rights Council publicly raised Magnitsky’s death with President Medvedev. The following day, President Medvedev ordered the General Prosecutor and the Justice Minister of Russia to investigate the death. The investigation was limited and did not result in any criminal prosecutions.

However, on December 28, 2009, the Moscow Public Oversight Commission, an independent watchdog mandated under Russian law to monitor human rights abuses in Moscow prisons and detention centers, issued its conclusions on the Magnitsky case. The re-

port stated that in detention, Magnitsky had been subjected to torturous conditions, physical and psychological pressure, and was denied medical care. Moreover, the members of this courageous Commission concluded that his right to life had been violated by the Russian State—by the Russian State. These conclusions were sent to the Russian General Prosecutor’s Office, the Russian State Investigative Committee, the Russian Ministry of Justice, the Presidential Administration, and the Federal Penitentiary Service. None of the government agencies responded to any of the report’s conclusions.

Then, on July 5, 2011—this year—the Russian President’s Human Rights Council issued its independent expert findings on the Magnitsky case. The report found the following: that Mr. Magnitsky was arrested on trumped-up charges in breach of Russian law and the European Human Rights Convention; that his prosecution was unlawful; that he was systematically denied medical care; that he was beaten in custody, which was a proximate cause of his death; that his medical records were falsified; and that there is an ongoing coverup and resistance by all government bodies to investigate. Thank heaven for the intrepid members of the Russian President’s Human Rights Council.

While little has been done inside Russia regarding that case, action has been taken here in the United States. In May 2011, I joined Senator BEN CARDIN in introducing the Sergei Magnitsky Rule of Law Accountability Act. The bill extends the application of visa and economic sanctions to officials in the Magnitsky case and in other cases of gross human rights abuses. The legislation currently has 23 sponsors, and I urge all of my colleagues to consider joining us on this bill. Join us on this bill today.

On September 16, 2011, 15 leading human rights activists and representatives of the Russian civil society issued an open letter urgently calling on this Congress to pass this legislation. The letter states:

Sergei Magnitsky has become a victim of the inhumane Russian justice system. Many Russian citizens are unlawfully deprived of liberty due to the travesties of this system. The impunity of those who have fabricated the case against Magnitsky and have persecuted him opens the door for other officials who enrich themselves with stolen property and target political opponents of the regime. . . .

The letter goes on to say:

The consistent application of international pressure on corrupt members of the ruling establishment would significantly support our civil society and those honest individuals inside the Russian power structures who are trying to revamp and reform the existing government institutions.

The letter concludes:

We urge you—

They urge us, the Members of Congress—

to adopt the “Sergei Magnitsky Rule of Law Accountability Act of 2011” without any delay.

We in the Senate should be standing in support of the principled, fearless Russian citizens who have the courage to expose these corrupt abuses, to expose the brutality and thuggery of their own Russian Government.

I urge President Obama and I urge Secretary Clinton to make human rights and rule of law in Russia a central part of our efforts to reset bilateral relations. Without commitment to these basic principles, our efforts to find common ground on other issues of mutual concern will continue to be undermined.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. AYOTTE. Mr. President, I ask unanimous consent to speak as if in morning business.

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

CROSS-STATE AIR POLLUTION RULE

Ms. AYOTTE. Mr. President, I rise to discuss S.J. Res. 27, a resolution of disapproval of the cross-State air pollution rule. I appreciate my friend, the Senator from Kentucky, for bringing his concerns forward through this resolution. However, this is an issue I have been extensively involved in as New Hampshire’s former attorney general, and I believe this resolution is misguided. This issue requires a balanced approach, and when looking at environmental regulations, we must review each on a case-by-case basis. In that vein, I cannot support this resolution.

The cross-State air pollution rule is designed to control emissions of air pollution that cause air quality problems in downwind States—and New Hampshire is a downwind State—and is estimated to reduce powerplant sulfur dioxide emissions by 73 percent and emissions from nitrogen oxides by 54 percent from 2005 levels.

It is important to note that similar pollution standards have been in place for 6 years—first implemented by the Bush administration in 2005—and many utilities have already taken steps to comply with the rule.

The rule encourages the use of the best technology available so downwind States such as New Hampshire will be able to achieve national clean air standards. Without this rule in place, New Hampshire will be unable to achieve national clean air standards due to air pollution that is outside the State’s regulatory control and comes from other States.

In New Hampshire, we have a long, bipartisan tradition of working to advance commonsense, balanced environmental protections. That is the perspective from which I approach this

resolution. From my time as the State's attorney general, I understand well that New Hampshire is one of several downwind States in what is infamously known as "America's tailpipe." For far too long, air pollution generated by Midwestern coal-fired powerplants has been allowed to flow into the jetstream unabated and to settle in New England, leading to diminished air quality in my home State of New Hampshire.

As attorney general, I worked to protect Granite State residents and our environment from air pollutants generated by Midwest coal-fired powerplants. The reality is that air pollution does not stop at State borders, and New Hampshire should not be the tailpipe for pollutants from out-of-State powerplants. It is a matter of common sense to ensure that one State's emissions of pollutants do not unduly harm another State's air quality.

I urge my colleagues to oppose the resolution of disapproval.

Ms. SNOWE. Mr. President, I rise to express support for the pending legislation on a critical issue that addresses the burdensome cost of compliance with the Tax Code. H.R. 674 is modeled after bipartisan legislation Senator BROWN and I introduced earlier this year to repeal the 3 percent withholding on government contractors that was enacted in 2005.

I thank Senator BROWN for his steadfast and persistent leadership on this issue as well as Senators AYOTTE, BARRASSO, BLUNT, BURR, CHAMBLISS, INHOFE, JOHANNIS, BOOZMAN, and RISCH who are also cosponsors of the legislation.

The 3 percent withholding provision mandates that Federal, State, and local governments withhold 3 percent of their payments to private contractors, including Medicare provider payments, farm payments, defense contracts and certain grants.

According to the National Federation of Independent Business, "the 3 percent withholding provision puts both an administrative burden on all parties involved and a strain on the daily operating cash flow of the businesses entering into these contracts." This provision would deduct 3 percent from those payments and send the cash to the IRS for what can be considered a downpayment on taxes. The following year, absent any outstanding tax liability, the contractors, or doctors in the case of Medicare, would then get the payment rebated to them. This forces legitimate small businesses who pay their taxes in a timely manner to loan the government 3 percent of a total contract.

The American Medical Association supports repealing the 3 percent withholding because it is an additional tax on physicians who already are facing a 29.5 percent cut in Medicare payments on January 1 of next year. According to the AMA Physician Practice Information Survey, 78 percent of office-based physicians in the United States are in practices of nine physicians and under,

with the majority of those physicians being in either solo practice or in practices of between two and four physicians. Withholding 3 percent of Medicare payments for services furnished by physician practices will create a difficult cash flow problem for physician practices as small businesses.

This is another example of good intentions having unintended consequences and originated as a result of very legitimate efforts to address the tax gap—the difference between what is owed in taxes and the amount that the IRS is able to collect.

At first glance, it may seem reasonable to withhold a portion of payments to contractors, until they pay taxes on the earnings. However, the problem with this approach is that it assumes that contractors will not pay their taxes and, regrettably, small businesses suffer as a result of this faulty assumption.

Because this mandate withholds 3 percent of payments to contractors, it is a serious problem for small businesses for whom such a withholding from cash-flow would make bidding on contracts cost prohibitive. As such, this mandate threatens to stifle the economy at a time when we cannot afford any unnecessary obstacles in the road to recovery.

Everyone agrees that Americans should pay their taxes in full and none of us supports tax cheats, yet there are already extensive penalties including monetary and even criminal for tax delinquency. The unfortunate fact is that the 3 percent withholding provision will cost far more to implement than will be collected in tax revenue.

As a senior member of the Senate Finance Committee, I remain committed to exploring alternative means to ensure government contractors are indeed paying their taxes in full while working to mitigate the costs of compliance. On November 1, the Senate passed the Agriculture appropriations bill which included a provision prohibiting agencies from awarding contracts to companies with unpaid Federal taxes.

Additionally, that legislation barred any contract over \$5 million from being awarded if a company cannot certify it has paid its taxes in the last 3 years. Unfortunately, the Obama administration has criticized this provision as having "unintended consequences" and that the bill as written would hurt contracting decisions. I believe the legislation should have gone even further and forced all contractors to certify that their taxes are up to date. The bottom line is the Federal Government should not be contracting with those who fail to meet their tax obligations and it is imperative this administration develop a coordinated process to not only punish fraudulent contractors but ensure tax compliance before contracts are awarded.

That said, our country is in no place to stifle already anemic economic recovery and disappointing job growth

numbers that have plagued the Nation for 3 years now. According to data released Friday by Bureau of Labor Statistics, the unemployment rate remains persistently high at 9 percent.

About 45 percent of the unemployed have been out of work for at least 6 months—a level previously unseen in the six decades since World War II. At a time when 14 million Americans are still unemployed, and have been so for the longest period since record keeping began in 1948, our government should be taking every possible step to ease the burden on job creators. We need to offer the American people solutions that help grow jobs, not provisions that prevent it.

Compliance with this law will impose billions of dollars of cost on both the public and private sectors, with a disproportionate impact on small businesses. These compliance costs will far exceed projected tax collections.

For instance, just one Federal agency, the Department of Defense, estimated that it would cost over \$17 billion in the first 5 years to comply, and the revenue estimate in 2005 projected that only \$6.977 billion would be collected over a 10 year window.

Even if that DOD estimate is inflated, as some charge, the Congressional Budget Office projects costs of \$12 billion just to implement this provision at the Federal level. There are similar costs imposed across all of the Nation's State and local governments, making this provision simply an unfunded mandate on State and local governments. This is a case of spending a dollar to collect a dime, which is counterproductive for addressing the Nation's deficits.

As ranking member of the Senate Committee on Small Business, I have heard from many businesses across the country that the 3 percent withholding amount will exceed their profit on a given contract and will prevent them from being able to make payroll, forcing them to borrow from banks just to pay their employees.

This is not the way to encourage jobs and business growth but rather the way to stifle it. This 3 percent withholding provision would increase the tax and regulatory burdens on our businesses—precisely the wrong policy potion for these troubled times.

Given the record deficits and budgetary crisis in this country, it is imperative that the Congress find funds to offset the repeal provision. The President and the House of Representatives both agreed that a proper way to pay for repeal would be to retract a poorly drafted provision from the new health care law—a provision that would have added people who do not meet the income requirements on to the already-strained Medicaid Program which provides health care to the indigent.

As a strong supporter of Medicaid, I know it is important to keep the program narrowly targeted at those populations most in need, and if doing so in

this case allows us to repeal the damaging 3 percent withholding rule, then so much the better.

At a time when the American people are extremely frustrated with the partisan gridlock and Congress' inability to pass meaningful legislation, this bipartisan bill would provide small businesses with much needed certainty and relief.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The bill 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 (Mr. BLUMENTHAL). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the motion to proceed to H.R. 674 be adopted; that after the motion is adopted, the majority leader be recognized to offer amendment No. 927 on behalf of Senator TESTER and others; that when the Senate resumes consideration of the bill on Wednesday, November 9, Senator MCCAIN or his designee be recognized to offer a second-degree amendment, No. 928; that no other amendments, points of order, or motions be in order to either amendment or the bill prior to the votes other than budget points of order and the applicable motions to waive; that following morning business on Wednesday, November 9, the Senate proceed to the consideration of the motion to proceed to S.J. Res. 6, as provided under the previous order; that upon the use or yielding back of time, the Senate resume consideration of H.R. 674; further, that at 10 a.m. Thursday, November 10, the Senate proceed to the consideration of the motion to proceed to S.J. Res. 27 as provided under the previous order; that at noon, the Senate resume consideration of the motion to proceed to S.J. Res. 6 and there be up to 5 minutes of debate, equally divided between the two leaders or their designees, prior to a vote on the motion to proceed to S.J. Res. 6; that following the vote, the Senate then proceed to vote on the motion to proceed to S.J. Res. 27; that there be 2 minutes equally divided between the votes; that if either or both motions to proceed are agreed to, then further debate and votes on the joint resolutions be deferred until 2:15 p.m. on Tuesday, November 15, with all other provisions of the previous orders regarding the joint resolutions remaining in effect; that at 2:15 on Thursday, November 10, the Senate resume consideration of H.R. 674; that there be up to 15 minutes of debate on the bill and amendments to run concurrently, with the time equally divided between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendments to H.R. 674 in the following order: McCain amendment No.

928 and Reid for Tester amendment No. 927; that the McCain and Reid for Tester amendments be subject to a 60-vote affirmative vote threshold; that upon the disposition of the amendments, the bill be read a third time and the Senate proceed to vote on passage of the bill, as amended, if amended; that upon disposition of H.R. 674, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to H.R. 2354, the Energy and Water appropriations bill.

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

3% WITHHOLDING REPEAL AND JOB CREATION ACT

The PRESIDING OFFICER. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 674) to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility to certain health-care related programs, and for other purposes.

AMENDMENT NO. 927

(Purpose: To amend the Internal Revenue Code of 1986 to permit a 100 percent levy for payments to Federal vendors relating to property, to require a study on how to reduce the amount of Federal taxes owed but not paid by Federal contractors, and to make certain improvements in the laws relating to the employment and training of veterans)

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. TESTER, for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. STABENOW, Mr. BROWN of Ohio, Mr. REID, Mr. AKAKA, Ms. CANTWELL, Mr. LEAHY, Mr. CASEY, Mr. COONS, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Mr. SANDERS, Mrs. SHAHEEN, Mr. BENNET, Mr. WEBB, Mr. BEGICH, Ms. LANDRIEU, Mr. SCHUMER, and Mr. BROWN of Massachusetts, proposes an amendment numbered 927.

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

ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2012—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 157, H.R. 2354.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to proceed to H.R. 2354, an Act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 157, H.R. 2354, an act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

Harry Reid, Amy Klobuchar, Dianne Feinstein, Patrick J. Leahy, Richard J. Durbin, John F. Kerry, Charles E. Schumer, Al Franken, Tom Udall, Richard Blumenthal, Kirsten E. Gillibrand, Carl Levin, Jeff Merkley, Ron Wyden, Thomas R. Carper, Daniel K. Inouye, Benjamin L. Cardin.

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

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

Mr. REID. Mr. President, I now withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

MORNING BUSINESS

Mr. REID. Mr. 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 MR. LEDFORD STEPHENS

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a respectable Kentucky veteran, Mr. Ledford "Led" Stephens. Ledford, who recently celebrated his 90th birthday, still remembers vividly the time he spent serving overseas in Europe during World War II.

Led grew up across the creek from Lower Cal Hill Cemetery in Pine Knot, KY. When he was 18 years old, he enlisted in the U.S. Army. After passing two physicals, Led was allowed to spend 2 weeks at home before he boarded a train at Stearns station to Fort Thomas. There he received his clothes and was then shipped to Fort Wheeler, GA, for basic training. After completing basic training, Led spent a short time at Camp New Jersey where he received his "impregnated clothes," which were outfits that protected soldiers from gas—this was a clear indicator that he would eventually be shipped overseas.

A short time later, Led remembers boarding a ship in New York that sailed for 14 days and nights before finally reaching Casablanca, North Africa. After arriving, Led and his group were placed with the 3rd Division and sent to assist in the Invasion of Sicily. Led was assigned to the position of 30-caliber machine gunner on his team.

"From there, I went on to the Invasion of Italy. We went in there on a beach and fought our way up," Led recalls. "I met a fellow from Frazer, Kentucky, and we both promised that we