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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

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

Let us pray.

O Lord, God of hosts, thank You for making Yourself known to us in the radiant lives of men and women. We are inspired by the acts of sacrifice and service that we witness each day on Capitol Hill. Thank You for the labor of our lawmakers. May they seek to give their best ability to the people's good, rising above bitterness by an unshakable faith in the unstoppable power of Your providence. So may they be Your obedient servants who shall not become discouraged by the inevitable setbacks they encounter. May they also commit their way to You, put their trust in You, and know that You will bring to pass what is best.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY 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. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 21, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for 2 hours, with Senators permitted to speak for up to 10 minutes each. The Republicans will control the first hour and the majority will control the second hour.

Following morning business, the Senate will proceed to executive session to consider the nomination of Roberto Lange to be a U.S. district judge for the District of South Dakota. Under an agreement reached last night, debate on the nomination will be limited to 2 hours, equally divided and controlled between Senators LEAHY and SESSIONS or their designees. At 2 p.m., the Senate will proceed to vote on confirmation of the nomination.

Upon disposition of the Lange nomination, Senators should be prepared to vote on the motion to invoke cloture on the motion to proceed to S. 1776, the Medicare Physician Fairness Act.

Last night, I filed cloture on the conference report to accompany the Department of Defense Authorization Act and on the nomination of William Sessions to be Chair of the U.S. Sentencing Commission. Senators will be notified when these votes are scheduled.

COMMENDING SENATOR JOHN KERRY

Mr. REID. Mr. President, the prayer of the Chaplain today was right on point for something that has taken place in the last 3 or 4 days. In Afghanistan, we are at a critical juncture. For Afghanistan to move forward and win the fight against the Taliban, the country must have a legitimate government.

The first round of elections in Afghanistan was tainted by allegations of significant fraud, and we faced the possibility of a potential political crisis in Afghanistan. I am pleased President Karzai has recognized the need for a runoff election.

The reason I mention sacrifice and service is in relation to Senator JOHN KERRY. If you look at his life, it has been one of sacrifice, it has been one of service to our country—whether in the jungles of Vietnam, where he was wounded three times and received a Silver Star for his heroism, or whether it was in his capacity as the Democratic nominee for President or whether it has been as chairman of the Foreign Relations Committee.

He took off for Afghanistan and Pakistan at a time when he was badly needed. I missed him here. We had some votes I wish JOHN KERRY could have been here for. I told him that when he called me. But he explained what he was doing there, and immediately upon his hanging up, I received a call from Secretary of State Hillary Clinton, saying: He is doing extremely good work there. Don't be upset at him because he can't be here because what he is doing in Afghanistan is something that is vitally important to not only our country but to the world.

That sacrifice and that service—and also the Chaplain mentioned labor—this man worked very hard. He has labored, as chairman of this Foreign Relations Committee, as I have never seen. He has been so involved in what is going on there. Not only is he dealing with the issues we see every day—

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



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Afghanistan, Pakistan, North Korea, with what is going on on the continent of Africa—he is involved in global warming because of the treaty implications of the treaty we are trying to negotiate in Copenhagen in December.

I am extremely impressed with Senator KERRY always but especially in the last few days. As chairman of the Foreign Relations Committee, he has played a central role in resolving the crisis in Afghanistan.

As many have read in the news, he had been trying to persuade President Karzai that a second round of elections was necessary—and they were necessary. If you read the press today, it was a touch-and-go thing. It was not until President Karzai and Senator KERRY took a walk together to talk about what is going on in that part of the world that the decision was made by President Karzai that he would go along with the second election.

Senator KERRY has worked closely with our diplomatic team, including Ambassador Eikenberry; Secretary Clinton; our National Security Adviser, General Jones; and others to send a clear message to President Karzai.

We all know the situation in Afghanistan remains fragile and that there will still be many steps needed to be taken so we have a credible and legitimate government in Kabul. But I believe very sincerely Senator KERRY played a pivotal role in preventing a crisis in Afghanistan and that his work has not only stabilized Afghanistan but the entire region.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE WEEK XIV, DAY III

Mr. MCCONNELL. Mr. President, over the last several months, lawmakers in Washington have been engaged in a serious and wide-ranging debate about the fate of our Nation's health care system. It is a debate that grew out of a recognition that while America may have the best health care in the world, the cost of care is too high and too many lack insurance. This much was never in dispute.

There is not a single Member of Congress from either party who does not want to solve these problems. That is why the disagreements we have had have arisen not over the ends but over the means of achieving these common

goals. That is why, over the past few months, two very different approaches to reform have come into view.

For most Democrats, reform seems to come in a single form: a vast expansion of government, detailed in complicated, 1,000-page bills, costing trillions. The only thing that is clear about the Democratic plans are the basics: They cost about \$1 trillion, they increase premiums, raise taxes, and slash Medicare.

In short, they include a lot of things Americans did not ask for and do not want, and they include very few of the things Americans thought they were going to get.

What was supposed to be an exercise in smart, bipartisan, commonsense reforms that cut costs and increased access somehow became an exercise in government expansion that promises to raise costs, raise premiums, and slash Medicare for seniors. For Democrats in Congress, the original purpose of reform seems to have been blurred.

Republicans have taken a different approach. We agreed at the outset that reform was needed. But in our view, those reforms would not necessarily cost a lot of money, would not add to the debt, and would not expand the government.

Instead of a massive government-driven experiment, Republicans have offered commonsense, step-by-step solutions to the problems of cost and access—things such as medical liability reform, which would save tens of billions of dollars and increase access to care; needed insurance reforms that would increase access and lower costs; and prevention and wellness programs, such as the ones that have been so successful in bending the cost curve in the right direction—which is downward—at major businesses such as Safeway.

Here were the two approaches to reform. Well, the American people looked at these two approaches and they made their choice. All summer long, we watched as ordinary Americans reacted to the administration's plan to put government between individuals and their health care and to pay for it with higher premiums, higher taxes, and Medicare cuts in the middle of a recession.

Americans rejected the idea of a vast, new experiment to reorder their health care and nearly one-fifth of the economy in a single, stunning move. They know the stakes are too high. Last Friday, the Treasury Department announced the government ran a deficit, in the fiscal year that just ended, of more than three times the previous record.

The national debt is nearly \$12 trillion. It is expected to grow by another \$9 trillion over the next 10 years. Medicare and Medicaid cost the Federal Government nearly \$700 billion a year—a cost that is expected to double in 10 years. These numbers are like nothing we have ever seen. Yet in the midst of all this, the administration is proposing that we conduct a \$1 trillion

experiment in health care that would expand government spending even more. Now Democrats in Congress are proposing that we put another \$1/4 trillion on the government charge card in order to prevent a cut in the reimbursement rate to doctors who treat Medicare patients.

All of us want to keep this cut from happening, but the American people don't want us to borrow another cent to pay for it, and they don't want Democrats in Congress to pretend that this \$1/4 trillion isn't part of the cost of health care reform because it is. It is also a clear violation of the President's pledge that health care reform wouldn't add a single dime to the deficit over the next decade. In fact, if Democrats have their way, this bill would add nearly 2.5 trillion dimes to the national debt. Well, the American people have a message for Democrats in Congress: The time to get our fiscal house in order is not tomorrow, it is not next year, it is now—right now.

Last week, 10 Democratic Senators sent a letter to the majority leader outlining some of the problems that can be expected to result from our record deficit and debts. They pointed out that each American's share of today's debt is more than \$38,000, that long-term deficits will lead to higher interest rates and inflation, and all this debt threatens to weaken not only our basic standard of living but also our national security. Then they make an urgent plea. They called on their party to do something to deal with these urgent fiscal realities.

Well, they shouldn't hold their breath because instead of addressing these urgent issues, a handful of top Democrats are pressing forward behind closed doors with a health care plan that, once fully implemented, and including the physician reimbursement issue, would cost more than \$2 trillion.

It is hard to imagine, but if the history of government entitlement programs is any guide, then these estimates are almost certainly on the conservative side. History shows these kinds of programs almost never come in under cost. Consider just a few examples: At the time that Medicare Part A was created, it was estimated that costs for hospital services and related administration for the year 1990 would run about \$9 billion. The actual cost was seven times that amount. Medicare Part B, a program that covers physician services, was expected to run on \$500 million a year from general tax revenues, along with a \$3 monthly premium. Last year, the program was funded through nearly \$150 billion in Federal revenue.

As I say, these are just a few examples, but they illustrate a larger point that can't be ignored. The nature of government entitlements is such that they only get bigger with time. The estimates we are getting have to be viewed in light of past experience, and past experience isn't encouraging.

Several months into this debate, it is easy to forget that at the outset everyone seemed to agree—at the outset of this debate on health care everyone seemed to agree—on two things: that health care reforms were needed and any reform would have to lower overall health care costs. We all agreed on that. Yet the evidence suggests that the bill Senate Democrats and White House officials are carving up in private would do just the opposite. It would actually increase costs, it would increase premiums, raise taxes, and slash Medicare. That is not reform.

Americans are concerned about the direction in which we are headed: record debts, record deficits, endless borrowing, and yet every day we hear of more plans to borrow and spend, borrow and spend. Americans don't want the same kind of denial, delay, and rationing of care they have seen in countries that have followed the path of government-driven health care for all. They are perplexed that in the midst of a terrible recession, near 10 percent unemployment, massive Federal debt, and a deficit that rivals the deficits of the last 4 years combined, the White House would move ahead with a massive expansion of government health care. They are telling us that common sense, step-by-step reforms are the better, wiser, and more fiscally responsible way to go.

This is the message I have delivered nearly every day on the Senate floor since the first week of June because, in my view, it is the message the American people have been sending us.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

ORDER OF PROCEDURE

Mr. KYL. Mr. President, I ask unanimous consent that the time controlled by the Republican side be allocated as follows: Senator KYL, 10 minutes; Senator ALEXANDER, 10 minutes; Senator GREGG, 10 minutes; Senator WICKER, 10 minutes; and Senator LEMIEUX, 20 minutes.

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

Mr. KYL. Mr. President, I ask the Chair to please inform me when I have consumed 9 minutes since I don't want to go over my time.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 2 hours with Senators permitted to speak therein for up to 10 minutes each, with the time equally di-

vided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

Mr. KYL. Mr. President, I had propounded a unanimous consent request. Has that been agreed to?

The ACTING PRESIDENT pro tempore. It has been.

Mr. KYL. Thank you, Mr. President.

HEALTH CARE REFORM

Mr. KYL. Mr. President, I wish to talk this morning about the same health care issue the Senator from Kentucky just addressed. I think Republicans have always had a lot of very good alternatives to deal with two critical problems: No. 1, the rising costs of health care and, secondly, the problem of some uninsured in this country needing help to get that insurance. Unfortunately, our ideas have not been included in the legislation passed by the committees. In fact, when we have offered amendments to propose these alternative ideas, they have been rejected.

One of the primary ways we know we can reduce costs is through the mechanism of medical malpractice reform. That deals with the problem of the jackpot justice system that currently is abused by trial lawyers where they file lawsuits, they get big recoveries or they force settlements, and the net result is two things which I spoke about yesterday.

First of all, liability insurance premiums for physicians now consume about 10 cents for every health care dollar spent. If we had medical malpractice reform, we could reduce that. We wouldn't, obviously, get rid of it, but the cost for physicians would be significantly less.

For example, we know some specialties, such as obstetrics, neurosurgery, and some others, including anesthesiology, for example, will frequently have annual liability premiums in the range of \$200,000. That, obviously, is a cost that is passed on. When they bill patients, they have to cover the cost of their medical malpractice insurance.

I mentioned yesterday a study by the former president of the American Academy of Orthopedic Surgeons, Dr. Stuart Weinstein. He has written about the extra cost of delivering a baby because, he said, if a doctor delivers 100 babies a year and pays \$200,000 for medical liability insurance, \$2,000 of the delivery cost for each baby goes to pay the cost of the medical liability premium. So we could reduce by \$2,000 the cost of delivering a baby if we were able to pass meaningful medical liability insurance reform.

The even bigger cost is defensive medicine—the kinds of things doctors do, not because they are necessary to take care of their patients, but because if they don't do them they might get sued and some expert will claim they should have had this extra test or done this extra procedure; and if they would

have just done that, then maybe the patient would have been all right. So as a result, defensive medicine results in hundreds of billions of dollars of expenses every year.

In fact, a 2005 survey published in the Journal of the American Medical Association found that 92 percent of the doctors said they had, indeed, made unnecessary referrals or ordered unnecessary tests just to shield themselves from this liability. How much does this potentially cost? I said hundreds of billions. Well, let me cite two studies.

All of the studies I have seen are roughly within the same ballpark. They differ just a little bit. For example, Sally Pipes, who is president of the Pacific Research Institute, found that defensive medicine costs \$214 billion a year. A new study by PricewaterhouseCoopers reveals similar findings, pegging the cost at \$239 billion per year. Well, \$214 billion, \$239 billion, we can quibble about the amount; it is not insignificant. So when we are talking about well over \$200 billion a year in defensive medicine, we know there is a big amount of money to be saved, and we could pass those savings on to the consumers of health care.

Yesterday I cited the statistics from Arizona and Texas where both States have implemented medical liability reforms of different kinds, but both States have found significant reductions in insurance premiums for physicians, fewer malpractice cases filed, and, in the case of Texas, an infusion of a remarkable number of physicians into Texas because it is a more benign environment now in which to practice their profession.

The reason I mention all of this is we have been talking about this for months now and not one of the Democratic bills contains medical malpractice reform. The reason is clear. Democrats are frequently supported by trial lawyers, and trial lawyers don't like medical malpractice reform. That is how they make a lot of money, so they don't want to see the reform. We ought to reform the system for the benefit of our constituents rather than to not do it in order to help trial lawyers.

Again, the reason I mention this is because a bill we are going to be taking up later today, the so-called "doc fix"—and that is a very bad name for it—is a bill that would deal with the formula under which doctors are compensated for Medicare. One of the things that has been reported in newspapers is that the American Medical Association will not push for medical malpractice reform if they are able to get this bill passed. I find that to be a very troubling fact because all of the physicians I know realize we need medical malpractice reform.

Here is how the Washington Post editorialized it yesterday morning, and I am quoting:

The so-called "doc fix" is being rushed to the Senate floor this week in advance of

health reform not because it has nothing to do with health reform, but because it has everything to do with it. The political imperative is twofold: To make certain that Republicans don't use the physician payment issue to bring down the larger bill—

That is because of the fact that it would add to the deficit—

and to placate the American Medical Association.

The concern I have is that it doesn't help the physicians. All this legislation does is to say that the formula which has been in effect since 1997, but never adhered to by the Congress, will not be the formula that goes forward in the future, but it doesn't fix the payment problem. Every year, because the formula would result in huge cuts to physicians who take care of Medicare patients—and everybody agrees that is a bad thing—we say we are not going to pay attention to the formula. We are going to raise the doctors' reimbursements by a percentage point or a half percent or some modest amount.

All this legislation does is to freeze physician payments for 10 years—to freeze them—zero; not even any kind of cost-of-living increase. I guarantee that after 10 years, physicians not getting any kind of an increase at all are going to be hurting.

I know what is going to happen, which is that physicians and groups such as the American Medical Association will have to come back to Congress every year and say they need to have some kind of a modest increase. Republicans want to be able to offer amendments on this legislation to provide for such modest increases. Incidentally, those modest increases would be offset—that is to say, the cost to the government would be offset—so that we wouldn't be adding to the deficit. It is very clear there is no new formula in place, no new formula has been proposed, so this legislation doesn't solve the problem. It simply says, well, we are not going to adhere to the formula in the future. Big deal. We have never adhered to it in the past. We are never going to adhere to it because it makes no sense. Everybody agrees with that. So what do we get out of this? Nothing. A freeze for 10 years is not a solution to the problem.

I hope physicians don't see this as a solution as a result of, as I said, this having been reported in some of the media, so that they will decide not to push for medical malpractice reform because physicians know how important that is. I have just talked about how important it is.

We need solutions to problems. One of the problems is we have increases in the costs of providing health care. One solution to that—and we are talking about well over a couple of hundred billion dollars, as I indicated, from the studies I cited a moment ago. One solution to that is to tackle this problem of medical liability reform. Some States, probably about four or five, have done this, and they have demonstrated it can work.

The President's approach is, well, let's have a study about it. Let's maybe have a demonstration project. We have some demonstration projects. One of them is Arizona and one of them is Texas, and they demonstrate that it works. Since the Federal Government has to pay about half of all of the cost of health care in the country because of Medicare, Medicaid, and veterans care and so on, the Congressional Budget Office says we, the Federal Government, could save ourselves \$54 billion if we had meaningful medical malpractice reform. We could expect the same amount for the private sector.

The bottom line is, the bill we are going to be voting on later today doesn't solve any problem. It does not help the physicians. One way we can help not just physicians but patients by reducing their cost of care is accepting some of the Republican alternative ideas that have been proposed, starting with medical liability reform.

Mr. President, I yield the floor to the Senator from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

NO ENEMIES LIST

Mr. ALEXANDER. Mr. President, in 1969 and during the first half of 1970, I was a wet-behind-the-ears, 29-year-old staff aide in the West Wing of the Nixon White House. I was working for the wisest man in that White House whose name was Bryce Harlow. He was a friend of President Johnson, as well as the favorite staff member of President Eisenhower and President Nixon's first appointee.

Based upon that experience and my 40 years since then in and out of public life, I want to make what I hope will be taken as a friendly suggestion to President Obama and his White House, and it is this: Don't create an enemies list.

As I was leaving the White House in 1970, Mr. Harlow was heading out on the campaign plane with Vice President Spiro Agnew, whose job was to vilify Democrats and to help elect Republicans. The Vice President had the help of talented young speechwriters, the late Bill Safire and Pat Buchanan. In Memphis, he called Albert Gore, Sr., the "southern regional chairman of the eastern liberal establishment," and then the Vice President labeled the increasingly negative news media as "nattering nabobs of negativism."

These phrases have become part of our political lore. They began playfully enough, in the back and forth of political election combat. But after I had come home to Tennessee, they escalated into something more. They eventually emerged into the Nixon's enemies list.

In 1971, Chuck Colson, who was then a member of President Nixon's staff and today is admired for his decades of selfless work in prison reform, presented to John Dean, the White House Counsel, a list of what he called "per-

sons known to be active in their opposition to our administration." Mr. Dean said he thought the administration should "maximize our incumbency . . . [or] to put it more bluntly"—and I am using his quotes—"use the available Federal machinery to screw our political enemies."

On Colson's list of 20 people were CBS correspondent Dan Schorr, Washington Star columnist Mary McGrory, Leonard Woodcock, the head of the United Auto Workers, John Conyers, a Democratic Congressman from Michigan, Edwin Guthman, managing editor of the Los Angeles Times, and several prominent businessmen, such as Howard Stein of the Dreyfus Corporation, Arnold Picker, vice president of United Artists. The New York Times and the Washington Post were made out to be enemies of the Republic.

Make no mistake, politics was not such a gentlemanly affair in those days either. After Barry Goldwater won the Presidential nomination in 1964, Daniel Schorr had told CBS viewers that Goldwater had "travel[ed] to Germany to join up with the right wing there" and "visit[ed] Hitler's old stomping ground." Schorr later corrected that on the air. What was different about Colson and Dean's effort, though, was the open declaration of war upon anyone who seemed to disagree with administration policies. Colson later expanded his list to include hundreds of people, including Joe Namath, John Lennon, Carol Channing, Gregory Peck, the St. Louis Post-Dispatch, Congressional Black Caucus, Alabama Governor George Wallace. All this came out during the Watergate hearings. You could see an administration spiraling downwards, and, of course, we all know where that led.

The only reason I mention this is because I have an uneasy feeling only 10 months into this new administration that we are beginning to see the symptoms of this same kind of animus developing in the Obama administration.

According to Politico, the White House plans to "neuter the United States Chamber of Commerce," an organization with members in almost every major community in America. The chamber had supported the President's stimulus package and defended some of his early appointments, but has problems with his health care and climate change proposals.

The Department of Health and Human Services imposed a gag order on a large health care company, Humana, that had warned its Medicare Advantage customers that their benefits might be reduced in Democratic health care proposals—a piece of information that is perfectly true. This gag order was lifted only after the Republican leader, Senator MCCONNELL of Kentucky, said he would block any future nominees to the Department until the matter was righted.

The White House communications director recently announced that the administration would treat a major television network, FOX News, as "part of

the opposition.” On Sunday, White House officials were all over talk shows urging other news organizations to boycott Fox and not pick up any of its stories. Those stories, for example, would include the video that two amateur filmmakers made of ACORN representatives explaining how to open a brothel. That is a story other media managed to ignore until almost a week after Congress decided to cut ACORN’s funding.

The President himself has not stopped blaming banks and investment houses for the financial meltdown, even as it has become clear that Congress played a huge role, too, by encouraging Americans to borrow money for houses they could not afford. The President was “taking names” of bondholders who resisted the General Motors and Chrysler bailouts. Insurance companies, once allies of the Obama health care proposal, have suddenly become the source of all of its problems because they pointed out—again correctly—that if Congress taxes insurance premiums and restricts coverage to those who are sicker and older, the cost of premiums for millions of Americans is likely to go up instead of down. Because of that insubordination, the President and his allies have threatened to take away the insurance companies’ antitrust exemption.

Even those in Congress have found ourselves in the crosshairs. The assistant Republican leader, Senator JON KYL of Arizona, said to ABC’s George Stephanopoulos that the stimulus plan wasn’t working. The White House wrote the Governor of Arizona and said: If you don’t want the money, we won’t send it. Senator MCCAIN said this could be perceived as a threat to the people of Arizona.

Senator BENNETT of Utah, Senator COLLINS, Senator HUTCHISON and I, as well as Democratic Senators BYRD and FEINGOLD, all have questioned the number and power of 18 new White House czars who are not confirmed by the Senate. We have suggested this is a threat to constitutional checks and balances. The White House refused to send anyone to testify at congressional hearings.

Senator BENNETT and I found ourselves “called out,” as they say, on the White House blog by the President’s communications director.

Even the President, in his address to Congress on health care, threatened to “call out” Members of Congress who disagree with him.

This behavior is typical of street brawls and political campaign consultants. It is a mistake for the President of the United States and for the White House staff. If the President and his top aides treat people with different views as enemies instead of listening to what they have to say, they are likely to end up with a narrow view and a feeling that the whole world is out to get them. And, as those of us who served in the Nixon administration know, that can get you into a lot of trouble.

This administration is only 10 months old. It is not too late to take a different approach, both at the White House and in Congress. And here is one opportunity: At the beginning of the year, shortly after the President’s inauguration, the Republican leader, Senator MCCONNELL, addressed the National Press Club. He proposed that he and the President work together to make Social Security solvent.

Senator MCCONNELL said he would make sure the President got more support in that effort from Republicans than President George W. Bush got from Democrats when he tried to solve the same problem.

President Obama held a summit on the dangers of runaway costs of entitlements. I was invited and attended. Every expert there said making Social Security solvent is essential to our country’s fiscal stability. There is still time to get that done.

Or on clean energy, Republicans have put forward four ideas—build 100 nuclear plants in 20 years, electrify half our cars and trucks in 20 years, explore offshore for low-carbon natural gas and for oil, and double energy research and development for alternative fuels. The administration agrees with this on electric cars and on research and development. We may not be so far apart on offshore exploration. At his town meeting in New Orleans last week, the President said the United States would be, in his words, “stupid” not to use nuclear power. He is right since nuclear power produces 70 percent of our carbon-free electricity.

So why don’t we work together on this lower cost way to address clean energy and climate change instead of enacting a national energy tax?

On health care, the White House idea of bipartisanship has been akin to that of a marksman at a State fair shooting gallery: hit one target and you win the prize. With such big Democratic majorities, the White House figures all it needs to do is unify the Democrats and pick off one or two Republicans. That strategy may win the prize but lose the country.

Usually on complex issues, the President needs bipartisan support in Congress to reassure and achieve broad and lasting support in the country.

In 1968, I can remember when President Johnson, then with bigger majorities in Congress than President Obama has today, arranged for the civil rights bill to be written in open sessions over several weeks in the office of the Republican leader, Everett Dirksen. Dirksen got some of the credit; Johnson got the legislation he wanted; the country went along with it. Instead of comprehensive health care that raises premiums and increases the debt, why should the White House not work with Republicans step by step to reduce health care costs and then, as we can afford it, reduce the number of Americans who do not have access to health care?

The President and his Education Secretary Arne Duncan have been coura-

geous—there is no better word for it—in advocating paying teachers more for teaching well and expanding the number of charter schools. These ideas are the Holy Grail for school reform. They are also ideas that are anathema to the labor unions who support the President. President Obama’s advocacy of master teachers and charter schools could be the domestic equivalent of President Nixon going to China. I, among others, admire that advocacy and have been doing all I can to help him.

Having once been there, I can understand how those in the White House feel oppressed by those with whom they disagree; how they feel besieged by some of the media. I hope the current White House occupants will understand that this is nothing new in American politics—all the way back to the days when John Adams and Thomas Jefferson exchanged insults. The only thing new is today there are multiple media outlets reporting and encouraging the insults 24 hours a day.

As any veteran of the Nixon White House can attest, we have been down this road before, and it will not end well. An enemies list only denigrates the Presidency and the Republic itself.

Forty years ago, Bryce Harlow would say to me: Now, Lamar, remember that our job here is to push all the merely important issues out of the White House so the President can deal with a handful of issues that are truly Presidential. Then he would slip off for a private meeting in the Capitol with Democratic leaders who controlled the Congress and usually found a way to enact the President’s proposals.

Most successful leaders have eventually seen the wisdom of Lord Palmerston, former Prime Minister of the United Kingdom, who said:

We have no eternal allies, and we have no perpetual enemies.

The British writer Edward Dicey was once introduced to President Lincoln as “one of his enemies.” “I did not know I had any enemies,” Lincoln answered. And Dicey later wrote: “I can still feel, as I write, the grip of that great bony hand held out to me in token of friendship.”

In conclusion, here is my point. These are unusually difficult times, with plenty of forces encouraging us to disagree. Let’s not start calling people out and compiling an enemies list. Let’s push the street brawling out of the White House and work together on the truly Presidential issues—creating jobs, reducing health care costs, reducing the debt, creating clean energy.

The PRESIDING OFFICER (MR. BENNETT). The Senator from New Hampshire.

MR. GREGG. Mr. President, I believe I am recognized now for 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

MR. GREGG. Mr. President, I wish to speak on another topic, but I was fascinated by the presentation of the Senator from Tennessee. I think we are all

concerned about the direction of this calling out. I take it the Senator from Tennessee is suggesting this administration is “Nixifying” the White House; is that correct?

Mr. ALEXANDER. That is a word I had not thought of. What I am seeing is some of the same signs I saw as a young man in the early stages of the Nixon administration. I am seeing those same signs in the Obama White House, and I am suggesting that going down that road leads to no good end. “Nixifying” is an interesting way to describe it.

Mr. GREGG. I may have just made up that word. Hopefully, it will be added to the lexicon.

Mr. ALEXANDER. I think it will. That is good.

Mr. GREGG. Mr. President, I thank the Senator from Tennessee. He has made some valuable points on that issue.

HEALTH CARE REFORM

Mr. GREGG. Mr. President, I rise today to continue a discussion I have pursued on this floor a few times, and it deals with where our country is going and what we are passing on to our children.

I often quote the chairman of the Budget Committee, Senator CONRAD from North Dakota, because I have immense respect for him. He has said—and I agree with him and I think most Americans, when they think about it, agree with him—that the debt is the threat, the fact that we as a nation are running up this incredible debt which we are going to pass on to our children. To try to put it in context is very difficult because the numbers are so huge. I have talked about it numerous times here—the fact that we are running deficits at approximately \$1 trillion over the next 10 years under the President’s budget; that we are seeing 5 to 6 percent of GDP in deficits; that the public debt goes from about 38 percent of GDP up to well over 80 percent of GDP under the most recent estimates. But these numbers are incomprehensible to people because they are so big. We are talking trillions and trillions of dollars, and the implication of these numbers is staggering to our next generation—to our children and our children’s children—because it means they have to bear the burden of paying this debt that is going to be put on their backs.

Last week, the deficit for this last fiscal year was pegged at about \$1.4 trillion—an incredible amount. That is three times the largest debt in our history, in numeric terms. As a percentage of GDP, we haven’t had those types of numbers since World War II. Nobody is arguing that deficit is not an event and something we don’t like but that we probably have to tolerate because of the fact that we have been through this very difficult situation with the recession and the potential meltdown of our financial houses. It took a lot of money to try to stabilize the situation, and I

am not holding that against this Presidency at all.

The problem is, as we go forward we are seeing these deficits expand. There is no reason to maintain that type of deficit once we are past this recessionary period, once the financial situation has been settled down. For all intents and purposes, we are moving past that situation, so the deficits should start coming down. But they aren’t coming down. They aren’t coming down. And today we are about to see one of the reasons they aren’t coming down because today it is being proposed that we add another \$250 billion to the debt by doing something called the doctors fix and not paying for it.

It is not an extraordinarily complicated issue. Basically, we don’t reimburse doctors at a rate they should be reimbursed under Medicare because of a rule we passed back in the 1990s. It gets cut arbitrarily and in a way which has no relationship to what is a proper reimbursement rate. So every year since we passed that rule and it turned out it wasn’t going to work right, we have corrected that. We have reimbursed the doctors at a reasonable rate. But every year we have done that, we have paid for that change, so that the cost of reimbursing doctors fairly did not get passed on to our children. I mean, if you pass that cost on to our children, when somebody goes to get an eye exam, someone who is in their eighties or seventies or sixties and who is on Medicare, when they get the bill from the doctor, essentially we are saying: Oh, I am sorry, the government is not going to pay that—the government you are a part of today. We are going to take that bill and give it to a child who is not even born yet, and they are going to have to pay that bill. But it is an expense today, and it should be paid today by the government.

We are having this proposed today on this floor, by this administration: that we should spend \$250 billion to correct this doctors fix problem for the next 10 years, which is about what it will cost, but not pay for it, just simply take it and send the bill off to our kids. It is actually more than \$250 billion because that \$250 billion, when you put it on the debt, will generate interest responsibilities of about \$50 billion. So it is actually a \$300 billion item. That is not small change; that is a third of a trillion dollars. That is huge money. That is a tremendous burden to transfer over to our children.

Do you know why this is being done? It is being done for a very cynical reason. The health care reform package is being discussed somewhere in this building behind closed doors. It is being written in some office over on that side of the Capitol by three or four Members of the Senate and a lot of staff from the Democratic side, with no participation by Republican Members, no participation by the American people, and the press is totally locked out of the room. The bill is being rewritten over there, but we do know that within

the parameters of the bill is the representation that it won’t cost more than \$1 trillion over a 10-year period. So all sorts of games are being played to try to keep it under \$1 trillion.

The most significant and most cynical and most inappropriate game—though it is not a game, really—the most inappropriate action is this idea that they are going to take \$250 billion to fix the doctors reimbursement program, which is clearly part of health care, and move it entirely out of the health care system reform effort. They will move it over here somewhere and claim they don’t have to pay for it. They will just send the bill to the kids. Don’t worry about it, it is only \$250 billion. Just send the bill to the kids. Don’t worry about it. And then, voilà, they will have \$250 billion they can spend on health care reform that should have been used for the doctors fix.

But now, since they have claimed the doctors fix doesn’t matter—it is somewhere over here, out of sight, out of mind, being taken care of by our children and grandchildren—voilà, they can spend that \$250 billion on goodies, on initiatives within the new health care reform bill, which will cost the taxpayers \$250 billion in order to do it. And I presume it will get them a few constituencies to support them because they have just spent \$250 billion on them.

So the true cynicism of this is that it doubles up the doctors fix cost. Not only does the doctors fix not get paid for, but it will then create \$250 billion worth of new spending. So it is actually a doubling up of this whole exercise. It is a doubling down event here. You know, it is almost a Bernie Madoff—well, it is a Bernie Madoff approach to funding. I mean, basically, this is an entire scam. Unfortunately, in this instance—and obviously in the Bernie Madoff instance the people who invested with him were wiped out, but they made a choice to invest with him. Our children and grandchildren are going to get this bill without any rights. This \$250 billion bill is going to be sent to them, and then the spending is going to occur, which they are also going to have to pay for. It is going to be added on top of the health care bill. It is Bernie Madoff comes to Washington and does our budgeting for us, and it is inexcusable that we would do this to the next generation.

Some are suggesting: Well, let’s do a 1-year or a 2-year fix. This was the original plan of Senator BAUCUS with regard to his bill. Let’s just sort of ignore the fact that the doctor problem exists for the next 10 years even though we are doing a 10-year health care reform bill here. What is the effect of that? Well, yes, for at least 1 or 2 years you pay for it. That was the proposal in the original bill that came out of the Finance Committee—1 year, I believe, they paid for it, 9 years they didn’t pay for it. What did that mean? One year paid for was \$11 billion, I think. So we

know the cost of the whole thing for 10 years is \$250 billion. So what they got was \$239 billion to spend under the Baucus bill as it came out of the Finance Committee because they just simply ignored the concept that the doctors fix had to be done too. That also is a pretty cynical act—not as cynical as the idea you are going to pass the full \$250 billion fix and not pay for it, any of it, which is what we will be voting on later today, but still pretty cynical in that they would basically be spending \$239 billion which they know we don't have.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. I ask unanimous consent to speak for an additional 30 seconds.

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

Mr. GREGG. So they know we don't have the \$239 billion, but at least they admit it is there and they don't try to pass the whole bill off to our children.

So as we go forward in this health care debate, let's have no more sanctimonious claims that we are being fiscally responsible and producing bills that are in balance and that don't add to the deficit, not when we put a \$250 billion IOU on our children's backs. It is totally inappropriate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, I understand I am recognized for 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. WICKER. Mr. President, in 10 minutes Senator LEMIEUX will make his maiden speech to the Senate, and I know Members are anxious to hear that speech, but in the meantime I would like to talk further about health care reform.

Earlier this month, the Senate Finance Committee voted to approve a deeply flawed bill that would raise taxes, cut Medicare, increase government spending, increase health care premiums, and actually drive the cost of health care up, not down. We know the Finance Committee's bill will not be the final product voted on by the Senate.

Three or four Members of one party, and one party only, without the press there, without the public looking in, without other Members of the Senate there, are meeting now behind closed doors to merge the Finance Committee bill with the HELP Committee's version. The secret nature of these meetings is all the more reason for the final version of the bill to be made available to the public prior to a final vote.

We have all heard the outcry from our constituents asking us to read the bills before we vote on them. I think we should go one step further than reading this health care bill ourselves: we should allow the public to read the bill themselves.

Just recently, eight of my friends on the other side of the aisle sent a letter

to the majority leader demanding—rightly—that this health care legislation be made available for 72 hours before the Senate proceeds with this bill. The letter from these eight conscientious Democrats says, among other things:

Without a doubt, reforming health care in America is one of the most monumental and far-reaching undertakings considered by this body in decades.

The letter goes on to ask four things of the majority leader: that the legislative text and complete budget scores from CBO on health care legislation to be considered on the Senate floor be made available 72 hours in advance; secondly, the letter asks that the legislative text and complete CBO score on health care legislation as amended be made available; and they make the same request as far as amendments to be filed and offered on the floor and the final conference report which might come from the House and Senate.

I congratulate these Members of the other party for making this request. I think the question on the minds of people around Washington, DC, and around the country watching this issue is, Will this request be ignored? Will these eight Members of the Democratic caucus be steamrolled by their leadership? Will this conscientious request be cast aside by the majority leader?

The people deserve to see the final product of the majority party. And we know the American people want to see it because as more Americans learn about the product, the less they like it. A survey released Monday found that a majority of Americans opposed the plans backed by the President and Democrats in Congress. This skepticism persists despite the best public relations ever of my Democratic colleagues and our President.

The bill approved by the Finance Committee essentially is still a partisan one. Numerous studies and estimates have highlighted how the bill's new mandates would actually raise insurance premiums for Americans, not lower them. A recent PricewaterhouseCoopers analysis of the bill found that by 2019, the average cost of a family's insurance policy would increase by \$4,000, more than it would if Congress simply does nothing at all. Of course, no one is suggesting Congress do nothing at all. The status quo is clearly inadequate, and there are many things we can do on a step-by-step basis to improve the health of Americans.

But back to this \$4,000 in extra costs for insurance, the driving factor behind that is the staggering tax hikes necessary to pay for this \$1 trillion new entitlement program. The Finance Committee's proposal raises taxes by hundreds of billions of dollars—on insurance plans, on medical device producers, on pharmaceuticals. We all know taxes will not lower the cost of these services. In fact, we can expect the opposite—these taxes will be paid by average Americans.

Former CBO Director Douglas Holtz-Eakin recently said: "These costs will

be passed on to consumers by either directly raising insurance premiums or by fueling higher health care costs that inevitably lead to higher premiums."

He went on to say the plan "would not only fail to reduce the cost burden on middle-class families, it would make that burden significantly worse."

In addition to failing to reduce the price of health care, the Finance plan carries a number of other serious flaws, particularly as it relates to Medicare and health care options for our seniors. The bill cuts Medicare by \$500 billion. Let me repeat that. The bill cuts \$500 billion from Medicare, despite the fact that the Medicare program is already insolvent and on the path to bankruptcy in the year 2017, unless we take action.

Billions of Medicare dollars would be cut from hospitals, from nursing homes, from hospice care under this Finance Committee proposal. It would also slash \$120 billion from Medicare Advantage, denying 11 million seniors the health care choices and options regular Medicare does not offer.

If these provisions were not bad enough, the bill's negative impact on State budgets is even more disturbing. Medicaid would be expanded to a level that threatens funding of essential State services such as education, such as law enforcement. In my State of Mississippi, Medicaid payments already make up 12 percent of our State's overall budget, and Governor Barbour has joined a growing chorus of Governors, both Republican and Democratic, in warning of the consequences of Congress forcing States to shoulder more of the Medicaid burden. In fact, if the finance bill is enacted, Medicaid's expansion would result in fully 25 percent of Americans being on this government-run health care system. We know it is now run so poorly that many physicians will not accept Medicaid patients. The bill proposes we put one-quarter of Americans on this very poorly run program.

After weeks of talk, we get a bill that is worse than the status quo. I fear this bill is only going to get worse when the majority leader emerges from his secret negotiations and tries to pass his version of a Federal health care takeover. I think we can do better. Raising taxes, increasing costs, and eliminating choice is hardly the type of health care reform the American people want, particularly during a time when unemployment levels are at a 25-year high. There are many common-sense reforms that could pass Congress quickly and with bipartisan support. This is not a choice between a Federal takeover and the status quo. A step-by-step approach can inject competition, increase choices, and use market principles to bring down prices. By allowing people to purchase health insurance across State lines, by implementing medical malpractice reform and allowing small businesses to join in association health plans, we can lower the cost of health care and increase choice without raising taxes or

increasing government spending or increasing the size and scope of government.

That is the kind of health care reform the American people deserve, and it is the direction the health care debate should take.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for 20 minutes.

NATIONAL DEBT AND FEDERAL DEFICIT

Mr. LEMIEUX. Mr. President, it is an honor for me to stand on the floor of the Senate, on behalf of my State of Florida and before this Nation, to give my maiden speech. First, let me thank my wife Meike for her support. No one succeeds in life alone. That is certainly true for me. She is the strength of our growing family of five, soon to be six. I would not be here without her love and support.

It is humbling to think of those who have come before me and spoken before this body on the great issues of the day. I will not seek to match their skill in poetry or prose, but I will work to honor them with clear and straightforward language, passion to find solutions to the challenges that face us, and resolve to follow words with deeds. It is the tradition of this Chamber, as Senator Ted Kennedy stated in his maiden speech nearly 50 years ago, that "a freshman Senator should be seen, not heard; should learn, not teach." But similar to Senator Kennedy, who asked for the dispensation of his colleagues to speak to the great cause of civil rights being debated at the time, I, too, seek the consideration of my colleagues to rise and speak at such a critical time in our Nation's history.

During my first week here, the senior Senator from Ohio, Mr. VOINOVICH, told me that while my time in the Senate may be short, just 16 months, it might be the most important 16 months in modern history. My brief experience here has confirmed the wisdom of his insight.

The issue that commands the attention of this Congress is the health of our people and proposals that address the problem of those who cannot afford or simply do not have health insurance. We seek solutions to the rising costs of medical procedures and hospital stays. We are in search of ways to ensure that every American has access to affordable and quality health care. These are noble goals. Floridians and Americans are struggling with the high cost of health care. Premiums for family health care have risen 131 percent over the past 10 years. Working families are finding it harder and harder to make ends meet. Between the demands of taxes and insurance, families have less and less to save and spend on their own priorities.

Health care costs are burdensome on seniors as well, who, while covered by

Medicare, often buy additional insurance to supplement their needs. Rising costs for seniors living on fixed incomes prove more than difficult. Still more troubling are those who have no insurance at all—some 4 million Floridians and an estimated 45 million Americans nationwide. For many of the uninsured, a serious illness or an accident is all that may separate them from bankruptcy.

I believe the problem of health care must be addressed. No American should be denied access to quality health care. No American should be rendered destitute by illness. No American family should have to live paycheck-to-paycheck because they cannot find affordable health care. The problem is great, and it is one worthy of our full attention.

But before we can address health care and the cost of reform, we need to consider the broader state of affairs in which we as Americans find ourselves. We need to draw back the curtain, widen the lens. No issue, even one as important as health care, stands alone. We have responsibilities in other equally important areas such as national defense, education, and the economy.

Balanced equally with all these priorities must be our ability to afford them. Our Nation's spending problem is not a topic that many like to discuss. It is, after all, more desirable to speak of new ideas and grand plans for the future, but that very future is at stake if we do not address the problem now.

Our national debt grows at an alarming rate of nearly \$4 billion a day. When I took office, just 5 weeks ago, our national debt was \$11.7 trillion. Today it is nearly \$12 trillion. During the time it will take for me to give this address, it will increase by another \$50 million.

Since the debate on health care began in March to the time it likely concludes at the end of this year, we will have amassed an additional \$1 trillion, near to the very amount we are discussing for this health care proposal. Instead of spending less to stem the tide, we learned last Friday that in the fiscal year we just completed, Congress amassed a record-setting \$1.4 trillion budget deficit—a larger single-year deficit than the deficits of the last 4 years combined.

Our Government spending is out of control and it is simply unsustainable. Why does it matter? What is the consequence of accumulating trillions of dollars in debt? What does it mean for us, for our children, and for our grandchildren? The consequences are a government hamstrung by its obligations and a people taxed beyond their ability to prosper. Last year, our Nation spent \$253 billion alone on the interest payments for our debts. That is a statement worth repeating. Last year, our country spent \$253 billion alone on interest payments, the third highest expenditure in the Federal budget. That is nearly \$700 million in taxpayer dollars spent on interest, every day—

money that could be spent on worthwhile programs or, better still, returned to the people because, after all, it is their money.

In 10 years, the White House projects our national debt will be a staggering \$23 trillion, surpassing the total value of goods and services made in the United States in 1 year. I have not been in Washington for long so it is hard for me to comprehend the idea of \$1 billion, let alone \$1 trillion. I think that is true for most Americans. So it is worth a moment to understand the enormity of these figures.

If you were to lay down single dollar bills, edge to edge, \$1 million would cover two football fields; \$1 billion would cover the city of Key West, FL, 3.7 square miles; and \$1 trillion, laid edge to edge, would cover the State of Rhode Island—twice.

Still more staggering, from the time our Government began in 1789, it took 167 years for the Federal Government to spend its first \$1 trillion. This year we will spend \$3 trillion. Increasing debt and increasing costs of entitlement spending and increasing interest payments mean we are on a path which is unsustainable. The American people know this and they are showing their frustration with Congress's out-of-control spending. We need to learn from families in America. Families in America and across Florida deal with their budgets every day. They sit around the kitchen table. They look at what they make and what they spend and they try to make ends meet.

But the Federal Government is similar to that family with the credit card debt—every month the debt grows, the interest compounds. The family spends more and more just to make the minimum payment. Yet the balance due continues to grow. In order to get out of debt, the family has to do the right thing, it has to cut spending or mom or dad have to get another job. If the family does the right thing, pays off its debt, it can save a little, build a nest egg, and recover. If they do not, they reach that point where the debt grows out of control. They reach the point where they are too far gone.

The Federal Government has reached that moment in time. In the past 27 years, we have gone from \$1 trillion to \$12 trillion in December, and it is estimated that by the end of 10 years, we will be \$24 trillion in debt. The point of no return is upon us. We must recognize this simple truth: We cannot afford the Government we have, let alone the Government the majority in this Chamber wants. We ought to be cutting taxes, not raising them; we ought to be spending within our means, not increasing our debt; we ought to be fighting with the same vigor to cut waste, fraud, and abuse that some fight to create new entitlement programs we cannot afford.

It has also become clear that our policies of limitless spending threaten to devalue the dollar.

Recent reports suggest a rush by U.S. investors to pull their money from domestic investments and instead seek opportunity in emerging markets. Investors find markets such as China and Brazil to be more attractive because those nations use their financial reserves to weather the economic crisis.

There is also talk in the international community that perhaps the dollar is no longer the best benchmark for their reserve currencies. According to the International Monetary Fund, the dollar is held now at its lowest point on record in reserve currency of the central banks around the world.

Our unsustainable spending and debt and our inability to make the difficult decisions necessary to change course is decreasing confidence in our Nation abroad, and if not corrected, it will impact the quality of life for all Americans.

What is the answer? The answer is we have to stop. We have to stop financing today's programs on the backs of future generations. Common sense tells us we need to balance the Federal budget. The Federal Government has not done that since 2001. There is no reason why it cannot happen again. The Framers' ideal of limited government is one we need to pursue and we need to do it if we have the will to make it so.

As the father of three young sons and a baby on the way, one of my greatest concerns is that 1 day one of my children will come to me when they are grown and say that they are moving to another country, perhaps a place such as Ireland or Chile, because they believe the opportunities are greater than the promise and the opportunities of America.

Even now, as many as 200,000 skilled American workers could leave for places such as China and India in the next 5 years. America has always been the land of opportunity, a beacon for those who seek a better life. That life cannot be darkened.

Let us not stand witness to the decline of our great Nation. Let us not sit idly by so that the work and sacrifice of those who came before us can be squandered. Let us not miss out on this moment in time to shoulder the burden of leadership to do what we must do for our children, their children, and the American dream.

Their future is bound to the decisions we make. I come from a State where a balanced budget is a constitutional requirement, where lawmakers are required to spend within their means. And it is not always easy. In fact, it is often a painstaking process that requires leadership and tough choices, with Republicans and Democrats sitting down together to make responsible decisions.

In the past 3 years in Florida, Governor Crist and the Florida legislatures have cut spending by more than \$7 billion, almost 10 percent of the State budget. Florida has made tough choices because it must, because lawmakers in

1838 adopted language requiring our State to have a balanced budget.

It works for Florida and 41 other States, and it can work for our Nation. The Federal Government should be held to the same standard. This Congress must balance its budget. There is no reason why Congress cannot do what American families and the majority of States do. There is also no reason why the President of the United States should not have the same powers as 43 Governors do to strike wasteful spending with a line item veto. These issues are not partisan. Republicans and Democrats alike should chart a course to a balanced budget to reduce the national debt and restore the American dream.

We were promised a budget deficit-neutral health care plan. President Obama said to a joint session of Congress, he "will not sign a plan that adds one dime to our deficit now or in the future."

I am encouraged by the President's words, but I am concerned by the proposals we have seen. Cutting a half trillion dollars from Medicare is not budget neutral. Shifting costs to the States for increases in Medicaid is not responsible. And taxing medicine and life-saving devices will increase, not decrease, the cost of health care. That is not reform.

The fact is, we do not know where the money is coming from to pay for the proposed health care plan, and in light of our desperate financial situation, we cannot budget on faith alone. Last week I participated in a hearing to discuss runaway premiums in a program designed to let Federal employees buy long-term health care. Employees were given two options: a fixed option that had a higher cost but guaranteed that premiums would not go up, and a variable option which was less expensive but it provided no guarantee.

Smart Federal employees paid a little more to get that guaranteed Federal plan. But it is not going to be that way. Because now the Federal Government has come back and said: We were wrong. We cannot insure the premiums at the guaranteed rate. We are going to raise your rates by 25 percent.

The government made a mistake. The government got it wrong. And now these Federal employees who did the right thing are going to have to pay for it, more than 6,000 of them from Florida. If the Federal Government cannot get it right for 250,000 Federal employees, how is the government going to get it right for 45 million Americans?

I stand with my colleagues on this side of the aisle ready to create access to health care without sacrificing quality. But it has to make financial sense. We stand ready to address the issue of portability, allowing people to keep their health insurance whether they change jobs or move across State lines. We stand ready to offer ideas to make health insurance more affordable for small businesses, which can join exchanges to offer lower premiums for

their employees. We stand ready to address the high incidence of doctors practicing defensive medicine, which steadily drives up costs. Finally, we stand ready to focus on stopping the estimated \$60 billion in Medicare waste, fraud, and abuse, and using those funds to care for our people.

Current proposals do little to address these problems. We want to work in a bipartisan fashion to create a bipartisan bill. Spend less, save more on this and in everything. The reality is that our Nation is hungry for a new course, a course that takes greater care of the people's money. Some may call this thinking naive, but I call it hopeful.

Since our Nation was founded, there has been one constant our people have carried forth. I consider it the American creed, and the creed is this: Each generation has the obligation to provide a better future for its children than the generation before. We cannot fulfill this promise on our current course. That truth is so evident even our children understand it.

I close with the words of one of my constituents, 12-year-old Joshua Mailho of Niceville, FL. Joshua is concerned about the very issues we are talking about today. He is concerned with his share of the national debt and how he is going to pay for it.

He wrote to me in September and this is what he wrote:

Here is an example of how long me, a 12 year old, would have to pay off my share of the national debt. If I worked at Home Depot and I get paid \$10 per hour . . . it would take me almost 8 years of full-time work [to reach \$161,000] . . . my share of the national debt.

He goes on to say:

This debt will affect all of the kids in America . . . so please find a way to fix your own mistakes, before the children of today have to pay for your mistakes tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. McCONNELL. Mr. President, let me be the first to congratulate the junior Senator from Florida on his thoughtful and very persuasive initial speech here in the Senate.

I think I can safely say, after observing his work for the last 5 weeks, that the people of Florida are very fortunate to have such an intelligent and insightful Senator. He is doing an excellent job on their behalf. I again congratulate him on his initial speech here in the Senate.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I want to join with our colleagues on the floor in thanking my new colleague from Florida, with whom I have had the pleasure of starting a very fast and meaningful friendship.

As he knows, his predecessor Mel Martinez and I had a friendship that had spanned more than three decades. I am equally enthusiastic about this opportunity to represent the State of Florida with Senator LEMIEUX.

Let me say that as I was listening to the Senator's maiden speech, of course

I reflected back 9 years ago to my maiden speech. And, interestingly, at that time—I think it was about 6 weeks after I had been here, so it was the middle of February 2001—I spoke on the budget and the fact that we had a surplus, and how we wanted to keep that surplus and not go into deficit, a lot of the same themes the new Senator from Florida has sounded here today.

Of course, your maiden speech in this August body is quite memorable. I did not have the luxury, as the new Senator from Florida has, to have a number of his colleagues sitting here. As a matter of fact, it was an empty Chamber for this Senator save for the Presiding Officer. But in the course of this speech, I mentioned that it was my maiden speech. I am proceeding on. All of a sudden the doors, these side doors, swing open, and in strides the senior Senator from West Virginia, the person who is a walking political history book. He assumes his position in this chair right here. I get through with my remarks, and he says: "Will the Senator from Florida yield?"

I said: "Of course I yield to the senior Senator from West Virginia."

He proceeds to give, off the top of his head, a history of the Senate maiden speeches. And, of course, what a memorable event that was for this Senator in his maiden speech, and it will be equally a memorable event for the new Senator from Florida. I join our colleagues in congratulating him on his maiden speech.

ORDER OF PROCEDURE

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that following confirmation of Executive Calendar No. 469 and the Senate resuming legislative session, the Senate then proceed to vote on the motion to invoke cloture on the motion to proceed to S. 1776.

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

The Senator from New Hampshire is recognized.

HEALTH CARE REFORM

Mrs. SHAHEEN. Mr. President, as you well know, being one of the freshmen Senators, along with me and a number of others of us, we have been coming to the floor for the past several weeks to talk about the need to address health care reform.

We are here again this morning for the next hour to talk about why this is so imperative. I am going to yield my time, about 5 minutes initially to Senator WARNER, who has another engagement and needs to be off. So at this point I yield 5 minutes to Senator WARNER.

Mr. WARNER. Mr. President, I thank my colleague, the Senator from New Hampshire, for leading the freshmen Senators here this morning as we once again take the floor to talk about health care reform.

I also commend my friend, the junior Senator from Florida, for his comments today. I share his views about the necessity of bringing our Federal deficit in line.

In the Commonwealth of Virginia, we have a balanced budget requirement and we meet our budget every year. I am proud of the fact that Virginia has been named the best managed State in America. So I do have to take issue with some of the comments made by my colleagues, who I think understand States' needs. The fastest growing costs in my State, as well as the State of Colorado, New Hampshire, and I would assume the State of Florida, are health care costs.

Medicaid is going to bankrupt virtually every State in the Nation by 2025 if we do not act. I hope for, and welcome, my colleagues' efforts to try to reach a bipartisan consensus on health care reform.

I will again make the point I have made repeatedly over the last few weeks: What happens if we don't act? What happens if we simply kick the can down the road another 10 years? That is the appeal I make to my colleagues on the other side. Join us. Particularly join the freshmen Senators, who don't come to the Senate with the same background of the last 20 years and experience of past battles. Join a group who does, however, come to this body wanting to do the people's business. That means driving down health care costs, expanding coverage, and making sure our health care system is financially sustainable.

If we don't act, not only will States' increasing Medicaid costs go unmet, State budgets will not be balanced. If we don't act, the Federal deficit will explode. The largest driver of the deficit is not the TARP spending or stimulus spending; it is health care spending. If we don't act, the current Medicare Program, which seniors depend on, will go bankrupt by 2017. That is not a political statement; that is a fact.

If we don't act, American companies will not be competitive in the global economy. We have the most productive workforce in the world. But no American company can compete when they have built in health care costs of \$3,000 to \$4,000 more per worker than any other competitor in the world. If we don't act, for the 65 percent of us who get our health care coverage through the private insurance market, an average Virginia family will be paying 40 percent of their disposable income on health insurance premiums within the next decade.

I ask my colleague from Florida and others on the other side of the aisle to join us in this bipartisan effort to reform health care. This morning we will lay out how we think health care reform can both expand coverage and drive down costs. We will look at some of the models currently being used by large employers who have had the flexibility to design their own benefit plans. These models have successfully

driven down costs by putting in place prevention and wellness activities, negotiating better prices with providers, and restructuring a financial incentive system which currently rewards hospitals based on higher readmission rates, rather than quality care.

I thank the Senator from New Hampshire for organizing the freshmen one more time. As a former Governor, I know she has been a leader on issues like Medicaid and health care costs. I call on my colleagues on the other side of the aisle to actually join in this effort to make sure we do achieve bipartisan health care reform.

I yield the floor.

Mrs. SHAHEEN. I thank the Senator from Virginia for his comments. As he said, our health care system is on an unsustainable path. Now is the time to fix it.

Health care has not been working for families, for workers, for businesses, and for the Nation's economy. Today we are actually going to talk about some of the good news we know we can accomplish with health care reform. We are going to talk about what health care reform can do to help those families, workers, and the economy. It is our opportunity to control costs for Americans and to improve quality.

Let me be clear: We can control cost and improve quality at the same time. When we do this, we have to remember to keep patients at the center of the debate. The truth is, in so many cases the health care industry can do more for less. Usually I like to tell a story about what is going on with my constituents. It helps us keep people at the center of the debate.

Today I want to talk about some of the innovative health quality initiatives happening in New Hampshire. We all know hospital readmissions are a costly problem in the country. We have an exciting program going on in Manchester, the State's largest city, at the Elliot Senior Health Center. They recognized what was happening with readmissions. They recognized that hospital discharges can be confusing and sometimes overwhelming for seniors and that providing a little extra attention to help those seniors as they are transitioning out of the hospital can help keep them from being readmitted. They developed a program they call the TRACE Program. TRACE provides seniors with a health coach who helps patients with the tools and support to take a more active role in managing their medical care. The support those patients receive improves their understanding not only of their own health care, of the health care system in general, it helps keep them out of the hospital.

Senator COLLINS and I have introduced a bill that would help do this systemwide called the Medicare Transitional Care Act. It builds on successful programs such as the one at the Elliot Senior Health Center. Our legislation would improve the quality of care, reduce hospital readmissions, and

lower costs. Research shows we can save \$5,000 per Medicare beneficiary if we enact this kind of a program systemwide to deal with hospital readmissions. I am happy the key provisions of this idea are included in the Finance Committee bill. It will give us an idea of how this is going to work systemwide. It is one example of what we can do to improve the quality of care while we control cost.

There is another initiative we have been working on. I know all of us have been forced to wait in a crowded emergency room sometimes. Emergency room overcrowding is a problem that has become all too common. It is a symptom of what is going on in our health care system. Frequent users of health care services are a small but very costly portion of our population. They contribute to overcrowding in emergency rooms, and they raise costs for everyone. These individuals often have multiple chronic conditions. Sometimes they have mental illness. Sometimes they are faced with issues such as poverty and homelessness. They are among our most vulnerable but most frequent users of emergency rooms because they have nowhere else to go.

In one study, one individual used the emergency room 115 times in 1 year. This was in Camden, NJ. Another patient accumulated \$3.5 million in hospital charges over 5 years. These are charges for which the American taxpayer paid the bill. Our health care system is not adequately dealing with frequent users of emergency rooms. The good news is, we can change this. Through increased outreach and coordination, we can reduce utilization. We can save costs. Research shows that after 2 years of participation in a program that provides this kind of coordinated care for people who use emergency rooms, usage of emergency rooms was cut by over half. This translates into significant savings for the taxpayer. It is the kind of reform we must continue to look at if we are going to change the health care system and make it work for taxpayers, for businesses, and for families.

These are only a few examples of how health reform can benefit Americans. We can improve the quality of care available to people, and we can control health care costs at the same time. I believe we can do this. Now is the time to pass meaningful health reform for the citizens of New Hampshire and for all Americans so we can achieve these changes in our system.

I now yield the floor to Senator MERKLEY for 6 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, it is a pleasure to talk about health care following upon the remarks of Senator JEANNE SHAHEEN and Senator MARK WARNER, both of whom, as Governors, had the opportunity to know firsthand how important health care reform is to taking our Nation forward. They come

from very diverse States, but the observation is the same. Health care reform is essential to putting our Nation back on track, and now is the time.

I wish to direct my comments specifically to the benefits of health care reform to small business. We all know the current system doesn't work for small business employers or their employees. Without numbers behind them, they have no ability to negotiate rates with insurance companies. They are like lambs led to the slaughter. More often than not, they have to take whatever deal is offered. Those deals are not very good. On average, small businesses pay 18 percent more than large firms for the same health insurance policies. Because of this, they are far less likely to provide health insurance. Just 49 percent of firms with 3 to 9 workers and only 78 percent of firms with 10 to 24 workers offer health insurance to their employees, as compared to 99 percent of firms with 200 or more employees in the same year.

When small firms do offer health care, rising premiums force owners to make hard choices between keeping health coverage, expanding their operations, or increasing wages. In the last decade, health care premiums for the average Oregon family more than doubled, while median earnings rose only 23.8 percent. It is no coincidence. Employers are spending more in compensation, but that compensation is going to higher insurance premiums rather than higher wages.

Last month I talked to small business owners in Medford and Portland, OR, who share strikingly similar stories about the problems rising health care costs are causing for them. Dave Wilkerson runs a Medford architectural firm that has 12 full-time employees. He is dedicated to providing a family-friendly work environment, and he provides full medical, dental, and vision coverage to his employees. The company has had to deal with large annual increases in health care premiums and has had to change carriers several times in order to try to keep costs down. Health care costs are the second highest expense for David's firm. Only payroll exceeds them.

This year rising health care costs forced David and his partners to look very closely at either eliminating health care benefits or laying off employees.

Jim Houser and his wife Liz Dally tell a similar story. They operate the Harthorne Auto Clinic in Portland. When they opened their doors 26 years ago, they made a commitment to offer those who worked for them a good benefits package, including comprehensive health care. Jim and Liz are still able to provide health insurance to their employees, but premiums have gone from 9 percent of their payroll to 18 percent in 5 years. As a result, they have had to cut back on benefits. These and otherwise successful small businesses have been hamstrung by health care costs.

Will reform help these small businesses? Yes, it will. It will help them a lot.

First, it will allow them to enter health care exchanges, where they will be part of a much larger pool. With their increased market clout, they will be able to negotiate lower premium costs. These rates will be much more stable than in past years. One sick employee will no longer make an entire group uninsurable.

Second, the exchanges will offer more and better policies from which to choose. Currently, many small businesses struggle to find any insurers that will offer policies. But through health care reform, and as part of the exchange, they will be able to choose from a number of different plans. Because these plans will have to meet certain standards, small businesses will have higher quality policies from which to choose.

Finally, better choices at a lower price will mean small businesses can dedicate more revenue to increasing wages—more money in the pockets of their employees—have more opportunity to invest in new equipment or hire additional employees. This is good for these owners, it is good for our economy, and it is good for the employees.

Health care costs have become a millstone around the neck of our small businesses, dragging down our economy. Health care reform will help small businesses thrive by lowering cost, improving service, and enabling small business owners to focus on making their businesses more successful.

I yield back the floor to my colleague from New Hampshire, and I thank her for conducting and managing this set of conversations from the freshman Senators today.

Mrs. SHAHEEN. Mr. President, I thank very much Senator MERKLEY for pointing out what a difference health care reform can make for small businesses.

I will now yield 6 minutes to the Senator from Alaska, Mr. BEGICH.

Mr. BEGICH. Mr. President, I thank the Senator.

I say to Senator MERKLEY, I am going to follow up on your points as to small businesses, and they are very good points. In Alaska, 52 percent of our population is self-employed, in some form or another, or they are self-employed and employ many individuals.

Again, I am pleased to be back here with our freshman colleagues to talk about why America needs health insurance reform and why we need it now.

Last week, we busted myths being pushed by the opponents of reform. Today, we join forces to describe the undeniably positive aspects of reform—how it will help our friends, our neighbors, and our loved ones.

I rise to address the unquestionable link between health insurance reform and economic recovery in America. All of us on this floor have heard from

those who say we should not do health reform now, that with the economy still hurting, we should wait. Some of that commentary comes from loud and angry naysayers looking for any excuse to kill reform.

But that concern has also been raised by average Alaskans at our townhall meetings. It is a legitimate question, and here is how I answer my constituents: If we want to do this right, economic recovery and health reform have to go hand in hand. You cannot have one without the other.

There are already signs in this country of our economic turnaround in progress. That is welcome news for American breadwinners going back to work, for businesses racking up new sales, and for manufacturers ramping up production to fill new orders.

But there is more work to do, more progress to make. That is where health insurance reform comes in because the status quo is directly at odds with the possibility of continued economic growth. Here are a few examples. Businesses, big and small, have been saddled with skyrocketing health care costs for their workers. You have heard many examples this morning. The average health insurance premium in Alaska has risen 102 percent in the past decade—more than doubled.

No matter which State you are from, those premium increases take a toll on business. Money that could go to innovation, investment, pay raises or added staff is going instead to insurance. Today, employer-provided family premiums in Alaska average more than \$14,000, about the annual pay of one new minimum wage job.

Household budgets are also strained. In this decade, health insurance costs for Alaska families have risen five times faster than wages. That is a loss of purchasing power that could be going instead into our local economy or to education to improve individual earning power.

Of course, my Alaska examples are happening in States all over this country. The statistics are troubling. Today, one-sixth of the entire American economy is devoted to health care costs. Think about it. That is more than \$2 trillion each year that does not go to job creation or business innovation or investments in infrastructure.

If we do nothing to reverse this trend—if supporters of the high cost of insurance manage to kill this reform—this problem will get much worse. By the time my 7-year-old son is raising his family, one-third of the entire U.S. economy could be consumed by health care.

Yesterday, on the floor of the Senate, one of our colleagues in opposition to health care reform put up a prop—which we will see over and over again—a large bill that was put on the desk. It is about 1,500 pages of the Finance bill, and over time that will change. But when you think about it, one-sixth of the economy will be decided by that bill—1,500 pages. To me, that is a small

amount of work, in the sense of the legislation, to deal with one-sixth of our economy. But, again, we will see that prop over and over again. But I hope the American people will see through that and see how important dealing with one-sixth of the economy is and how having a bill of that length is important.

How can we expect American businesses to shoulder such costs and be truly competitive in a global economy? Here is one example. Right now, General Motors reports that health care spending adds \$1,500 to the cost of every car it produces. Of course, its chief overseas competitors do not have to worry about health care costs because their countries dealt with this years ago.

We can and must do better. Economic peace of mind is fundamental to our democracy. It is the goal of every family in this country. It is a cornerstone of the American dream.

Let me say again, if we are serious about economic recovery in this country, then we must be serious about health insurance reform. It is a package deal.

Mr. President, I thank you and yield back the floor to the Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I say to Senator BEGICH, thank you very much and thank you for pointing out how important health care reform is to our economy.

I now yield time to Senator KAUFMAN from Delaware.

Mr. KAUFMAN. Mr. President, I thank Senator SHAHEEN for her leadership in putting this together and thank her for her leadership on health care and so many other issues.

I appreciate the opportunity, once again, to join my colleagues in calling for the passage of meaningful health care reform.

This morning, we are answering the question: What can health care reform do for you?

I wish to take a couple minutes to talk about how health care reform can help Americans stay active and healthy by enhancing prevention and wellness services for all Americans.

As I have said many times on the floor, the present health care system is out of control. It has become a gigantic resource-eating machine which, over time, sucks in more money and delivers fewer options and poorer care.

As odd as it sounds—and it does sound odd—health is not always the top priority in the present health care system. The current system, all too often, waits to treat illness and respond to health problems until they become particularly acute and costly to treat.

Promotion of health, both physical and mental health, is not given a top priority in the present health care system because, frankly, it is not rewarded. Because of this lack of emphasis, our present health care system is weighed down by Americans who battle one or more chronic diseases every day.

Despite all we spend on health care—and in 2009 this figure will approach \$2.5 trillion—almost one in two Americans suffers from common, costly, and often preventable chronic diseases.

The Partnership to Fight Chronic Disease estimates that almost 80 percent of American workers have at least one chronic disease, and 55 percent have more than one chronic condition. In fact, treatment of chronic disease accounts for approximately 75 percent of every dollar spent on health care today.

The spending rate is even higher in the Medicaid and Medicare populations, with 83 percent of spending in Medicaid and 98 percent in Medicare going for the treatment of chronic disease.

The rapid growth of chronic disease increases insurance costs for Americans, undercuts U.S. competitiveness, and threatens Medicare and Medicaid viability. Our present health care reform effort gives us the opportunity to finally reverse this trend.

By empowering and motivating Americans to be physically active and giving them a financial stake in maintaining their day-to-day health status, health care reform can put the focus back on healthy living.

An example we can build on is the recent success Safeway Corporation has had in reducing health care premiums for many of their employees by providing them incentives to change their behavior.

The CEO of Safeway, Steven Burd, created a program that rewards employees with lower premiums if they reduce their tobacco use, lower their blood pressure and cholesterol levels, and achieve a healthy weight. The completely voluntary program tests for these four measures, and employees receive premium discounts for each test they pass.

Aided by this program, obesity and smoking rates at Safeway are roughly 70 percent of the national average, and their health care costs for the last 4 years have remained constant. Let me repeat that: Their health care costs for the last 4 years have remained constant.

Right now, discounts for healthy behaviors such as Safeway's are limited to 20 percent of the regular premium. Recognizing the success of the programs such as these, the health reform bills moving through Congress include provisions to expand the premium discounts for healthy behaviors from 20 percent to 30 percent.

Another attempt to bring increased wellness to the workplace through health reform is a measure that provides grants to small businesses to provide access to comprehensive, evidence-based workplace wellness programs that would help employees make healthier choices.

These are both positive steps to promote healthy behaviors and give incentives to keep premium costs under control.

Also, by authorizing and expanding school-based health clinics, health care reform gives America's children more opportunity to learn about the merits of healthy behaviors at a young age, giving them the tools they need to make healthier choices throughout their lives.

In addition to promoting healthy lifestyles among American workers and children, health care reform will make it easier for those enrolled in Medicare and Medicaid to gain access to preventive services and wellness programs. This is incredibly important not only for the individual health of the enrollees but also to reduce the long-term costs of chronic disease in these programs.

For instance, health care reform will provide Medicare beneficiaries with a free visit to their primary care provider every year to create and update a personalized prevention plan. These plans can address health risks and chronic health problems and design a schedule for regular recommended preventive screenings.

Health care reform will also eliminate out-of-pocket costs for preventive services for Medicare beneficiaries, making these services more affordable and increasing the likelihood they will seek early care before the cost of treating a disease is prohibitive.

For those enrolled in Medicaid, health care reform will offer tobacco cessation services to pregnant women, create a new State option for providing chronically ill individuals with a health home aide to coordinate care, and encourage States to cover preventive services recommended by the U.S. Preventive Services Task Force.

Again, these are all steps that begin to reward preventive medicine and give people the incentive to utilize such services.

The PRESIDING OFFICER. The Senator has used 6 minutes.

Mr. KAUFMAN. Mr. President, may I have 1 more minute?

Mrs. SHAHEEN. Yes, 1 minute.

Mr. KAUFMAN. In short, the long-term financial viability of the health care system requires a focus on improving health and addressing the burden of chronic disease.

Health care reform gives us the chance to facilitate our health system's transition from one that focuses on just treating illness to one that is more designed to prevent or delay disease onset and progression.

It is time to gather our collective will and do the right thing during this historic opportunity by passing health care reform. We can do no less. The American people deserve no less.

Thank you.

Mrs. SHAHEEN. Mr. President, I thank very much Senator KAUFMAN for giving us one more reason why we need to address health care reform.

I now yield 6 minutes of my time to Senator UDALL of New Mexico.

Mr. UDALL of New Mexico. Mr. President, I thank very much the Sen-

ator from New Hampshire. I thank her for her leadership on the floor and for the hard work she has done on this issue. I know everybody back in New Hampshire very much appreciates that. This is the fourth time the Senate's freshman class has gathered on the Senate floor to talk about health reform. Already we have talked about why maintaining the status quo is not an option. We have talked about how reform will contain costs and dispel the myths about reform. We have talked about how reform will mean many things to many different people. What I wish to talk about today is what reform will mean for rural New Mexicans.

Our rural areas are the backbone of America. It is where we grow our food. It is where the values and traditions that make our country unique continue to thrive. It is where the potential for a clean energy future grows brighter and brighter every day. Unfortunately, our rural areas are also places where the disparities in America's health care system are the most startling.

It shouldn't matter whether one lives in a vast metropolis such as New York City or a frontier town in New Mexico. All Americans, regardless of where we choose to call home, deserve access to quality, affordable health care.

However, the reality is that right now, where one lives does have a big impact on whether they have access to quality, affordable coverage. Americans living in rural areas are more likely to be uninsured, and if they do have insurance, it can be very difficult to find a doctor. As a result, rural Americans end up getting sicker, they have higher rates of chronic disease, and they are often forced to travel hundreds of miles for preventive or emergency care, if they are able to find any at all.

I have seen these disparities firsthand, as a Member of the other Chamber and now a Senator for one of the most rural States in the Nation. Geographically, New Mexico is the fifth largest State in the country with more than 120,000 square miles of some of the most beautiful land that God created. Of the 2 million people who call New Mexico home, about 700,000 live in rural areas. Several places in New Mexico are so sparsely populated they are classified as frontier areas with less than six people per square mile.

Many of New Mexico's rural residents are farmers and ranchers, and they run their own businesses. Their only access to health insurance is often through the individual market where coverage can be extremely expensive, difficult to obtain, and nowhere near as comprehensive. As a result, rural Americans pay nearly half of their health insurance costs out of pocket, and one in five farmers lives in medical debt.

With health care reform, we must ensure that America's farmers and ranchers, as their small business counterparts in more urban areas, have more

affordable choices for coverage. I believe the best way for making this happen is through a health insurance exchange that includes a strong public option. Inserting more choice into the market would keep insurers honest and allow consumers to compare plans and prices and decide what works best for them.

With health care reform, we must also address the growing doctor shortage in rural America. In my State, for example, 30 of 33 counties are categorized as "medically underserved." Americans should not have to travel hundreds of miles for health care. Whether it is lifesaving treatment for a heart attack or a basic preventive service such as a mammogram, people are more likely to get the help they need when they need it if the services are close to home. Through incentives such as low-interest student loans, loan repayment programs, and scholarships for students and midcareer professionals, we can encourage more doctors and nurses and specialists to establish and grow their medical careers in rural America.

Finally, with health care reform, we must better support rural hospitals that serve large numbers of low-income and uninsured patients. This could be through initiatives such as expanded drug discount programs, increased Medicare payment caps for rural health plans, increased National Health Service Corps doctors, and expanded demonstration programs to test reasonable cost reimbursement for small and rural hospitals.

We will never achieve true reform in our country if we don't address the very real health care challenges facing rural Americans from the deserts of New Mexico to the mountains of Maine and everywhere in between. The improvements I have outlined are a good start, but there is more left to do, and I plan on talking about how we can accomplish this in the coming weeks.

We have traveled a long way over the past few months. I applaud my fellow freshman Senators for standing up each week and making sure their voices were heard in this process. I believe, working together, we can create a system where all people can find and afford quality health insurance that provides the care they need. We can guarantee quality, affordable health insurance to every American, and we must do that.

Thank you, Mr. President. I yield to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from New Hampshire.

Mrs. SHAHEEN. I thank Senator UDALL very much for giving us another reason health care reform is going to be good for our families and for America.

Now I wish to yield 6 minutes to the Senator from Colorado, Mr. BENNET.

Mr. BENNET. Mr. President, I wish to thank the Senator from New Hampshire for yielding, as well as the Senator from New Mexico for his excellent comments.

I am a father of three little girls who are 10, 8, and 5. One of the things I miss most in being here and not being in Colorado is being able to read to them at night or be with them. Over the years, we have moved from one story to another. Harry Potter is now being read. But I heard a story from Colorado this morning that I couldn't believe that reminded me so much of "Goldilocks and the Three Bears." So that is what I wish to talk about today.

In Colorado, we have a young boy named Alex Lange who is 4 months old. He is 17 pounds. Several weeks ago he was denied insurance because of his "preexisting condition" which, in his case, is obesity. Bernie and Kelli Lange, his parents, tried to get insurance and were told by an insurance broker that their baby was too fat to be covered. As his father said:

[I] could understand if we could control what he is eating, but he is 4 months old. He is breastfeeding. We can't put him on the Atkins diet or on a treadmill.

So that was one story of a child who is too fat to be covered.

Today we have the story of Aislin Bates. By the way, in the Lange case—and I want the record to reflect this—the insurance company did the right thing, which is to say: We made a mistake, and we need to cover this young man.

Today comes the story of Aislin Bates who is 2 years old, 22 pounds, denied insurance because of her "preexisting condition," which is that she is underweight. Rob and Rachel, her family, tried to get insurance and they received a letter saying:

We are unable to provide coverage for Aislin because her height and weight do not meet our company's standards.

Her pediatrician wrote a letter in support of the family's request to appeal the insurance company's decision, but the company stuck by its decision. The Bates family has said it costs as much to cover Aislin under COBRA as it costs to cover the remaining three family members.

So in Colorado we have children who are too big to be insured; we have children who are too little to be insured. The reason this reminded me of Goldilocks was that it looks as though you have to be "just right" to get insurance, even if you are an infant.

We can do better than that as a country, and we are proposing to do better than that as a country. One of the most important parts of this insurance reform is to get rid of denials of coverage based on preexisting conditions. I have spoken to many people who work for insurance companies that are tired of having to deny claims for this or for that or relying on the fine print when they know the right thing to do is to provide coverage.

I am tired of living in a country where 62 percent of bankruptcies are

health care-related and 78 percent of those health care-related bankruptcies are happening to people who have insurance, working families who have insurance. I am tired of the fact that we have public hospitals in Denver that 2 or 3 years ago spent \$180 million of taxpayer money on uncompensated care for people employed by small businesses.

So I think what we are talking about at the end of the day is trying to create some stability for our working families, trying to create some stability and some fairness for our small businesses that, after all, are paying 18 percent more to cover their employees just because they are small.

Politics has gotten in the way of reform of our health care system for more than 20 years. It has been longer than that. In the last 10 years alone, the costs of health insurance premiums have gone up 97 percent in my State, while median family income has declined by \$800 over this same period. This is unsustainable for our working families. It is unsustainable for us as an economy, for us to spend more than twice what any other industrialized country in the world is spending on health care. We can't hope to compete in this global economy when we are devoting more than twice what anyone else is spending on health care.

We can do better. The commonsense reforms that are in front of us and that I am sure are going to be improved upon in the coming weeks are a big step forward for working families and small businesses. It is going to be a big step forward for these young children in Denver, CO, and in the rest of our State who can't be denied coverage because they are not "just right," because they are too big or they are too small or there is one other issue that nobody anticipated.

Our families need help. They need stability in order to get ahead. That is why I support this health care reform effort.

I wish to thank, again, the Senator from New Hampshire for her leadership this morning and throughout the months as we have been talking about this issue. I look forward to working with her in the coming weeks as we finally bring this matter into its safe harbor.

Thank you, Mr. President. I yield the floor.

Mrs. SHAHEEN. I thank Senator BENNET very much for yet another reason we must pass health care reform.

Now I wish to yield 6 minutes to Senator BURRIS from Illinois.

Mr. BURRIS. I thank the Senator from New Hampshire.

Mr. President, this week my freshman colleagues and I have come to the Senate floor to answer a simple question. It is a question we have been hearing from ordinary Americans across the country. They want to know: What can health care reform do for me?

I believe this question deserves an honest answer. Opponents of reform

have resorted to lies and distortions to try to scare the American people into siding with the big insurance corporations. They talk about death panels and government takeovers and a lot of redtape between ordinary people and their doctors. These myths have been debunked many times. They have had no basis in reality.

I believe the American people are tired of the scare tactics and the dishonesty. They are too smart to fall for this kind of tactic. They are interested in the truth behind our reform proposals. They just want to know: What can health care reform do for me?

This is what reform with a public option can do for all Americans: It can make insurers compete for their business. Reform with a public option will restore choice to an insurance market that is currently dominated by only a few companies. In my home State of Illinois, two companies control 69 percent of the insurance market. In some places, the market is even more concentrated. As any businessman will tell us, as competition shrinks, profits soar. That is bad for the consumer.

Between 2000 and 2007, profits increased by an average of 428 percent among 10 of America's top insurance providers. Other insurance premiums are rising four times faster than wages. Big corporations have the American people in a vice grip, and they are squeezing them for extraordinary profits. It is time for this to end.

If we reform the insurance industry and create a not-for-profit public health option, it will force private companies to improve their prices and their products. It will restore choice and competition to the market and will help make our insurance more affordable.

If you like your current plan, no one will force you to switch to a public option. Understand: If you have your doctor, you have your providers, and you have insurance coverage today, we are not going to impact you. But if your insurance provider isn't treating you right or is not giving you the coverage you need, you will have the ability to shop around. You can buy a better private plan that is guaranteed to be affordable for someone of your income level or you can choose the public option which will set its premiums at an affordable rate. Then it will rely on those premiums to remain self-sufficient.

These are the facts. This is what health insurance reform with a public option means to the American people: competition, choice, and affordability. That is why I refuse to compromise on the public option because it is the only way to give the American people the quality affordable care they deserve.

Let me be as clear as I possibly can. I will not vote for any health reform bill that does not include a public option. I ask my colleagues to stand with me. We have been debating reform for almost a century. Now is not the time to back down. Now is the time to act

on our convictions. Let's do this for the American people. Let's make a public option a reality.

I yield back my time to the distinguished Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I thank Senator BURRIS for pointing out that we need health care reform to get competition in our health care industry.

I yield 6 minutes to the Senator from North Carolina, Mrs. HAGAN.

Mrs. HAGAN. Mr. President, I am joining my colleagues on the floor today to discuss the need for health care reform and what it means for Americans with preexisting conditions.

Millions of Americans live today with what insurance companies describe as preexisting conditions. They range from something as common as asthma or diabetes to diseases such as cancer or MS. Some insurance companies, believe it or not, even consider a C-section to be a preexisting condition.

Under our current system, if you are shopping for insurance on the individual market and you have a preexisting condition, you are faced with one of three frightening choices: One, you could be denied coverage altogether; two, you could be charged an exorbitant premium; three, you could be granted insurance with a rider that stipulates your insurance company is not required to cover your preexisting condition.

Recently, I received an e-mail from a family in Mooresville, NC, that truly underscores why millions of Americans living with preexisting conditions simply can no longer afford inaction on this issue.

Seven years ago, Tim became disabled and lost his job. Because he lost his job, his wife Marilyn also lost her coverage under his employer-provided plan. Tim's health care, which requires his wife Marilyn to provide constant home care, is covered by Medicare. But Marilyn has Osler's disease, which is a blood disease considered to be a preexisting condition by her insurance company. Marilyn is only able to purchase a high-cost, high-deductible plan. Compared to Tim's illness, her condition is relatively minor. But over the last 7 years, they have racked up more than \$72,000 in debt for her health care. And this past year, her health insurance premiums cost more than the mortgage on their home.

Unfortunately, there are millions of Americans all across our country such as Tim and Marilyn who are literally one medical emergency away from bankruptcy. This couple is sick and stuck.

Over the last 10 years, medical premiums in North Carolina have skyrocketed, increasing 98 percent, while wages, on the other hand, have increased only 18 percent.

The Health, Education, Labor, and Pensions Committee, of which I am a member, crafted a bill that ensures a preexisting condition never again prevents anyone from obtaining health in-

surance. It also provides security and stability for people with insurance, expands access to health insurance for people without it, and it will stop draining the finances of American families and the Treasury. The Finance Committee's bill also includes these critical elements.

My goal is to send the President a bill that gives people the peace of mind that if they change or lose their job, as Tim did, they will no longer have to fear losing their health insurance too.

Every single day I hear from North Carolinians who are looking for an opportunity to purchase quality affordable health insurance and protect their families. Hard-working Americans, such as Tim and Marilyn, simply cannot afford to wait any longer.

I yield back my time.

Mrs. SHAHEEN. Mr. President, I thank Senator HAGAN for yet another reason why health care reform is going to make a difference for Americans.

This morning, the freshman Senators have again talked about why we must pass health care reform. We have heard nine very important reasons why health care can make a difference for American families.

We heard from Senator WARNER that health care reform is going to be critical to States as they look at the rising costs of Medicaid in their budgets and how to get those health care costs under control.

We heard from Senator MERKLEY why health care reform is critical to help small businesses as they are trying to cover their employees and deal with the costs as they get out of this recession.

We heard from Senator BEGICH about why health care reform is critical as we are looking at economic recovery. Health care costs are 18 percent of this economy, one-sixth of this economy, and we cannot allow those costs to continue to grow at this rate and expect we are going to be able to recover robustly from this recession.

We heard from you, Mr. President, about why health care reform is going to improve prevention and wellness. The goal is to make us a healthier population, and health care reform can help spur that.

We heard from Senator BENNET about why health care reform is going to help people who already have health insurance, to make that health insurance better provide for families who need it.

We heard from Senator BURRIS about why health care reform is going to be critical to making health insurance companies compete for business and, therefore, better accommodate the health issues families have.

We heard from Senator UDALL about why health care reform is going to make a difference for rural areas, places such as the north country of New Hampshire where we have too many people who have to spend too much and go too far for their health care.

We heard from Senator HAGAN about the importance of health insurance re-

form and health care reform to address things such as preexisting conditions.

I talked about the fact that health care reform can both lower costs and improve quality for Americans.

Those are nine critical reasons why health care reform is going to be important to help American families, American businesses, the American economy.

The time to act is now. Hopefully, we can act in a bipartisan way. But we must act to make a difference for this country and for families.

Mr. President, I yield back the remaining time in morning business. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF ROBERTO A. LANGE TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA

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 bill clerk read the nomination of Roberto A. Lange, of South Dakota, to be U.S. District Judge for the District of South Dakota.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours of debate equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from South Dakota.

Mr. JOHNSON. Mr. President, a few weeks ago I stood here on the floor and offered my support for Jeff Viken to be a District Judge for South Dakota. That nomination passed with a vote of 99 to 0. Today, I am here to encourage my colleagues to offer the same support for Roberto Lange, also a nominee to be a District Judge for South Dakota. I spoke at that time of the importance of Federal judgeships and the lifetime tenure of these appointments. The lifetime appointment of a Federal judge is a very serious decision; one that has a lasting impact on our democracy.

When I last spoke on the floor nearly a month ago, only two judges had been confirmed—including now-Justice

Sotomayor. That day, we confirmed a third judge. That confirmation was Jeff Viken to fill a vacancy in my home State of South Dakota. Since that time no other judges have been confirmed by the Senate. I am proud to have both the third and the fourth judges confirmed by the Senate this Congress to be for the District of South Dakota. However, it is my understanding that there are currently ten other judicial nominations pending on the Executive Calendar. We are lucky in South Dakota to have our vacancies filled so quickly, but I encourage my colleagues to act swiftly to fill these other vacancies.

Mr. Lange has an impressive background. He has over 20 years of experience practicing law in South Dakota. Before that, he clerked for the very same docket that he has been nominated for. He attended Northwestern University School of Law on a full tuition scholarship where he was on the dean's list every semester. Prior to that, he completed his undergraduate degree at the University of South Dakota, my law school alma mater. In addition, Bob has received a well-qualified rating from the American Bar Association.

I am proud to have put Bob's name forward for this post. It is a great honor that President Obama has placed on Bob with this nomination. South Dakota will be well served by this selection. I congratulate Bob and his family on this accomplishment.

It is with great confidence in his abilities that I will cast my vote today for the confirmation of Roberto Lange to be the next U.S. Federal District Judge for South Dakota. I urge my colleagues to support this very qualified nominee.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time under the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, I ask unanimous consent to speak up to 15 minutes as in morning business.

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

AFGHANISTAN/PAKISTAN STRATEGY

Mr. BOND. Mr. President, I rise today to renew my call for President Obama to give full support to his top military commander in Afghanistan, GEN Stanley McChrystal.

Several weeks ago, I stood in this Chamber and made the case for our Congress and the American people to hear directly, and as soon as possible, from General McChrystal to ensure that political motivations here in Washington do not override the vital

needs of our commanders and troops on the ground. I was concerned then, as I am now, that continued wavering by the administration and others in Washington could unravel the hard work by our military and intelligence professionals on the battlefields of Afghanistan.

As the "friendly" death toll continues to rise in Afghanistan, political indecision here in Washington persists. We have heard no firm commitment from the administration to the fully resourced counterinsurgency strategy the President forcefully outlined last spring. I came to the floor and I supported the President's counterinsurgency strategy fully; and with General McChrystal's recent report to implement that strategy to deal with the situation in Afghanistan, I fully supported President Obama's statements in March.

But instead of commitment, the past few weeks have brought a flurry of internal debate in the administration and in the media about the basic tenets of the strategy and assessment—counterinsurgency versus counterterrorism; clear, build and hold, or fire and fall back; more troops versus fewer strategy; crafting a strategy or crafting a strategic message. In what must be a historic first, it appears I am more supportive of the President's own strategy than the President is.

Amidst this indecision, our Afghan people, our NATO, ISAF, regional allies, and our own troops wait. The Afghans wait to hear if the United States will continue to stand beside them in spite of the growing threats of the insurgent violence of the resurgent Taliban control. Our allies wait to see if they were wrong to put trust and confidence in the U.S. leadership in the region. Our military forces and brave civilians who serve in Afghanistan under constant stress and mortal danger wait to see if their sacrifices and those of their fallen comrades will have been in vain.

We have heard excuse after excuse, constant attempts to justify delay. Over the past week, another red herring was floated by some officials—we have to wait until the dispute surrounding the Afghan elections are resolved. This red herring—and those people peddling it as an excuse—has missed a truth even more applicable to the mountains and villages, and our towns and cities here in America—all politics is local, and so is the security that the Afghan people need.

While we would all like to see a pristine election in Afghanistan—something we still haven't accomplished 100 percent in our own Nation—the Taliban is not waiting for election results as they continue to kill our troops and attack the people of Afghanistan and gain momentum. Security in Afghanistan will not come from Kabul. It will have to be built village by village and valley by valley. That is what the counterinsurgency strategy is designed to do.

Even if the naysayers continue to ignore this important truth about security in Afghanistan, yesterday's announcement that a run-off election will now be held on November 7 has made that red herring of an excuse gone and useless. In light of this electoral process in Afghanistan and the progress that has been made, what are we hearing from the White House? As though this decision seemed something to be applauded, the administration continues to proclaim its indecision. Today, the White House press secretary said, "It's possible," but there are no guarantees that a decision may be made before the election—17 days from now. More people killed, more progress for the Taliban, more wondering and hesitancy by the Afghans we are trying to serve.

It is a simple question: Will we support President Obama's commanding general, Stan McChrystal, or not?

I have heard some pundits opine that delaying a few more weeks won't make any difference because it will take some time for troops to get there anyway. Using that logic, no decisions need to be made for months. But it is pretty clear postponing any decision simply postpones the date of actual engagement. And even the right strategy won't work if it is not implemented on time. We are losing time, and it can never be recovered. It certainly won't work if it is never acknowledged as our strategy.

Defense Secretary Gates waved a red flag recently, noting that the United States cannot wait for questions surrounding the legitimacy of the Afghan Government to be resolved before a decision on General McChrystal's troop request is made. He understands what I believe is a simple truth: The longer we wait, the stronger and more determined the enemy gets.

Read the papers. Violence is up this season over last. Violence is up this year over the last. The Taliban continues to gain influence in parts of Afghanistan. We keep fighting with what we have, but the insurgents keep getting stronger. We cannot and must not wait any longer for a decision.

It comes down to this: Delay leads to defeat, not victory. Our commanders in the field—the real experts who see firsthand what is required for victory—have asked for more boots on the ground, and there is no reason not to give them those troops now. While politicians and pundits debate here, the enemy is building strength and establishing even greater control over Afghanistan, the Afghan people, and future generations of potential terrorists. While we talk here, American heroes and our ISAF and Afghan allies are dying in increasing numbers in the barren regions of Afghanistan.

In a war where winning hearts and minds is critical, delay in Washington is a public diplomacy disaster in Afghanistan and abroad. It advertises our lack of resolve to our allies and the people of Afghanistan. The Afghan people have been disappointed by the

United States before. Now they need to know with certainty that the United States will not abandon them again in this fight against terrorism. Our allies, who are at this very moment being urged by the Secretary of Defense to contribute to the Afghan campaign, need to know that we will remain by their sides to defeat this enemy together. Instead, the message we are sending is one of absurdity.

Imagine this diplomatic sales job: We send a diplomat out and say: "Friends in Afghanistan, we would like to keep fighting the good fight against the terrorists and insurgents, but we haven't yet decided how strong our commitment is." I would like to see that message sell. And to our allies around the world: "We would really like for you to contribute more troops and resources for this fight, but we need a few more weeks to decide what our contributions will be." That message isn't going to work either.

I strongly doubt this new brand of public diplomacy will sell for much in the streets of Kabul or the villages of Nangarhar. What this message does tell the people of Afghanistan and the key Shura leaders across the country is: Don't trust the Americans, and instead look to the Taliban as the most likely force for the future in Afghanistan. A disaster.

Perhaps even more troubling is the message this wavering sends to our terrorist enemies. If they simply wait us out, we will go home in defeat. While the administration dithers, the terrorists have honed their own message of hatred and extremism. Radical Islamic terrorists have staged suicide attacks for maximum publicity, propagandized their message on the Internet, and convinced their fellow terrorists-at-arms that they will defeat the international community.

In the years leading up to the 9/11 attacks, al-Qaida—operating under the Taliban control in Afghanistan—was emboldened by our lukewarm response to their attacks and provocations. Failing to commit to victory now will only embolden these enemies of freedom that much more to stage more attacks.

Let there be no doubt, from all that I have read and all that I have learned in my travels to the region, and heard here, if we fail now, if the Taliban returns to power in Afghanistan, the price we pay in the future will be far greater than any price General McChrystal is asking us to pay now. We have to decide which price we are going to pay.

The stakes are high. General McChrystal's strategic assessment makes clear the situation in Afghanistan is deteriorating and the Taliban is gaining momentum. The causes of this deterioration have been debated by my colleagues countless times over the past several years. Pointing fingers for past judgments or even past mistakes, however, does nothing to solve the problems of today in Afghanistan. For

this reason, I was disappointed to learn yesterday of the House majority leader's criticism of Members of Congress who are calling on President Obama to make a decision now. Well, I am one of them.

The majority leader, in trying to justify the administration's wavering, accused Republicans of abandoning their focus for the past 7 years. I don't happen to think that is true. But whatever your opinion on the matter is, it is simply no longer relevant. The actions of one administration do not justify handing victory to terrorists through the indecisiveness of another administration. The battle before us in the Afghan/Pakistan region is today. General McChrystal has laid out an implementation of the winning strategy for Afghanistan, which the President set out, and the President's decision is simple: Do we implement it or not?

The answer should be simple. By announcing publicly his unequivocal support for General McChrystal's request, agreeing to send the troops that are needed, the President can send a message of firm resolve to our enemies and to our allies. He can give our commanders on the ground—the same military experts he chose for this mission—the resources they have requested. He can create a strategic communications plan that tells our enemies, our allies, and the American people of our intentions for the region.

The last point is particularly important. We are at a crossroads in Pakistan. We can take the road of expedience and continue to listen to Pakistani officials, who claim they have no control over the Taliban, have no idea where Mullah Omar is, and have only limited capability to decrease terrorist safe havens in their country or we can take the better path and encourage our Pakistani allies to reclaim their national sovereignty in the tribal areas and provide the stability and security that is the right of a people to expect from their government. I believe I speak for many of my colleagues when I say we should expect more from our allies to whom we give so much. But they need to hear that we are serious about our mission there as well. Pakistan has the right to be concerned when the United States appears to be faltering in its determination to remain in the fight. We failed in this region in the past, so we should not be surprised if our continued wavering instills heightened insecurity. I have spoken in this Chamber before about the importance of including Pakistan in our efforts to defeat terrorism in the region. Afghanistan and Pakistan are inextricably linked. More aggressive action may become a good thing in Pakistan, but such action should be in addition to, not as a substitute for, giving our troops in Afghanistan all the resources they need.

While denying al-Qaida and Taliban militants sanctuary in the border regions of Pakistan is critical, a fire-and-fall-back-only approach focusing on

one part of this regional conflict will ultimately hand victory to the world's most violent and feared terrorists—the same terrorists whom our Nation witnessed firsthand attack so brutally, violently, and with such deadly force on September 11.

We have seen polls that signal wavering support among the American people for this war in Afghanistan. But I have faith in the American people. They are resilient, they are proud of their country, and they understand the price of doing nothing. They are determined the sacrifices of their sons and daughters, husbands, wives, and children serving in Afghanistan will not be in vain. We owe them no less.

I call on President Obama to end this indecision and to show the American people and our allies the same resolve and determination I heard in his words of last spring. It is time for him to speak out, to make the decision, explain why it is important, and to carry that message not just to Americans but to allies and enemies throughout the world. Last spring he said:

Our spirit is stronger and cannot be broken; you cannot outlast us, and we will defeat you.

General McChrystal has said we must act quickly to defeat the terrorists and insurgents. Now is the time for President Obama to support his commanders on the ground and silence the pessimistic political winds whispering defeat in Washington.

Mr. President, I yield the floor.

I suggest the absence of a quorum, and I ask unanimous consent that the time during the quorum be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CARDIN. 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. CARDIN. Mr. President, I ask unanimous consent that during debate on the nominees, all time during quorum call and recess be charged equally to the majority and minority sides.

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

Mr. CARDIN. Mr. President, I take this time to bring to the attention of my colleagues the effect these holds—in most cases anonymous holds that are being placed by Senators on judicial appointments—are having on the lives of judicial officials and on the effectiveness of the judicial branch of government.

So far, President Obama has nominated four circuit court judges who are awaiting confirmation. One of those is Andre Davis to the Fourth Circuit of Maryland. I mention his name because he was appointed by President Obama early this year. The Judiciary Committee held a hearing in April of this

year. In June, the Judiciary Committee recommended his confirmation by a strong bipartisan vote of 16 to 3.

When we finally get a chance to vote on Judge Davis' confirmation to the court of appeals for the circuit court, I am confident it is going to be a lopsided vote among the Members of the Senate. Yet we have been denied the opportunity to confirm his appointment because some Senators put on a hold. Every time we tried to get a time agreement, which everybody says is reasonable, there was an objection. I do not believe it is aimed at Judge Davis; I believe it is a strategy by my Republican colleagues to slow down the confirmation process of judges. I don't know why. I really do not understand. When we have a judge who is qualified, who is not controversial, why would we deny the judicial branch of government the judge it needs in order to carry out its responsibility? Why would we put people through this process of waiting for the Senate to confirm when it is clear the overwhelming majority is in support of the confirmation? I think Judge Davis presents an example. Let me try to put a face on it. You hear the numbers, you hear the statistics, but each one of those holds represents another person being denied the opportunity to serve as a judge.

Judge Davis has an extremely long and distinguished career in the Maryland legal community. He graduated from the University of Pennsylvania cum laude and with a JD degree from the University of Maryland School of Law, where he still teaches classes as a faculty member. He has been a judge on the District Court of Maryland since 1995 when he was confirmed by the Senate. He has had a long career—22 years—as a district court judge. He has presided over literally thousands of cases. Many of these have gone to verdict and judgment. His record is one which lawyers and his colleagues on the bench praise as being well balanced, as that of a judge who understands the responsibilities of the judicial branch of government. He tries to call the cases as the law dictates, and there is absolutely no blemish on his record as a trial court judge. He has been praised by lawyers in Maryland as smart, evenhanded, fair, and open-minded. He has received a “well qualified” rating from the American Bar Association Standing Committee on the Federal Judiciary. He will add diversity to the Fourth Circuit. When confirmed, he will be the third African-American judge to serve in the Fourth Circuit.

I bring to your attention and to the attention of my colleagues Judge Davis because we have to bring an end to these holds where a judge is being held not because he is controversial, not because there is a problem, not because you want additional information, but just to slow down the process. That is wrong. That is an abuse of the responsibilities of each one of us, of the power each Senator has. I think it is impor-

tant that we all speak out, whether Democrats or Republicans. It is just wrong. It is time to move these nominations to the floor of the Senate and to have votes up or down on these nominees.

I urge my colleagues to let us get on with the business we were elected to do, to advise and consent to the President's appointments. If we have a problem with an appointment, let's speak out against it and let's have that type of debate. But delay for delay's sake is not befitting the Senate. I urge my colleagues to allow these appointments to go forward with up-or-down votes on the floor of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CARDIN. 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. CARDIN. Mr. President, I ask unanimous consent that the final 30 minutes prior to the 2 p.m. vote be reserved for the chair and ranking member of the Judiciary Committee or their designees, with Senator LEAHY controlling the final 15 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. STABENOW. 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. STABENOW. Mr. President, I ask consent to speak as in morning business.

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

MEDICARE PHYSICIAN FAIRNESS ACT

Ms. STABENOW. Mr. President, I rise today to speak about a motion we will be voting on after the nomination that is currently before the Senate, and that is the motion to proceed to a very important bill for seniors on Medicare coverage, for the disabled, for those who are in our military and their families. It relates to the way we reimburse physicians under Medicare and under TRICARE. It is called the Medicare Physician Fairness Act.

This is an effort to eliminate what has become a very flawed formula for determining the payments for physicians under Medicare.

We, in fact, know it is flawed because in the last 7 years, the last seven times that proposals have come forward from this formula to cut physician pay under Medicare and TRICARE, this Congress has chosen to reject that recommendation, that cut.

We want to make sure seniors can have access to their doctors, that Medi-

care is a quality system that allows the kind of reimbursements so we can continue to have the quality of providers, physicians, and others we have today.

This bill, S. 1776, would allow us to do away with what has become a very flawed process. Every year we postpone the cuts that have been proposed because we know they are flawed. We know this time of year, if we do not take action, there would be a 21-percent cut in Medicare for physicians who serve our seniors and people with disabilities. Because Medicare and TRICARE are tied together, that cut would also affect our military men and women and their families and retirees from the military. So, of course, we do not want that to happen. We are not going to allow that to happen. But rather than every year—every year, every year—deciding at the last minute we are going to stop these devastating cuts, putting physicians in the situation where they are not sure how to plan, worrying our seniors, worrying those in our military and retired military personnel, now is the time to change the formula to stop it.

By doing that, by passing this legislation, we then set the stage for health care reform where, in fact, under health care reform, we have a different set of incentives. We focus on strengthening Medicare in a way that improves quality access for seniors. We focus on incentivizing prevention. We focus on incentivizing primary care doctors with a different system that will provide bonuses and payments for our primary care doctors.

So we have a new system. We have a new vision for strengthening Medicare, strengthening our health care system. But right at the moment, we also have this failed system in place that we are kind of stuck with unless we can say: We are done. We are going to start again. We are going to start from a different budget baseline, and then move forward on health care reform.

That is exactly what I have been wanting to do with this legislation. That is why I am so appreciative of the fact that our majority leader, Senator REID, understands and is committed to making this change. His commitment to Medicare, his commitment to our seniors, our military personnel, and to our physicians is the reason we are here today. So I am so grateful to him for all of his commitment and all of his work. But this needs to be changed right now.

As I indicated, we have a system that supports our Medicare system, covers seniors, the disabled. We also tie it to our military health care system, members of the U.S. military, surviving spouses, families, military retirees, and their families. All of them are extremely supportive. In fact, it is not an exaggeration to say this is a top priority, if not the top priority, of the AARP and those who advocate for seniors right now to give seniors the peace of mind to know they are going to be

able to have access to their doctors and that their doctors are going to have the resources they need to be able to treat them.

This bill would make sure that happened by rejecting what has been a failed system. We can go right on down the list. We not only have strong support from the American Medical Association and other physician groups but those who represent our military. Military officers and their families and retirees are extremely supportive.

I am very proud of the work that over 20,000 physicians in Michigan do every day providing to more than 1.4 million seniors and people with disabilities in Michigan the quality care they need and deserve.

We have over 90,000 TRICARE beneficiaries, men and women in our military, retirees who are receiving high-quality medical services in conjunction with the Medicare system. We are very proud of that, and we want to make sure we are maintaining that as well.

Let me go through again what we are trying to make sure we can fix. One, this legislation would repeal the current broken system. It would stop a 21-percent cut to our physicians under Medicare and TRICARE, which would be devastating. It would stop what is a Band-aid approach every year. We know we are going to fix it. We fix it every year individually for that year, always at the last minute.

It is time to change that process. I believe this is honest budgeting because we know we are not going to allow these cuts to take place. So we should do away with this process that even proposes these cuts every year and lay the foundation for real physician payment reform, which is in the legislation.

Let me share with you a letter from a medical clinic in southwest Michigan where physicians wrote to me.

Every year we have to wait to the last minute to see if the rates will get cut or fixed. This makes it impossible to budget and project for the next year. Especially for practices like ours, with nearly 50 percent of our patients are Medicare patients. With the uncertainty and the increases that we do get not keeping up with the cost of living, we have to err on the side of caution, which leads us to job cuts. Though we need the staff to provide the best patient care between Medicare and Medicaid we can't afford to keep them and stay in business. If the uncertainty continues we will be forced to re-evaluate our patient population as well, leaving the Medicare patients with no choices for the care that they need.

This is really the bottom line. We want to make sure physicians are fully participating in caring for our senior citizens, for people with disabilities in this country. We want to make sure Medicare is strong. We want to make sure we are protecting it going forward. In order to do that, we have to start from the premise that we will not be allowing these cuts or the possibility of these cuts to go forward year after year after year.

The vote we are going to have in front of us is a vote to proceed to the

bill. I know there are those with amendments they would like to offer. I would hope that we would see a strong bipartisan vote to simply go to this bill. I think the seniors of this country deserve that.

I think all of those who care about health care for our senior citizens and the disabled, our families, our military personnel deserve that; to have the opportunity to go to this bill, to be able to work on it together, and to be able to pass this bill and permanently solve this problem.

I am very grateful for the fact that the President of the United States not only supports this effort, his administration's budget, the budget he gave us at the beginning of this year, his very first budget, he put forward a budget that did not include going forward with the cuts in this flawed formula.

His budget baseline started from a premise that we would not be making these cuts going forward. I believe that is where we should be. We should be making sure we stop the Band-aid approach. Stop this effort that has gone on year after year and create an honest budgeting process so that we can make sure our seniors have confidence in the future; that they are going to be able to see their doctor under Medicare, and that physicians have the confidence of knowing they are supported by a strengthened Medicare system.

So I am very hopeful we will see a strong bipartisan vote to allow us to move to this very important measure to strengthen and protect Medicare of the future.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to declare to my colleagues that I intend to vote against cloture to proceed on the motion to proceed to this measure regarding the sustainable growth rate.

I want to explain why. I thank Senator STABENOW for her leadership, and to say this is one of those moments where substantially I agree with just about everything she had to say about the inadequacies of the sustainable growth rate formula which was put in in the late 1970s as part of what turned out to be a very effective attempt to bring fiscal responsibility, budget balancing, even a surplus.

Believe it or not, at the end of the Clinton administration, historians may note, perhaps people will forget, we actually had a Federal Government surplus. But it turned out that this sustainable growth rate formula for the reimbursement of doctors was not workable and unfair and has resulted in the refusal of a lot of doctors to treat patients under Medicare.

So why would I not vote for cloture to proceed to take up this matter, and then vote for it? It is because there are larger questions involved. In some sense, I think this is a precautionary tale, the vote on this matter. It is a precautionary tale of what we will face

in succeeding votes in the Senate and most immediately in the health care reform debate we will soon take up on the Senate floor.

We did not get into this terrible situation with our Federal deficit and debt because there were people in the House or in the White House over the last several years who had bad motives or bad values. In fact, in most of the cases, such as this, when money has been allocated, appropriated for programs, it has been done with the best of intentions. But the ultimate effect has been bad for our country and our future because it has put us into a position of national debt that is unsustainable, that threatens to cripple our economic recovery and burden our children and grandchildren and beyond so that they do not live in a country with the kind of economic dynamism and opportunity in which we were blessed to be raised.

In some sense, if I would be allowed to paraphrase, I would say the road to an unsustainable, damaging, American national debt is paved with good intentions, with votes for good programs. It just is time for us together, across party lines, to sound the alarm, blow the whistle, and make choices regarding priorities.

We cannot have, no matter how good or worthwhile, programs for which we are not prepared to pay. The numbers are stunning. I am privileged to be serving my 21st year in the Senate. The numbers of our Federal indebtedness today are so shockingly high that if you told me that 21 years ago or 10 years ago or even 5 years ago, I simply would not have believed it.

The fiscal year that ended on September 30, fiscal year 2009, we now know, learned about a week ago, America ran a deficit of \$1.4-plus trillion. We know America now has an accumulated long-term debt of \$12 trillion.

We know the Congressional Budget Office has projected that over the next 10 years, we will run deficits that will add \$9 trillion to the long-term debt. So \$12 trillion now, add \$9 trillion, and that is \$21 trillion of debt. It is unbelievable. We say it is unsustainable. That is a big word. What does "unsustainable" mean? It means that at some point this size debt is going to cripple the economic recovery that is just beginning. It is going to create hyperinflation because at some point people are going to stop buying our debt and we will have to raise interest to get more people to do so. At some point, if we don't fix this, the government is going to be left with no alternative but to print more money. That is the road to inflation, to lost jobs, and to a lower quality of life.

All these things we have done, which seemed necessary at the time, which are good, we have to pay for them or else this will not be the country we want it to be for succeeding generations. We are going to reach a point where we will not have the money to

do the first thing the Federal Government is supposed to do, which is to defend the security of the country, to provide for the common defense in what is, obviously, a dangerous world.

This is a precautionary tale, a precautionary vote. We are coming to a big debate on health care reform. I am for health care reform, but it is not the only thing I am for. In fact, at this moment in our history, it seems there are two things that matter more to our country than health care reform, although I wish we could do them all. One is to sustain the recovery from the deepest recession this country has had since the Great Depression of the 1930s. We are just beginning to crawl our way out of it. Gains in gross domestic product look as though they are coming, but it is fragile. It is not robust. Of course, almost 10 percent of the American people are out of work. In fact, it is higher than 10 percent. To me, the top priority we all should have—and I speak for myself—is to sustain the economic recovery to get people back to work, to keep our economy strong.

The second—and it is related to the first—is to begin to deal with the terrible imbalances in our Federal books that will compromise the economic recovery and cripple our economic future and the opportunity our children and grandchildren will have in the future. It means we have to make choices. In the coming health care debate, we have to make sure, as the President said, that there is not one dime added to the deficit as a result. We have to make sure that what we do within the context of health care reform not only doesn't increase the deficit and the long-term debt but doesn't add cost and increase premiums, for instance, on working people, middle-class families to pay for their health insurance and on businesses for which we need to provide every incentive to add workers, to grow, to sustain the recovery as it exists now.

Those are the standards I will apply to my own action on the health care reform proposal. I want to be for health care reform. I am for health care reform. I know the system needs to be changed. But this is a precautionary vote coming up because while the Medicare Physicians Fairness Act, which would repeal the sustainable growth rate formula, is substantively just, it is not paid for. It adds almost \$250 billion to the debt for the coming years. I don't think we can do that anymore.

I am relieved to know, in terms of the immediate impact of my vote against cloture on this matter, that if cloture is not obtained, the health care reform bill that came out of the Senate Finance Committee does take care of the problem with the sustainable growth rate for another year. That gives everybody—doctors and, most important, Medicare recipients—breathing room. We can't go on spending without paying for what we are spending, no matter how good or right it is,

because there is a greater harm being done to our country.

The speed with which this Medicare Physician Fairness Act has come to the floor and taking it out of health care reform where it certainly belongs is also a precautionary tale.

I have said I am against the public option for health care insurance, essentially a government-owned health insurance plan, one, because we believe in a market economy and a regulatory government. We believe a market economy is the best way to create economic growth and wealth. It serves the American people very well. We also know that a market economy of itself doesn't, as somebody long ago said, have a conscience. So the government sets rules. We have oversight. We have regulatory rules. We have antitrust laws, for instance. That is the way we maintain fairness in the economy, in the marketplace. I don't remember another case where our answer to a concern about fairness in the marketplace—in this case, whether there is real competition in the health insurance business, whether the health insurance companies are being fair in their rates, et cetera, which are all reasonable questions—I don't remember another case where the answer was to create a government-owned corporation to compete with the private sector.

I spent 6 great years serving as attorney general of Connecticut. We sued a lot of businesses for unfair trade practices, for bid rigging, for price fixing. We appeared before regulatory commissions on behalf of the people of the United States, all sorts of businesses. But nobody ever had the idea that instead of us doing that, we should create a government oil company, a government car company, a government company to sell automobiles, a government company to take care of roof contracting. I could go on and on. One of the reasons is, particularly now, I don't have confidence that we can discipline ourselves from making it into another cause of the skyrocketing Federal deficit.

This bill is evidence of that. Here is a good cause, a group we all respect, the doctors, saying: We need this 10-year fix to the problem. And we just did it. This really ought to be done as part of overall Medicare reform. We have to have a commission. We have to have some system to deal with the great threats to our economic future. Medicare is going to run out of money in 2017, 8 years from now. Social Security is already dipping into the trust funds, taking more out than we are getting in. It may change in a year or two, but that is the way it is.

With respect to the sponsors of this proposal, the Medicare Physician Fairness Act, the doctors' associations that I know would like us to vote for it, I think 1 year is enough; 1 year paid for is enough. To do more than that now is wrong and irresponsible, and therefore I will vote against the cloture motion

on the motion to proceed to the Medicare Physician Fairness Act.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will vote against the motion to proceed. Before Senator LIEBERMAN leaves the floor, I want to say again, of all the people I have met in the Senate, he constantly amazes me, because there is no doubt he is doing this because he believes passionately that America is at a crossroads and this is making the problem worse, not better. I am on a bill with him—there are seven Republicans and seven Democrats—that is a comprehensive solution to our health care needs. It is the Wyden-Bennett bill. It mandates coverage, but we do it through the private sector.

I want colleagues to know that Senator LIEBERMAN has been constructive in trying to find a bipartisan compromise that will allow us to deal with health care inflation, which is a problem in the private sector. He practices what he preaches, trying to solve problems. As he explained it, the Senator from Mississippi and I were sitting here talking. There is not much of that around here in politics now, where one would come out and take on an issue that is being pushed by leaders of the Democratic Party. He is an independent Democrat, but he articulated the reason in a way most Americans really appreciate.

Doctors have a problem. In 1997, we tried to balance the budget with President Clinton, the Balanced Budget Act of 1997. When we looked at how we could sustain a balanced budget, we had to go to where the growth was in the budget. The big programs were Medicaid and Medicare, the entitlements. Eventually, those two programs will cost the equivalent of the entire Federal budget today in 20 or 30 years. If we want to balance the budget, we have to slow down entitlement growth.

Medicare is one of those programs that have grown dramatically. When it first came about, it was a \$4 billion safety net. They projected that Medicare would cost \$37 billion in 1990. It was like \$90-something billion. It is \$400 billion today. Those who designed the Medicare Program as a safety net for senior citizens without health care did a good thing, but from then until now, it has become a \$400 billion item that is eating up the entire budget.

In 1997, we recalculated the growth rates to be paid to doctors and hospitals. Since then, doctors and hospitals have been saying that we cut reimbursements to the point that they can't take Medicare and Medicaid patients and it is hurting their ability to stay in business. About 60 percent of their income comes from the Federal Government. I don't doubt that is true. What we did is just nickel and dime doctors and hospitals and never reform Medicare.

So Senator LIEBERMAN is right. To help doctors and hospitals and the

country achieve a balanced budget, we will have to fundamentally reform Medicare, and the doctor fix should be part of that effort.

What we are doing here is making a promise we can't afford to pay. We are going to tell the doctors: Don't worry ever again about Medicare reimbursements being cut because for a 10-year period, we are going to hold you harmless.

That is beyond cynical. We need to look at the doctor fix in terms of comprehensive Medicare reform. It is a \$245 billion item designed to get the medical community to support the leadership version of health care. It is transparent. It is wrong. It is bad politics. It is bad policy. I hope my colleagues will reject it.

The bill coming out of the Finance Committee—and I congratulate Senators who are trying to fix health care because it needs to be fixed—is about an \$800 billion expenditure, a little bit more. It is revenue neutral over a 10-year period because it is going to be paid for. Four hundred billion in Medicare cuts are part of the payoff, the pay-fors.

How do we take \$800 billion of expense and make it revenue neutral? We offset it. One of the offsets is a \$400 billion-plus reduction in Medicare spending over a 10-year window. I argue that not only is that not going to happen because the Congress hasn't reduced Medicare spending anywhere near that, it is just politically not going to happen. Two years ago, we tried to slow down the growth of Medicare to \$33.8 billion over a 4- or 5-year period and got 24 votes. If colleagues think this Congress is going to have the political will and courage to reduce Medicare by \$400 billion over 10 years, show me in the past where we have had any desire to do that.

The doctors fix is the best evidence yet of what will come in the future. We are contemplating doing away with the reduction in physician payments that was part of the balanced budget agreement because our medical community has been hit hard and is complaining. Look at the \$400 billion. Do we think if people are going to be on the receiving and of a \$400 billion cut over a period of time, they are going to accept it happily? Do you think they are not going to complain? What do you think we are going to do when one group of the medical community or the insurance community says, "You are putting me out of business."

These \$400 billion cuts are never going to happen because, you see, with the doctors fix, where every year we relieve the doctors from the imposition of that agreement in 1997—and in many ways we should because the 1997 agreement was not comprehensive—but to those who believe we are going to cut \$400 billion in Medicare, have the courage to tell the doctors we are going to do to them what we said we would do back in 1997. Nobody wants to do that, and I am sympathetic as to why we do

not want to do that because we are asking too much of doctors and hospitals and we did not reform the system as a whole.

Mr. President, \$245 billion added to the debt is no small thing. What I hope will happen is we can find a bipartisan pathway forward on health care reform that deals with inflation, deals with better access to preventive medicine, has some medical liability reform, is truly comprehensive, with give-and-take, and mandates coverage. I am willing to do that as a Republican. But if we go down the road our leadership has set for us here and basically tell the doctors "Don't worry anymore, you are going to be held harmless for the next 10 years," then what group will follow who will want the same deal and to whom will we begin to say no? I do not know. I do not know to whom we will have the ability to say no if we do this. And if you say no to them, what the heck do you tell them—"You are not a doctor, so it does not matter what we do to your business."

If we do this, we have lost the ability, in my view, to provide the necessary solutions to the hard problems facing the country. We will have given in to the most cynical nature of politics. We will have destroyed our ability to engage with the public at large in a credible way to fix hard problems. And when it comes time to ask people to sacrifice, they are going to look at us and say: What do you mean "sacrifice?" Aren't you the people who just basically wiped out what the doctors had to do because you were afraid of them?

I am not afraid of doctors. God bless them. I am glad we have them. What we have done in the name of reform has been unfair because we picked on them and not the system as a whole. So to the doctors out there, LINDSEY GRAHAM gets it, that your reimbursement rates as they exist today under Medicare make it very difficult for you to do business. But I hope you will understand that my obligation is beyond just to the doctors in South Carolina; it is to what Senator LIEBERMAN said: the next generation as well as to the here and now.

Every politician has a problem: How do you affect the here and now, people who can vote for you, and how can you secure the future? Well, you just have to ask the people who are here and now to be willing to make some changes for the benefit of the country long term. I am confident that if we ask and we do it in a smart way, people will join with us. I want to give the doctors better reimbursement rates, and the only way we can achieve that is to reform Medicare from top to bottom and make it more efficient.

One of the things I am willing to do is ask a person like myself to pay more. As a Senator, I make about \$170,000 a year. I am not saying we are worth it, but that is what we pay ourselves. I would like to think we earn our money because it is not an easy

job, but there are a lot of jobs harder than being a Senator, I can assure you. But right now, the system we have to fund Medicare, the trust fund, will run out of money in about 4 years. But basically I am paying the same amount for Part B premiums that cover doctors and hospital payments out of Medicare as my aunt and uncle who worked in the textile mill and made \$25,000 a year. I am willing for people like myself to have to pay more to keep Medicare solvent.

We are making some changes but not nearly enough. Mr. President, \$3 out of \$4 of Medicare spending comes from the General Treasury, the taxpayers. One-fourth of the money to cover Medicare expenses comes from the patient population being served. There are plenty of Americans who are paying about \$100 a month once they get into retirement who can afford to pay \$450 a month for the Medicare services they receive. Nobody is asking them to do it. I am willing to ask, and I am willing to do it myself. It is those types of changes that will lead this country to a brighter future and will correct the imbalance we have.

Finally, Medicare is \$34 trillion underfunded. If you had \$34 trillion sitting in an account today, it would earn interest over 75 years. You would need all the money—the \$34 trillion plus the interest—to make the payments we have promised people in the future.

When I was born in 1955, there were 16 workers for every retiree. Today there are three, and in 20 years there will be two. There will be two workers paying into the Social Security and Medicare trust funds where there used to be 16 when I was born. There are more baby boomers retiring every day than anyone ever anticipated. We are living far beyond 65.

The question for the country is, Will people in my business go to you, the public, and say change is required? We cannot run the system assuming things that do not exist. We have to come to grips with the fact that we have an aging population, we live longer, there are more retirees than ever, and there are fewer workers. Once we come to grips with that dynamic and ask those who can afford to give, to give—hold those harmless who cannot afford to give—America's best days are ahead.

If we do not reform these systems and we continue to do what is being proposed today—try to buy a constituency off: Doctors, we will fix your problem if you will support our bill; the \$254 billion it will cost to get you onboard, do not worry about it.

To the doctors who may be listening, you better worry about it. You need to worry about not only the viability of your medical practice but the ability of your government to make payments it has promised to the next generation, the ability of your government to be able to continue to operate, the ability of our country to pass on to the next generation a sound and secure America.

We are about to borrow ourselves into oblivion. There is a theory out there, long held, that democracies are doomed to fail because democracies over time will lose the ability to say no to themselves; that we in the government will continue to grow the government based on the needs of the next election cycle and make promises that make sense for our political future but really over time are unsustainable. We have reached that point, and we are about to go over the edge.

The only way America can self-correct is to make sure our political leadership is rewarded when we ask for change we can believe in. This is not change we can believe in. This is the old way of doing business. This is buying off a constituency that is important for the here-and-now debate of health care and not giving a damn about the consequences to the country down the road. This is how we got in this mess.

If we pass this bill, not only have we destroyed this new hope from a new President of "change we can believe in," we will have reinforced the worst instincts of politics, sold the country short, and made it impossible to say no to the next group we want to sacrifice who needs to help us solve this problem.

With that, I yield back.

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.

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

Mr. GRASSLEY. 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.

MEDICARE PHYSICIAN PAYMENT SYSTEM REFORM

Mr. GRASSLEY. Mr. President, reforming the Medicare physician payment system is one of the most difficult issues we face in Medicare today. The name of the formula is the sustainable growth rate. Generally around here we refer to that as the SGR. It is the formula for the reimbursement of doctors under Medicare. It was designed in the first instance to control physician spending and to determine annual physician payment updates by means of a targeted growth rate system. The SGR is not the only problem with the Medicare physician payment system. Everyone who knows anything about physician payments and Medicare knows that this SGR formula is not working. It is a fee-for-service system that rewards volume instead of quality or value. This means that Medicare simply pays more and more as more and more procedures and tests and services are provided to patients. Providers who offer higher quality care at a lower cost get paid less. Somehow, it is a backward system, a perverse sys-

tem. It is one of the driving forces behind rising costs and overutilization of health care, particularly in some parts of the United States.

In addition, the sustainable growth rate formula itself is flawed. The SGR is designed to determine annual physician payment updates by comparing actual expenditures to expenditure targets.

The purpose of the SGR was to put a brake on runaway Medicare spending. The SGR was intended to reduce physician payment updates when spending exceeded growth targets. In recent years, Medicare physician spending has exceeded those SGR spending targets. That has resulted, naturally, in physician payments being cut. As the magnitude of these payment cuts has increased over time, Congress has stepped in to avert these scheduled cuts in reimbursement to doctors.

In a roundabout way, the SGR has been serving its purpose. Numerous improvements in Medicare payments in other areas have been implemented over the years to offset or to pay for the various so-called doc fixes we have had to do and generally do them on an annual basis. Presently they are done on an 18-month basis, expiring December 31 this year.

We should, in fact, be reforming physician payments. That is why I supported the SGR amendments offered by my colleague, the Senator from Texas, during the Senate Finance Committee markup that concluded 8 days ago. Those amendments would have provided a fully offset, positive physician update for the next 2 years. And if we erroneously take up a debate on this flawed Stabenow bill, I will have an alternative to offer with my good friend, the chairman of the Senate Budget Committee, Senator CONRAD. A Conrad-Grassley amendment would be a bipartisan approach to this.

Realigning incentives in the Medicare Program and paying for quality rather than quantity of services is, of course, an essential part of physician payment reform. But as fundamentally flawed as the physician payment system is, S. 1776, the bill before us, is just as fundamentally flawed. S. 1776 would add—can my colleagues believe this—a \$¼ trillion cost to the national debt. A quarter of a trillion, obviously, is \$250 billion. But worse yet, it does not fix the problems we have with the physician payment system. It simply gives a permanent freeze to those payments. The American Association of Neurological Surgeons and the Congress of Neurological Surgeons oppose the Stabenow bill for precisely that reason, and I applaud them for having the courage to say so.

My esteemed colleague, the majority leader, claims this bill has nothing to do with health reform. I think it has everything to do with health reform. He says the \$247 billion cost of this bill is just correcting, in his words, "payment discrepancy;" merely, in his words, "a budgetary problem," a prob-

lem that needs to be fixed. But I don't believe anybody is going to buy that argument, not even the Washington Post. I have here a recent editorial. They said:

\$247 billion . . . is one whopper of a discrepancy.

S. 1776 isn't being offered to fix a budget payment discrepancy, it is being offered as one whopper of a backroom deal to enlist the support of the American Medical Association for a massive health reform bill that is being written behind closed doors.

Nobody is being fooled about what is going on in this body, the most deliberative body in the world, the Senate.

When President Obama spoke to a joint session of Congress last month—the week after we came back from our summer break—he made a commitment to not add one dime to the deficit now or in the future. Those are his words, not mine. But as this Washington Post editorial notes, S. 1776 would add 2.47 trillion dimes to the deficit.

We go to chart 2 now. That would be 2.47 trillion dimes, enough to fill the Capitol Rotunda 23 times.

Now we have chart 3. I wholeheartedly agree with the editorial's conclusion. The Post editorial said:

A president who says that he is serious about dealing with the dire fiscal picture cannot credibly begin by charging this one to the national credit card . . .

This quote is highlighted out of that same editorial.

The Office of Management and Budget and the Treasury Department announced that the fiscal year 2009 deficit hit a record of \$1.4 trillion. According to the Government Accountability Office, public debt is projected by the year 2019 to surpass the record that was set in 1946, 1 year after the end of World War II. That debt was attributable to the war, which was the war to save the world for democracies because of the dictatorial governments of Italy, Germany, and Japan, as we recall from history.

There is no doubt that fixing the flawed physician payment system is something that must be addressed. But the problem—this problem—with the physician payments is one of the biggest problems in health care that needs fixing. But at a time when the budget deficit has reached an alltime high of \$1.4 trillion, this situation demands fiscal discipline.

As the Washington Post has correctly pointed out, S. 1776 is, indeed, a test of the President's pledge to pay for health care reform.

Repealing the SGR without any offsets, as S. 1776 would do, is a flagrant attempt to try and hide the true cost of comprehensive health care reform.

Let me suggest to the American people that bill, comprehensive health care reform—at least the one that came out of the Senate Finance Committee—is thick, at 1,502 pages that we all are committed to reading before it goes to the floor. That bill, of course,

will not go to the floor because now it is being merged in secrecy with the Senate HELP Committee bill, and so it may come out thicker. Who knows. We are talking about a great deal of cost connected with that and the SGR fix being connected with that as well.

We have in the Senate Finance Committee bill, that was reported out, significant payment system reform. That bill takes savings of almost $\frac{1}{2}$ trillion to fund a new entitlement program outside Medicare. The priority for Medicare savings should be fixing Medicare problems, and the physician payment issue and the SGR is the biggest payment system problem in Medicare today. It should get fixed in health care reform with those Medicare savings.

I must, therefore, object not to fixing the SGR and improving the system for physician payments—which clearly must be done—but to this very flawed bill. It is only a permanent payment freeze. It does not fix the problem. It is not paid for. It should be a part of health care reform. It adds $\frac{1}{4}$ trillion to the deficit. It is one whopper of a discrepancy. It is not credible.

I urge my colleagues to oppose cloture on this train wreck of a bill.

I yield the floor and, since I do not see any of my colleagues waiting to speak, I suggest the absence of a quorum.

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

The assistant legislative 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.

Mr. LEAHY. Mr. President, today, the Senate will finally consider the nomination of Roberto A. Lange to the District of South Dakota. It has been 3 weeks since Mr. Lange's nomination was unanimously reported by the Judiciary Committee to the Senate. It should not take 3 weeks to confirm a consensus nominee. I will be interested to hear from Senate Republicans who have stalled this confirmation for the last 3 weeks why they did so.

There are 10 other judicial nominations reported favorably by the Judiciary Committee to the Senate that remain pending without consent from Senate Republicans to proceed to their consideration. These are 10 other judicial nominations on the Senate Executive Calendar awaiting action and being stalled by Republican holds. All 10 were reported favorably by the Senate Judiciary Committee. Two were reported in June and have been waiting for more than 4 months for Senate consideration. These are things that we have always done by voice vote when there is no controversy.

It is not only a dark mark on the Senate for holding us up from doing our work, but it means that the nominees have their lives on hold. They have been given this nomination, and

everything has to come to a stop. They know they are going to be confirmed. They know that whenever the Republicans allow a vote, it will be virtually unanimous. It makes the Senate look foolish, and I wish my colleagues would allow these people to move quickly.

The American Bar Association's Standing Committee on the Federal Judiciary reported that its peer review of the President's nomination of Mr. Lange resulted in the highest rating possible, a unanimous rating of well qualified. His nomination has the support of both home State Senators, Senator JOHNSON, a Democrat, and Senator THUNE, a Republican, and was reported out of the Judiciary Committee by unanimous consent on October 1. I expect the vote on the President's nomination of Mr. Lange to be overwhelmingly in favor, as was the 99-0 vote for the only other district court confirmation so far this year, that of Judge Viken. I will be listening intently to hear why then Senate Republicans—despite the support of Senator THUNE, the head of the Republican Policy Committee and a member of the Senate Republican leadership—have stalled this confirmation needlessly for 3 weeks.

This is one of the 13 judicial nominations reported favorably by the committee to the Senate since June to fill circuit and district court vacancies on Federal courts around the country. Ten of those nominations were reported without a single dissenting voice. This is unfortunately only the third of those judicial nominations to be considered all year.

It is October 21. By this date in the administration of George W. Bush, we had confirmed eight lower court judges. By this juncture in the administration of Bill Clinton, we had likewise confirmed eight circuit and district court nominations. The Senate has confirmed just three circuit and district court nominees this year less than half of those considered by this date during President Bush's tumultuous first year in office and confirmed by this date during President Clinton's first year. This is despite the fact that President Obama sent nominees with bipartisan support to the Senate two months earlier than did President Bush. Moreover, President Clinton's term also began with the need to fill a Supreme Court vacancy.

The first of these circuit and district court confirmations this year did not take place until September 17, months after the nomination of Judge Gerard Lynch had been reported out of committee with no dissent. Finally, after months of needless delay, the Senate confirmed Judge Lynch to serve on the Second Circuit by an overwhelming vote of 94 to 3. That filled just one of the five vacancies this year on the Second Circuit. The Second Circuit bench remains nearly one-quarter empty with four vacancies on its 13-member bench.

Judge Viken, the first of just two district court judges the Senate has been allowed to vote on this year, was con-

firmed on September 29, by a unanimous 99-0 vote. Today, the Senate is finally being allowed by Republicans to vote to confirm Roberto Lange, who was reported by the committee on October 1. It took 3 weeks to proceed to Mr. Lange's nomination despite the fact that he, like Judge Viken, had the support of both his home State Senators, one a respected Democratic Senator and the other a Republican Senator who is a member of the Republican Senate leadership.

South Dakota has had its two vacancies filled this year but vacancies in 35 other States remain unfilled and the Senate's constitutional responsibilities are going unfulfilled. There was—there is—no reason for the Republican minority to impose these unnecessary and needless delays to judicial confirmations. When will Senate Republicans allow the Senate to consider the nominations of Judge Hamilton to the Seventh Circuit, Judge Davis to the Fourth Circuit, Judge Martin to the Eleventh Circuit, Judge Greenaway to the Third Circuit, Judge Berger to the Southern District of West Virginia, Judge Honeywell to the Middle District of Florida, Judge Nguyen to the Central District of California, Judge Chen to the Northern District of California, Ms. Gee to the Central District of California and Judge Seeborg to the Northern District of California?

In a recent column, Professor Carl Tobias wrote:

President Obama has implemented several measures that should foster prompt appointments. First, he practiced bipartisanship to halt the detrimental cycle of accusations, countercharges and non-stop paybacks. Moreover, the White House has promoted consultation by seeking advice on designees from Democratic and GOP Senate members, especially home state senators, before official nominations. Obama has also submitted consensus nominees, who have even temperaments and are very smart, ethical, diligent and independent.

I ask unanimous consent that a copy of Professor Tobias's column be printed in the RECORD following my statement.

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

(See Exhibit 1.)

Mr. LEAHY. When I served as chairman of the Senate Judiciary Committee during President Bush's first term, I did my best to stop the downward spiral that had affected judicial confirmations. Throughout my chairmanship I made sure to treat President Bush's judicial nominees better than the Republicans had treated President Clinton's. During the 17 months I chaired the Judiciary Committee during President Bush's first term, we confirmed 100 of his judicial nominees. At the end of his Presidency, although Republicans had chaired the Judiciary Committee for more than half his tenure, more of his judicial nominees were confirmed when I was the chairman than in the more than 4 years when Republicans were in charge.

In spite of President Obama's efforts, however, Senate Republicans began

this year threatening to filibuster every judicial nominee of the new President. They have followed through by dragging out, delaying, obstructing and stalling the process. The result is that 10 months into President's Obama's first term, the Senate has confirmed only three of his nominations for circuit and district courts while judicial vacancies skyrocket around the country. The delays in considering judicial nominations pose a serious problem in light of the alarming spike in judicial vacancies on our Federal courts.

There are now 96 vacancies on Federal circuit and district courts and another 24 future vacancies already announced. These vacancies are at near record levels. Justice should not be delayed or denied to any American because of overburdened courts. We can do better. The American people deserve better.

Professor Tobias' observations about the Second Circuit hold true throughout the country and with respect to this President's efforts to work cooperatively with respect to judicial nominations. President Obama made his first judicial nomination, that of Judge David Hamilton to the Seventh Circuit, in March, but it has been stalled on the Executive calendar since early June, despite the support of the senior Republican in the Senate, Senator LUGAR. The nomination of Judge Andre Davis to the Fourth Circuit was reported by the committee on June 4 by a vote of 16 to 3, but has yet to be considered by the Senate. The nomination of Judge Beverly Baldwin Martin to the Eleventh Circuit has the support of both of Georgia's Senators, both Republicans, and was reported unanimously from the committee by voice vote on September 10 but has yet to be considered or scheduled for consideration by the Senate. The nomination of Joseph Greenaway to the Third Circuit has the support of both Pennsylvania Senators, and was reported unanimously from the committee by voice vote on October 1, but has yet to be considered or scheduled for consideration by the Senate. All of these nominees are well-respected judges. All will be confirmed, I believe, if only Republicans would consent to their consideration by the Senate. Instead, the President's good efforts are being snubbed and these nominees stalled for no good purpose.

President Obama has been criticized by some for being too solicitous of Senate Republicans. As Wade Henderson, the executive director of the Leadership Conference on Civil Rights, said to *The Washington Post* recently: "I commend the President's effort to change the tone in Washington. I recognize that he is extending an olive branch to Republicans on the Judiciary Committee and in the Senate overall. But so far, his efforts at reconciliation have been met with partisan hostility." As usual, Wade has it right. The efforts the President has made have not been reciprocated.

The Senate can and must do a better job of restoring our tradition of regularly considering qualified, non-controversial nominees to fill vacancies on the Federal bench without needless and harmful delays. This is a tradition followed with Republican Presidents and Democratic Presidents. We should not have to overcome filibusters and spend months seeking time agreements to consider consensus nominees.

In addition, four nominations to be Assistant Attorneys General at the Department of Justice remain on the Executive calendar, three of them for many months. Republican Senators have also prevented us from moving to consider the nomination of respected Federal Judge William Sessions of Vermont to be Chairman of the United States Sentencing Commission for over 5 months, even though he was twice confirmed as a member of that Commission. The majority leader has been forced to file a cloture motion in order to end the obstruction of that nomination.

Four out of a total of 11 divisions at the Department of Justice remain without Senate-confirmed Presidential nominees because of Republican holds and delays—the Office of Legal Counsel, the Tax Division, the Office of Legal Policy, and the Environment and Natural Resources Division. Earlier this month, with the hard work of Senator CARDIN, we were finally able to move forward to confirm Tom Perez to head the Civil Rights Division at the Justice Department. His nomination was stalled for 4 months, despite the fact that he was approved 17 to 2 by the Judiciary Committee. At the last minute, Senate Republicans abandoned an ill-fated effort to filibuster the nomination and asked that the cloture vote be vitiated. He was finally confirmed with more than 70 votes in the Senate.

During the 17 months I chaired the Judiciary Committee during President Bush's first term, we confirmed 100 of his judicial nominees and 185 of his executive nominees referred to the Judiciary Committee. And yet 10 months into President's Obama's first term, we have confirmed only 2 of his nominations for circuit and district courts and 40 of the executive nominees that have come through our committee.

I hope that, instead of withholding consents and filibustering President Obama's nominees, the other side of the aisle will join us in treating them fairly. We should not have to fight for months to schedule consideration of the President's judicial nominations and nomination for critical posts in the executive branch.

I look forward to congratulating Mr. Lange and his family on his confirmation today. I commend Senator JOHNSON for his steadfastness in making sure his State is well served.

EXHIBIT 1

COMMENTARY: SECOND CIRCUIT APPEALS COURT OPENINGS NEED TO BE FILLED

(By Carl Tobias)

The country's attention was recently focused on the Senate confirmation vote for U.S. Second Circuit Court of Appeals Judge Sonia Sotomayor, President Barack Obama's initial Supreme Court nominee and judicial appointment. This emphasis was proper because the tribunal is the highest court in the nation and decides appeals involving fundamental constitutional rights.

Nonetheless, the same day that Justice Sotomayor received appointment, Second Circuit Judge Robert Sack assumed senior status, a type of semi-retirement, thereby joining his colleague, Guido Calabresi, who had previously taken senior status. Moreover, on Oct. 10, Judge Barrington Parker also assumed senior status. These developments mean that the Second Circuit will have vacancies in four of its thirteen authorized judgeships.

Operating without nearly 25 percent of the tribunal's judicial complement will frustrate expeditious, inexpensive and equitable disposition of appeals. Thus, President Obama should promptly nominate, and the Senate must swiftly confirm, outstanding judges to all four openings.

The numerous vacancies can erode the delivery of justice by the Second Circuit, which is the court of last resort for all but one percent of appeals taken from Connecticut, New York and Vermont. The tribunal resolves more critical business disputes than any of the 12 regional circuits and decides very controversial issues relating to questions, such as free speech, property rights and terrorism.

Among the appellate courts, the Second Circuit needs more time to conclude appeals than all except one, which is a useful yardstick of appellate justice. The August loss of two active judges and the October loss of a third will exacerbate the circumstances, especially by additionally slowing the resolution of cases that are essential to the country's economy.

There are several reasons why the tribunal lacks almost one quarter of its members. Judge Chester Straub took senior status in July 2008, and President George W. Bush nominated Southern District of New York Judge Loretta Preska on Sept. 9 after minimally consulting New York's Democratic Senators Charles Schumer and Hillary Clinton. September was too late in a presidential election year for an appointment, and the 110th Senate adjourned without affording the nominee a hearing.

Moreover, President Obama has nominated no one for the Calabresi or Sack opening, although both jurists announced that they intended to take senior status last March. In fairness, Judge Calabresi did not actually assume senior status until late July, while Judge Sack only took senior status and Justice Sotomayor was confirmed in August.

President Obama has implemented several measures that should foster prompt appointments. First, he practiced bipartisanship to halt the detrimental cycle of accusations, countercharges and non-stop paybacks. Moreover, the White House has promoted consultation by seeking advice on designees from Democratic and GOP Senate members, especially home state senators, before official nominations. Obama has also submitted consensus nominees, who have even temperaments and are very smart, ethical, diligent and independent. The Executive has worked closely with Senator Patrick Leahy (D-Vt.), the Judiciary Committee chair, who schedules hearings and votes, and Senator Harry Reid (D-Nev.), the Majority Leader, who arranges floor debates and votes, and

their GOP counterparts to facilitate confirmations.

Emblematic is the President's nomination of U.S. District Judge Gerard Lynch, who served with distinction on the U.S. District Court for the Southern District of New York since 2000. New York Democratic Senators Schumer and Kirsten Gillibrand expeditiously suggested the superb trial judge to Obama, who nominated Lynch on April 2. By mid-May, the panel conducted Lynch's confirmation hearing, and on June 11, the committee approved Lynch. In mid-September, the Senate confirmed Lynch on a 94-3 vote.

Senator Schumer's Sept. 9 announcement that he had recommended District Judge Denny Chin to the White House and the jurist's Oct. 6 nomination are precisely the correct approaches. The New York and Connecticut senators must continue suggesting excellent candidates for the three Second Circuit openings which remain. Obama must swiftly consider their proposals and nominate outstanding prospects. The Judiciary Committee should promptly afford hearings and votes, while the Majority Leader ought to expeditiously schedule floor debates and votes.

Judge Sotomayor's Supreme Court elevation, the assumption of senior status by Judges Calabresi, Parker and Sack and Judge Lynch's recent Senate confirmation mean there are four openings in the Second Circuit's thirteen judgeships. President Obama should cooperate with the Senate to quickly fill the vacancies with superior judges, so that the tribunal can deliver appellate justice.

Mr. LEAHY. Mr. President, I ask unanimous consent that my further remarks be charged against my time in connection with this nomination.

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

(The remarks of Mr. LEAHY are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I wish to briefly make a few comments about the confirmation vote we will soon be having on supporting this nominee. I saw him, as a member of the Judiciary Committee, and we made inquiry of him. I liked him. He handled himself well.

He has been a strong and ardent Democrat all his life—an active Democrat. He was educated, I believe, at the University of South Dakota and has practiced law a long time there. I think he has the ability and the commitment—he said he did and I believe him—not to allow his politics to influence his decisionmaking once he puts on that robe; that he will be objective and fair; that he will comply with the oath a judge takes to be impartial; that he will provide equal justice for the poor and the rich; and that he will serve the laws of the United States under the Constitution. So we moved

him forward, and I am glad he will be confirmed.

I will note that some nominees I will not be able to support, and I would expect some others may object as well. It is our responsibility to be careful and to be cautious in making decisions about judges because they are given a lifetime appointment. They can't be removed for bad decisionmaking. I believe the President has submitted two more nominees to the district bench. There are 74 vacancies in the Federal courts in America as of today. A few days ago, there were 9 nominations pending—this is 1 of them—and now there are 11 nominations, I understand, pending.

As the President gets his machine up and running and starts submitting nominees, I think we will have good hearings. My view is that if they are qualified, it doesn't make any difference to me if they are an active, partisan, campaigning Democrat. That is fine. The question simply is, once they put on the robe and they are required to decide cases, can they put aside their personal feelings, backgrounds, emotions, and partisanship? Most judges can.

I practiced in Alabama, where judges run on a party ticket. They run as Republicans and Democrats. Everybody knows which of them—very few—carry those biases with them.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I thank the Chair, and I urge my colleagues to support the nomination.

The PRESIDING OFFICER. (Mr. UDALL of New Mexico.) The question is, Will the Senate advise and consent to the nomination of Roberto A. Lange, of South Dakota, to be United States District Judge for the District of South Dakota?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 324 Ex.]

YEAS—100

| | | |
|-----------|-----------|------------|
| Akaka | Carper | Gillibrand |
| Alexander | Casey | Graham |
| Barrasso | Chambliss | Grassley |
| Baucus | Coburn | Gregg |
| Bayh | Cochran | Hagan |
| Begich | Collins | Harkin |
| Bennet | Conrad | Hatch |
| Bennett | Corker | Hutchison |
| Bingaman | Cornyn | Inhofe |
| Bond | Crapo | Inouye |
| Boxer | DeMint | Isakson |
| Brown | Dodd | Johanns |
| Brownback | Dorgan | Johnson |
| Bunning | Durbin | Kaufman |
| Burr | Ensign | Kerry |
| Burriss | Enzi | Kirk |
| Byrd | Feingold | Klobuchar |
| Cantwell | Feinstein | Kohl |
| Cardin | Franken | Kyl |

| | | |
|------------|-------------|------------|
| Landrieu | Murray | Specter |
| Lautenberg | Nelson (NE) | Stabenow |
| Leahy | Nelson (FL) | Tester |
| LeMieux | Pryor | Thune |
| Levin | Reed | Udall (CO) |
| Lieberman | Reid | Udall (NM) |
| Lincoln | Risch | Vitter |
| Lugar | Roberts | Voivovich |
| McCain | Rockefeller | Warner |
| McCaskill | Sanders | Webb |
| McConnell | Schumer | Whitehouse |
| Menendez | Sessions | Wicker |
| Merkley | Shaheen | Wyden |
| Mikulski | Shelby | |
| Murkowski | Snowe | |

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.

The Republican leader is recognized.

MEDICARE PHYSICIAN PAYMENTS

Mr. McCONNELL. Mr. President, I am going to take a moment of my leader time. Americans are increasingly alarmed by the expansion of our national debt and this spending binge we are putting on the national credit card. They are asking us to do what they have been doing. They want us to take out our scissors and cut the credit card. They want us to live within our means so their children and their grandchildren do not wake up in the morning to find the American dream buried under an avalanche of debt.

Our fiscal situation has simply spiraled out of control. Yet the proponents of this measure want to put another quarter of a trillion dollars on the Federal credit card. Republicans offered a series of fiscally responsible ways to prevent pay cuts to our physicians. That was not agreed to.

Let me remind everybody, we are in very dangerous territory. I am going to vote against this deficit-expanding bill because enough is enough. I hope, on a bipartisan basis, we will send a message to the American people that we do not intend to charge from \$¼ trillion to \$300 billion on the nation's credit card by approving this measure.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we have been aware of the fact that because of activities and actions of the Republican-dominated Washington for a number of years, that the doctors who take Medicare patients have been hammered so hard that not all doctors take Medicare patients.

We want senior citizens, Medicare recipients, to be able to go a doctor. We do not want all of those folks going to Medicare Advantage. We want Medicare to survive as a program.

Because people who ran this town for a number of years did not like Social Security, tried to privatize that, did

everything they could to minimize and denigrate Medicare, we are now at a point where we have, in the bill that has been reported out of the Finance Committee, a 1-year fix for the senior citizens, so that physicians will not be dropping Medicare patients. Then all of the physicians should know that we march to this position we are in now.

We were told by the American Medical Association and others that we would get help from the Republicans to take care of senior citizens so that they would have doctors to take care of them. It is very interesting. One of the sponsors of this legislation, one of the Republican leaders, is not supporting the legislation. How do you like that? This is another effort of Republicans to slow down, divert, and stop what we are trying to do with health care and based on everything else.

I just finished a meeting over here with my chairmen. We lamented the fact of how things have changed in this town, how in this new administration we have had to file cloture on a significant number of occasions to get people who have jobs in this administration approved in the Senate. During the Bush first year, during this same period of time, not a single nomination he requested had to be clotured; that is, to end a filibuster. We have numerous people to get approved.

We have essential legislation, such as legislation that deals with giving people who are out of work unemployment benefits. It is not a gift. They pay into that fund or they thought it wasn't a gift.

I want everyone to know we are going to take care of Medicare. If the Republicans in the Senate don't want to do it the way we have done it in the past by doing the doctors fix, then when we finish the health care legislation, we will come back and take care of a multiple-year fix for the doctors and senior citizens.

I want everyone within the sound of my voice to understand that Washington is being driven by a small number of people on this side of the aisle who are preventing us from doing things that help the American people. We are not trying to run over people with the 60 votes we have. We want to work with people. We want to get along. I think it is really too bad that suddenly they have got religion. They never worried in the past about all the tax cuts being paid for. They never worried about drug manufacturers getting all the free stuff they got. They never worried about any of this. They now are suddenly being very frugal when they find it is a way they can slow down what we do here.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, if I might just add to what our distinguished leader has said and thank him for bringing this vote to us. This is about strengthening and protecting Medicare.

The distinguished Republican leader is right: Enough is enough—enough of

running physicians up to the brink every year, not knowing what is going to happen; enough for seniors not knowing whether they will be able to continue to see their doctors. Seven different times we have brought them up to the brink and then not made the cut and have many times not paid for it. This legislation will wipe the slate clean and will for the first time bring honest budgeting to Medicare.

Mr. LEAHY. Mr. President, I am proud to be a cosponsor of the bill we are considering today, the Medicare Physician Fairness Act, introduced by Senator STABENOW. This bill would permanently end the scheduled reductions in Medicare and TRICARE payments that physicians face each year. This legislation is long overdue and an important step in making sure doctors will continue to serve Medicare patients and veterans in the years to come.

This year marks the 8th year in a row that Congress will be forced to prevent scheduled physician payment cuts under the Medicare Program. The scheduled cuts are based on a flawed formula, which cuts physician payments in the future if physician spending exceeds a target based on the growth of the economy. Because the scheduled cuts are cumulative, next year we could expect to see a 21-percent reduction in physician payments and a cumulative 40-percent cut scheduled by 2016. It is no wonder Congress has consistently acted to prevent these cuts and experts have called for a repeal of this broken formula.

Without passing this bill and permanently ending the schedule of physician payment cuts, doctors will continue to struggle to budget for the future without knowing with absolute certainty that Congress will act to prevent payment reductions. The uncertainty in payment rates has already resulted in many physicians declining to accept Medicare making it hard for beneficiaries to find a doctor. In rural States like Vermont, finding a doctor is challenging enough without looming payment cuts affecting doctors every year. In addition to seniors, the more than 12,000 Vermont veterans and military personnel who participate in TRICARE will continue to feel their benefits are at risk so long as this flawed formula threatens payment reductions to their doctors.

Some have argued that we cannot afford to make such an expensive fix to our health care system. I disagree. The President already assumed Congress will fix the payment cuts over the next 10 years in his budget proposal. We all know that without a permanent fix Congress will continue to act to prevent these debilitating cuts in payment rates to doctors. The administration's budget gives a realistic estimate of projected Medicare spending. Passing a permanent fix will allow us to have accurate estimates of Medicare spending, a first step toward truly reforming the physician payment system to one that

is based on quality and performance and not on arbitrary formulas.

This legislation is an important step toward making changes in the Medicare and TRICARE physician payment structure that will help our entire health care system. I regret that some misplaced partisan point-scoring threatens to prevent us from considering a bill we should have passed long ago. I hope we can proceed to this bill and pass it swiftly so we can begin our work toward improving our overall health care system.

Mr. BAUCUS. Mr. President, an old Chinese proverb says:

"If you do not pay the doctor who cured you, beware of falling ill again."

We are here today because we need to fix the way that we pay the doctors who cure us.

The way that we pay for health care today contributes to spiraling health care costs. It contributes to quality-of-care that is not as good as it should be.

Today's payment system rewards providers for the quantity, not the quality, of the services that they provide.

Commonsense health reform must restructure the way that we pay for health care.

Because of its size and purchasing power, Medicare can lead the way. But payment reforms won't be effective unless they're built upon a solid payment foundation.

Unfortunately, the current Medicare payment system for doctors is fundamentally flawed. It does not provide stability and predictability for our doctors. It is not a solid foundation for the future.

That is so, because in 1997, Congress created the Medicare physician payment system that we have today. Congress created a thing called "the sustainable growth rate," or "SGR." It was meant to control what Medicare spends on doctors.

But the SGR is not working. It never really has.

Had Congress not intervened, the SGR would have produced steep cuts in physician payments every year since 2002. And if Congress does not intervene now, the SGR will continue to produce steep cuts for the foreseeable future.

Without action, next year, physician payments will be reduced by 21 percent. And the cuts will continue for the foreseeable future. The total cut over the next decade will approach 40 percent.

Every year since 2003, Congress has intervened. Congress regularly acts to avert these cuts. And given the magnitude of the impending reductions, Congress will continue to intervene. The stakes are just too high.

Allowing these draconian cuts to go into effect would jeopardize access to doctors for 40 million seniors—including 160,000 Montanans—who rely on Medicare for their health coverage. That is why AARP unequivocally supports the repeal of the flawed SGR formula.

But the damage would not end there. Because TRICARE—the health care system for active military personnel—bases its reimbursements on Medicare rules, 9 million members of the armed services and their families could also be left without physician care.

The SGR must be repealed.

But don't just take my word for it. The Medicare Payment Advisory Commission—or MedPAC—reported to Congress in 2007 that the SGR should be replaced with a more stable, predictable system. MedPAC recommended a system that rewards doctors based on the quality and efficiency of the care that they deliver.

The Medicare Physician Fairness Act is the first step toward a 21st century physician payment system in Medicare.

The Medicare Physician Fairness Act repeals the flawed SGR formula that has done nothing to promote more appropriate, evidence-based physician care.

Repealing SGR will lay a solid foundation. And on that foundation, we can build delivery system reforms that fundamentally restructure the Medicare payment system. We can change it from one that focuses on the volume of services delivered to one that rewards doctors for the value of care that they deliver to patients.

The bill that the Finance Committee reported last week includes these reforms. Our bill includes better feedback reports to doctors, so that they know how their utilization trends compare to those of their peers. Our bill includes incentives for physicians to work together with other health care providers in accountable care organizations that will share in savings they achieve for Medicare. And ultimately, our bill includes a payment system that rewards every doctor based on the relative quality and costs of care they provide to their patients.

But first, we need to repeal the SGR, so that we can enact these meaningful reforms.

Now, any honest discussion about repealing the current SGR system must also address the elephant in the room: the CBO budget baseline. The law requires CBO's budget baseline to assume that Congress will not suspend the SGR.

The reality of the situation, however, is at odds with the CBO baseline. Future congressional action on the SGR is certain. Seven consecutive cuts have, for good reason, been averted.

Rather than continuing to enact short-term fixes that produce steeper cuts in the future, the Medicare Physician Fairness Act adopts the Obama administration's more realistic budget baseline. It does not increase spending over recent trends or future action. It preserves spending at current levels.

Adjusting the SGR baseline without an offset is not something I endorse without hesitation. I believe in fiscal responsibility. And I am proud that the Finance Committee health reform legislation will reduce the budget deficit

in the first 10 years and dramatically bend the cost curve in the long run.

But by overturning each of the last seven SGR cuts, Congress has made clear that the current baseline is broken. And temporary band-aids have only increased the size of future cuts and the cost of future interventions.

Eliminating the SGR now will avert devastating payment cuts. And eliminating the SGR now will create a more honest picture of our future budgetary commitments.

And so, let us avoid merely putting another band-aid on the broken physician payment system. Let us truly reform the way that we pay the doctors who cure us. And let us enact the Medicare Physician Fairness Act.

Mr. FEINGOLD. Mr. President, our Nation faces great challenges that require collective persistence and collective sacrifice to overcome. Two of these challenges that I hear the most about from my constituents are the need to reduce the national debt and enact health care reform. Their concerns come from a basic sense of responsibility and decency—and are true to Wisconsin's progressive tradition. They believe, as I believe, that the government should be required to balance their budget just as Wisconsinites balance their checkbook. They believe, as I believe, that every American—regardless of wealth, race, gender, or age—deserves good, affordable health care. These basic principles of fiscal and social responsibility have guided me throughout my 17 years in the Senate. And it is these principles that lead me to conclude that I cannot support S. 1776, the Medicare Physician Fairness Act, because it will substantially add to our national deficit.

I believe that the Medicare sustainable growth rate is a broken policy and must be fixed. I also believe that requiring Congress to pay for enacting new policies is critical to our long-term financial stability and strength as a nation. Waiving paygo requirements for this legislation simply puts a different name on the same \$247 billion problem. It passes the buck, and that is not good enough for me.

Just this week, I introduced the Control Spending Now Act. This bill consists of dozens of different initiatives that would collectively reduce the deficit by over $\$ \frac{1}{2}$ trillion over 10 years. Redirecting just a portion of the savings in my legislation would more than pay for the Medicare Physician Fairness Act. We do not have a lack of funding options; we have a lack of political will to make those tough decisions. And lack of political will is not a good reason to add to the national deficit.

For years, I have called for significant reform of the Medicare sustainable growth rate formula. I have heard from countless Wisconsin physicians about how damaging these potential cuts are to their ability to provide health care. And I am seriously concerned that without a comprehensive

change, Medicare beneficiaries' access to the health care they need will be limited. The Medicare SGR formula is a real and growing problem that deserves thoughtful and fiscally responsible reform.

Mr. BYRD. Mr. President, while it is important that health professionals in my State of West Virginia receive the compensation they deserve, I will, however, vote against this measure. We are on the eve of one of the most historic debates surrounding health care since the inception of Medicare in 1965. To follow the many weeks of laborious debate and amendments in the Finance and Health, Education, Labor, and Pensions Committees, with this legislation is unwise. It sends the wrong signal. The health committees have not reviewed it. It addresses only a single problem, to the benefit of one group of health care providers, completely outside the context of broader reform. I believe piecemeal action on health care reform could be its undoing.

In the coming weeks, I look forward to voting on the motion to proceed to a comprehensive health care reform bill. Reforming our health care system for the betterment of all of our citizens is necessary and vitally important. But we need to make certain there is a national consensus behind any health care bill. In order to pass a meaningful measure that will provide essential health care coverage for those in dire need, the Senate must be entirely forthright in both debate and intention. Mr. President, \$247 billion is not an insignificant amount of money, and the Senate should be up front about the true costs of health care reform.

Mr. DORGAN. Mr. President, my vote against cloture on the motion to proceed to legislation that would cancel the scheduled physician payment cuts in the Medicare Program should not be read as opposition to the idea of canceling those cuts.

I support canceling the payment cuts for physicians. However, I think that action should be paid for. As it stands, that legislation would have increased the Federal deficit by \$245 billion over 10 years. I cannot support that.

Congress has acted to prevent scheduled cuts for 6 of the last 7 years, creating a very large debt burden that becomes harder and harder to eliminate each time a temporary fix is enacted.

Each year physicians face uncertainty as a result of not knowing whether or not their reimbursement will be cut. I support developing a new model that provides stability in Medicare payments.

I am working with my colleagues to find ways to address the Medicare physician payment formula, and pay for the cost of doing so.

MEDICARE PHYSICIAN FAIRNESS ACT OF 2009—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

The clerk will report the motion to invoke cloture.

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. 178, S. 1776, the Medicare Physician Fairness Act of 2009.

Harry Reid, Debbie Stabenow, Roland W. Burris, Patty Murray, Mark Udall, Mark Begich, Frank R. Lautenberg, Amy Klobuchar, Jack Reed, Carl Levin, Jeff Bingaman, Sherrod Brown, Sheldon Whitehouse, Barbara Boxer, Kirsten E. Gillibrand, Charles E. Schumer, Jeanne Shaheen, Richard Durbin.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1776, the Medicare Physician Fairness Act of 2009, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 47, nays 53, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—47

| | | |
|-----------|------------|-------------|
| Akaka | Gillibrand | Mikulski |
| Baucus | Hagan | Murray |
| Begich | Harkin | Nelson (NE) |
| Bennet | Inouye | Pryor |
| Bingaman | Johnson | Reed |
| Boxer | Kaufman | Reid |
| Brown | Kerry | Rockefeller |
| Burris | Kirk | Sanders |
| Cantwell | Klobuchar | Schumer |
| Cardin | Landrieu | Shaheen |
| Carper | Lautenberg | Specter |
| Casey | Leahy | Stabenow |
| Dodd | Levin | Udall (CO) |
| Durbin | Lincoln | Udall (NM) |
| Feinstein | Menendez | Whitehouse |
| Franken | Merkley | |

NAYS—53

| | | |
|-----------|-----------|-------------|
| Alexander | Dorgan | McCaskill |
| Barrasso | Ensign | McConnell |
| Bayh | Enzi | Murkowski |
| Bennett | Feingold | Nelson (FL) |
| Bond | Graham | Risch |
| Brownback | Grassley | Roberts |
| Bunning | Gregg | Sessions |
| Burr | Hatch | Shelby |
| Byrd | Hutchison | Snowe |
| Chambliss | Inhofe | Tester |
| Coburn | Isakson | Thune |
| Cochran | Johanns | Vitter |
| Collins | Kohl | Voivovich |
| Conrad | Kyl | Warner |
| Corker | LeMieux | Webb |
| Cornyn | Lieberman | Wicker |
| Crapo | Lugar | Wyden |
| DeMint | McCain | |

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Alabama is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010—CONFERENCE REPORT—Resumed

Mr. SHELBY. What is the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

Conference report to accompany H.R. 2647, a bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2010, and for other purposes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for about 10 minutes.

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

NASA AND THE FUTURE OF HUMAN SPACE FLIGHT

Mr. SHELBY. Mr. President, I would like to take the opportunity to expand upon some of my earlier comments, and those of other Members of the Senate, in relation to NASA and the future of human space flight.

I am concerned with aspects of the Augustine Commission's report that add credibility to far-reaching options for furthering our manned space flight program. If Congress and the public are to be asked to spend more for change, then it should be change that will give us the best chance to succeed and to continue to lead the world in human space exploration.

The Chairman of the Review of U.S. Human Space Flight Plans Committee, Norm Augustine, announced that safety would be paramount. Yet, from reviewing the preliminary information, there is only one area where mission safety was examined in the report. The Augustine report contained no safety comparison for the various vehicles considered by the panel and no risk assessment based on each option. The only safety issue identified was an assessment of how "hard" the panel thought each overall mission would be to achieve—not the safest means to complete the mission successfully. Since safety is the most important issue, these omissions are startling to some of us.

When making comparisons on the safety and performance of the various options, fundamental design differences cannot be lumped together and considered to be equal. Without an honest and thorough examination of the safety and reliability aspects of the various designs and options, the findings of this report are worthless. I would like to know why this blue ribbon panel did not examine these safety aspects.

Constellation's vehicles have been planned and scrutinized by multiple stakeholders, all with a single goal in mind: to provide a safe and reliable human space flight system for our Nation.

Flashy PowerPoint presentations and boisterous claims by potential commercial providers about their easy and simple science solutions to human travel into space sound like the answer to all of our problems. What sounds too good to be true usually is. Are these proposals subject to the same safety

standards and testing that have resulted from the Columbia Accident Investigation Board, I would ask? Is there any evidence that the cargo rockets, promised to execute their first servicing mission sometime in 2010, are better than the manned rockets that have been under development for over 4 years? What do the experts say?

NASA's own Aerospace Safety Advisory Panel issued a report in April of this year that stated that "Commercial Orbital Transportation Services vehicles are not proven to be appropriate to transport NASA personnel." Will the current Administrator, Mr. Bolden, who helped write these words, now contradict his statement 6 months after putting his name to them?

Further, I would ask, what happened to the April report findings in the Augustine Commission recommendations? Have there been findings since April that were available to the Augustine Commission that the Aerospace Safety Advisory Panel was not privy to? If so, I would certainly look forward to reviewing this new data.

The Augustine Commission states in its own report that while human space can never be absolutely assured, it is "not discussed in extensive detail because any concepts falling short in human space have simply been eliminated from consideration." Yet we see the vehicles currently deemed unsafe for our astronauts being used in the Augustine Commission's report as a viable option to go to low Earth orbit.

When asked on September 15, 2009, about the readiness of emerging space contractors to provide manned space flights, former NASA Administrator Mike Griffin said:

To confuse the expectation that one day a commercial transport of crew will be there, to confuse that expectation with the assumption of its existence today or in the near term I think is—is risky in the extreme.

Current and former NASA Administrators are on record registering their doubts regarding the safety of these new commercial contractors.

Companies that are new contractors within the aerospace community have been provided a pathway that could potentially lead to billions in government funding to pursue opportunities to support International Space Station operations, starting with cargo. I believe the contractors wishing to pursue human launches to low Earth orbit should prove they can establish a reliable record of meeting the cargo and trash hauling responsibilities to support the station before we turn over the Nation's human space flight future to them.

Pretty slides and unproven promises will not show us you have the right stuff to be entrusted with the lives of our astronauts. If these companies can be successful—and there is no reason to doubt that eventually, someday, somehow they will be—then NASA, the Congress, and the public might be willing to hand over launches to low Earth orbit. That day is not today and it will not be for years to come.

But until that day arrives, I believe we should follow the path that has the safest manned vehicle, the vehicle furthest along in development, and, as mentioned several times by the Augustine Commission itself, the program that, given appropriate funding, will successfully provide a system that can not only go to the space station but to the Moon and beyond.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, yesterday, the Senate majority leader was required to file cloture to end a Republican filibuster against the Department of Defense authorization bill. We are in two wars. We are in two wars, and we are about to send, from my State of Vermont, 1,500 members of our National Guard to Afghanistan. We have all kinds of things the Defense authorization bill is designed for, including to protect Americans serving abroad in harm's way. Yet the Republicans have filibustered against the Department of Defense authorization bill. The Senate is going to vote on that tomorrow, pursuant to our rules. I hope we will have a bipartisan vote proceeding to conclude the debate on the conference report which has been adopted by the House. I expect the Senate, on both sides of the aisle, will vote to provide the authorities necessary for our men and women in uniform.

I wonder what it would be like if you were a soldier, a marine out on the front lines in Afghanistan, and you get some news back home that one political party is holding up the Department of Defense authorization bill—the authorization for your equipment, the authorization for your body armor, the authorization for your ammunition, the authorization for your going forward. What would you think as the bullets are whizzing toward you? I know what I would think. I know what I would have thought when my young son was in the Marine Corps and got called for service in the Middle East. I know what I would have thought of people holding up the authorization for the equipment he needed.

Also, as part of that conference report, we are going to be adopting the Hate Crimes Prevention Act, including the provision added by the ranking Republican on the Senate Judiciary Committee, Senator SESSIONS, to create a new criminal offense for attacks against servicemembers because of their service. I would hope we will be moving forward on that.

After more than a decade, Congress is finally set to pass the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 as an amendment to the Defense Authorization Act. I know the President will sign this, and I am proud the Congress has come together to show that violence against members of any group because of who they are is not going to be tolerated in our country. I thank Senator COLLINS for cosponsoring the amendment with me. I commend Senator LEVIN for working so hard to en-

sure that this provision would go forward as part of the conference report, and I congratulate Senate Majority Leader REID for his essential role in this matter.

If I might, as I look over where my dear friend and colleague, Senator Kennedy, sat for decades on this floor, I wish to take the opportunity to remember Senator Ted Kennedy, who provided steadfast leadership on this issue for more than a decade. I wish he could have been here to see this bill, about which he was so passionate, finally get enacted. I wish he was here in any event, but I am honored to be able to see it through to the finish line for him. I know it meant a lot to him. I miss him, but I think this is a way we can say to Senator Kennedy his good work goes on.

Earlier this month was the 11th anniversary of the brutal murder of Matthew Shepard. He was a college student who was beaten to death solely because of his sexual orientation. Matthew's parents worked courageously and tirelessly for this legislation, which aims to ensure this kind of despicable act will never be tolerated in this country.

The bill was named for Matthew as well as for James Byrd, Jr. Mr. BYRD was a Black man who was killed in 1998 because of his race—another awful crime which I will not even describe because it was so gruesome—but it galvanized the Nation against hateful violence. We appreciate and honor the important contribution of James Byrd's family, as they have worked so hard for this legislation.

Unfortunately, the years since these two horrific crimes have made clear that hate crimes remain a serious and growing problem. Only a few weeks ago, we saw—just a few blocks from this Capitol—a shooting at the Holocaust Memorial Museum, a place that should be sacred ground because of what it remembers. We saw a vicious hate crime, with a man dying trying to defend the Holocaust Memorial Museum. I think this bipartisan legislation will help law enforcement respond more effectively to this problem. It is a testament to the importance of this legislation that the Attorney General of the United States, Eric Holder, came to the Judiciary Committee in June to testify in favor of it. We have been urged to pass this bill by State and local law enforcement organizations and dozens of leaders in the faith and civil rights communities. I wish, when I had been a prosecutor in the State of Vermont, that we had had such legislation so we could have called on it when we needed help.

This historic hate crimes legislation will improve existing law by making it easier for Federal authorities to investigate and prosecute crimes of racial or ethnic or religious violence. Victims will no longer have to engage in a narrow range of activities, such as serving as a juror, to be protected under Federal law.

It also focuses the attention and resources of the Federal Government on

the crimes committed against people because of sexual orientation, their gender, their gender identity or their disability, which are much needed protections. In addition, the legislation will provide resources to State, local, and tribal law enforcement to address hate crimes.

President Obama has worked closely with us to facilitate the quick passage of this vital hate crimes legislation. In his first few months in office, he has acted to ensure that Federal benefits are awarded more equitably, regardless of sexual orientation, and now to ensure that this hate crimes legislation becomes law. Unlike previous years, this bipartisan hate crimes bill does not face a veto threat. We have a President who understands that crimes motivated by bias are particularly pernicious crimes and affect more than just the victims and the victims' families. They affect all of us. They affect us as a society. They weaken us and demean us as a society, and we should all be opposed to such crimes. I expect the President to sign this legislation without delay.

Hate crimes instill fear in those who have no connection to the victim other than a shared characteristic, such as race or sexual orientation. For nearly 150 years, we have responded as a nation to deter and to punish violent denials of civil rights by enacting Federal laws to protect the civil rights of all our citizens. The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 continues that great and honorable tradition—Matthew Shepard, who was murdered because of his sexual orientation; James Byrd, who was murdered because of his race. In passing this legislation, we can say to them and everybody else that at last we in the Senate, the body that should be the conscience of the Nation, will show, once again, that America values tolerance and protects all its people.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I ask unanimous consent that Senator BARRASSO and I be permitted to speak as in morning business to offer some comments about Senator Cliff Hansen, who passed away last night, and to agree to a resolution.

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

(The remarks of Mr. ENZI and Mr. BARRASSO are printed in today's RECORD under "Morning Business.")

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

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

UNEMPLOYMENT

Mr. MERKLEY. Mr. President, I rise to address the devastating jobs crisis hitting my home State of Oregon. Last Monday, we got new job numbers. On the face, it was good news. The rate of unemployment dropped from 12.2 percent to 11.5 percent. Of course, we would all expect this is because there were more jobs.

As it turns out, that is not the case. Oregon lost 10,300 jobs in September. The unemployment rate dropped simply because, in the face of so much unemployment, many Oregonians are giving up in their search for a job. A year ago, 121,000 Oregonians were unemployed. This September, 211,000 Oregonians were out of work. Jobs are hard to find in my home State right now.

The reasons for this are many. We are an export State that has seen our trading partners hit hard with their own economic problems, countries such as South Korea whose GDP, year over year, dropped up to 20 percent.

Mexican penalty tariffs have hit Oregon's agricultural sector, our fruits and our Christmas trees, particularly hard. One of our main industries, the timber industry, which produces dimensional lumber for construction all across this great United States, has been wiped out by the collapse of construction and housing sectors of our economy.

Allow me to zero in on the county where I was born, Douglas County. In September, Douglas County had a seasonally adjusted unemployment rate of 16.1 percent. One out of every six adults was out of a job. Douglas County is a big timber county. There is no market for dimensional lumber right now. The recovery package has helped some by creating jobs preventing wildfires in choked and overgrown second-growth forests, but that is not enough.

We need the housing markets to turn around. We need to diversify Douglas County's economic base by investing in clean energy technology that will turn biomass from the forests into renewable fuels.

We are hard at work on both fronts, attempting to stabilize housing and crafting new clean energy legislation. But in the meantime, workers in Douglas County are hurting. There are not enough jobs. It is a crisis for the Douglas County families.

In a crisis, we help our neighbors. One of the best ways we can help our neighbors and friends in Douglas County and other counties throughout Oregon and other counties throughout the United States of America is to pass an extension of unemployment benefits.

Let me be clear: Oregonians want jobs. That is our first and best answer. If there are jobs out there, citizens will line up to get them. But when there are no jobs, we need to have help. The extension of unemployment benefits is such help. It would extend benefits for 14 weeks for all States and 20 weeks for high unemployment States such as the State of Oregon.

It is paid for through extending a fee employers are already paying. So it puts no additional pressure on business but provides a critical safety net to our out-of-work Americans.

Before I close, I wish to add one point: This bill will help these families and workers get by, but it will also help our economy as a whole by putting money into the hands of those who need it most. Unemployment benefits rapidly turn into bags of groceries, new and secondhand school clothes, needed home repairs. All of that has a big impact on small businesses in Douglas County and small towns such as Roseburg, Sutherlin, and Myrtle Creek.

That is why economists say extending unemployment insurance is about the best job-creating step the Federal Government could take. I understand some of my colleagues on the other side of the aisle are objecting to consideration of this bill. They do not want that bill to come to this floor.

I think we need to look more closely at this issue. A bill extending unemployment benefits to assist in shoring up the financial foundations of our working families while they are still searching for those jobs is essential. We need to have not partisan potshots but real help for working families.

I appreciate that some Members of this Chamber may come from States that are doing quite well right now. There may be some States in America that are not in the middle of a jobs crisis, but far too many of our States are similar to Oregon, where families need assistance. The delay of providing an extension of unemployment benefits will cause real pain to families in those States and slow down the effort for our economy as a whole to recover.

I urge my colleagues to join in supporting the working families of Douglas County, the working families of Oregon, the working families of the United States of America, and support job creation by supporting this extension of unemployment benefits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

(The remarks of Ms. KLOBUCHAR pertaining to the submission of S. Res. 317 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Ms. KLOBUCHAR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. 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. VOINOVICH. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for up to 10 minutes.

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

MEDICARE PHYSICIAN PAYMENT FIX

Mr. VOINOVICH. Mr. President, several weeks ago I came to the floor to

remind my colleagues and all Americans about the fiscal realities in which we find ourselves. I promised I would continue these efforts until we did something to address this crisis, so my colleagues are going to see a lot of me between now and the end of the year. Hopefully something will get done on this issue before the end of the year.

Unfortunately, I return today to tell my colleagues that the bill to repeal the Medicare physician payment formula the Senate considered earlier today is a step in the opposite direction, and I was very pleased with the vote on that. There were 47 votes for cloture and 53 votes in opposition, so we had more opposed than we had for cloture.

When I spoke here earlier this fall, I discussed one of my children's favorite stories, "The Emperor's New Clothes" by Hans Christian Anderson. This little piece of artwork I have in the Chamber is in that fairytale.

In the tale, an emperor goes about the land wearing a nonexistent suit sold to him by a new tailor who convinced the monarch the suit was made of the finest silks. The tailors—two swindlers—tell the emperor that the threads of his robes will be so fine that they will look invisible to those dim-witted or unfit for their position. The emperor and his ministers, themselves unable to see the clothing, lavish the tailor with praise for the suit because they do not want to appear to be dim-witted or incompetent.

Word spread across the kingdom of the emperor's beautiful new clothes. To show off the extraordinary suit, a parade was formed. People lined the streets to see the emperor show off his new clothes. Again, afraid to appear stupid or unfit, everyone pretends to see the suit. It is only when a child cries out "the emperor wears no clothes" does the crowd acknowledge that the emperor is, in fact, naked.

Mr. President, much like the emperor in this story, America's elected leaders know we face a fiscal train wreck, but we are choosing to ignore our current economic reality. The American people know "we are naked," and so does the rest of the world, and our credibility and our credit are at risk, but we refuse to acknowledge what is obvious: When it comes to fiscal responsibility, "the emperor wears no clothes." Yet earlier today we had a vote on whether to proceed to a bill that would have added \$247 billion to our Nation's debt. The interest alone adds another \$50 billion in debt over the next 10 years. We are just going to put it on the national credit card and let our children and grandchildren take care of it. We are the biggest credit card abusers in the world, and the credit cards we are using are the credit cards of my children and grandchildren and other Americans. I am pleased, as I said, that a majority of my colleagues joined me in opposing moving forward with this legislation.

The President has said the health care reform bill would not add one

dime to the deficit. Yet the bill we voted on earlier today should be a larger part of reform legislation, and it is going to spend over \$¼ trillion without paying for it—that is what would have happened.

I suppose it is easy to make claims about health care reform legislation not adding to the deficit when Congress takes the parts that cost money off the table, but to do so is fiscally irresponsible and morally corrupt.

The physician fix was left out of the Finance Committee, I suspect, not because my colleagues do not agree it is a fundamental part of health care reform but because it would have cost money my colleagues did not want to account for in the bill. If the Finance Committee would have included the fix in their bill, the \$81 billion surplus they say the bill will create would have quickly turned into a deficit. That is unacceptable, and I am not the only one who feels that way. The Washington Post discussed the effort to take the fix for the sustainable growth formula—the formula that calculates reimbursement for physicians under Medicare—out of the larger health care bill as a “shell game” and “budgetary smoke and mirrors.” This is just another illustration of our out-of-control spending that has caused our national debt to skyrocket.

One of the reasons I ran for the Senate and came to Washington a long time ago was to reduce the Federal debt and balance our budgets. That is what I did when I was mayor of Cleveland. That is what I did when I was Governor of Ohio. When I arrived in the Senate in 1999, the gross national debt stood at \$5.6 trillion, or 61 percent of the GDP. Today, the gross national debt is nearly \$11.8 trillion, and the President will be coming before us to raise the national debt to, I think, over \$12 trillion. The 2009 deficit stands at about \$1.4 trillion.

I just got back 2 weeks ago from Athens, Greece, and an Organization for Security and Co-operation meeting in Athens. When I shared with my colleagues that we borrowed \$1.4 trillion to run the government—and they were all asking for help—they were astounded. They just could not believe it. I also reminded them that debt was like the debt we racked up during the Second World War. In other words, that is the period to which you can compare it. So the 2009 deficit stands at \$1.4 trillion and at \$9.1 trillion over the next decade, which does not include the borrowing from the trust funds and which is three times the largest deficit in our history.

It does not take an economist to realize our current course is unsustainable. The Medicare Program is scheduled to be bankrupt by 2017. I cannot understand why we are not talking about that. That means the supply of money coming in is not going to be enough to take care of the demand—just what is happening now in Social Security. In the next couple

years, the money coming in is not going to be adequate to take care of people who are on Social Security, so we are going to have to borrow that money in order to take care of their needs. We need to take a comprehensive look at the program.

I will be the first to admit we must honor our commitment to our Nation's seniors and ensure they have access to quality health care services. I have heard it firsthand from family and friends that in some places in Ohio, Medicare beneficiaries face delays for physician services right now. In fact, 6.8 percent of Ohioans live in a designated primary care shortage area. We need more doctors and nurses. The situation is only going to get worse. Thirty-nine percent of physicians are over the age of 50 and considering limiting the amount of time they see patients.

For these reasons, I have been advocating for the past several years that we need a permanent and commonsense fix for the flawed sustainable growth rate formula, which we refer to as the doc fix. I do not think there is anyone on either side of the aisle who disagrees. We need to do that. Yet this bill we just considered is not the way to do it. Any fix must be part of a larger conversation, and it must be done in a way that does not simply add to the burden we are already placing on our children and grandchildren.

I am pleased that in a letter last week to Senator REID, 10 Senate Democrats joined me in this conclusion, asking the majority leader that he get serious about the Federal debt and tax and entitlement reform. They believe, as I do, that we cannot continue to keep spending without consequence. As I have been advocating, we must give larger reform serious thought before it is too late. We must act on the tough issues today.

As Gerald Seib noted in the Wall Street Journal yesterday:

Administration officials also know they have little choice but to start showing early next year that they take the deficit seriously, for both political and economic reasons.

That is why Senator LIEBERMAN and I have introduced legislation called Securing America's Future Economy, which basically creates a bipartisan commission that would deal with the deficit and deal with tax reform; that if a supermajority of those agree to the solution, that would get expedited procedure on the floor of the Senate and move to an up-or-down vote, very much like we do with the BRAC process. We have been trying to do this now for 4 years. We have talked to the OMB Director, Peter Orszag. It is interesting. Two years ago he was with a lot of former CBO Directors and said, We have to have a commission. It is the only way we are going to deal with entitlements; it is the only way we are going to deal with tax reform, yet we are not able to convince the administration to move forward with us to tackle this very heavy responsibility.

Time is running out. The dollar is going down. People are talking about not using the dollar as an exchange anymore. Most of the economic experts say if we keep going on this unsustainable course, we are going to see interest rates start to skyrocket in this country. Over half our debt is in the hands of the Chinese and the Indians and the OPEC nations and Japan. We are in bad shape. The public understands it. They understand. They understand that the emperor has no clothes. We are not doing anything about the problem, and they get it today.

I happen to believe that the undertow that is out there in the country today in terms of health care reform and in terms of climate change is the fact that the American people understand that things aren't right. The American people in the Presiding Officer's State, in my State, do you know what they are doing? They are buying less. They are not putting it on their cards. They are trying to save some money. They know they have been on a binge. They look to us and they say, What are you doing? What are you doing? We care about ourselves, but we also care about our children and grandchildren. It is not fair to those individuals to do what we are doing.

We have a moral obligation to do what we can to try to make sure this generation's standard of living will not be less than those who came before them. Many people believe that is going to be the case. The passage of the legislation to fix the physician payment formula by borrowing more money will only help guarantee that they are right.

We have a serious problem. I will be coming to the floor over and over to see if we can't do it. I am going to do what I can to convince the President that he ought to participate in setting up this commission, working with Senator GREGG and Senator KENT CONRAD, to see if we can't get them together to agree on what this commission would look like. We are hoping the President is alert enough to know that if he doesn't deal with this problem, it is not only a substantive problem that needs to be dealt with but a major political problem that he is going to have. The American public demands that we start talking about doing something about this problem and they know we are running out of time.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

INTERNET NEUTRALITY

Mr. DORGAN. Mr. President, tomorrow at the Federal Communications Commission there will be a vote on a proposed rulemaking. It is a rulemaking on something called net neutrality. Let me put that in English, if I might. It is about Internet freedom. I wish to talk for a moment about the importance of this.

One would think, given the reaction by some and dozens and dozens of letters that are now going to the FCC,

that what is going to happen tomorrow is some unbelievable vote on some controversial proposal that has had no discussion. It is not that at all. It is a notice of proposed rulemaking. It is the beginning of a process to describe a rulemaking on what is called net neutrality or the principle of non-discrimination with respect to the Internet.

I wish to describe how important that is. The Internet is an unbelievable new invention in our lifetime. It was created by the Federal Government. A bunch of scientists and engineers in the Federal Government described this method of communicating one to another with computer technology and it became the Internet. The Internet developed over a number of years in a completely free and open architecture. That meant that anyone could go to anyplace and see anybody on the Internet. So the stories are legend.

It was, I believe, 11 years ago when Larry and Sergey, two young men in college in a dormitory room started a company. They moved it to a garage that had a garage door opener, and it had eight employees, and they had this idea, a new company, a new search engine. It had eight employees and it was in a garage with a garage door opener 11 years ago. Well, now it is called Google.

But it is not just Larry and Sergey having a dream and a vision. It is so many others as well. It is Jeff Bezos who drove to California with an idea and that idea became Amazon.com, selling books, and then selling almost everything. Or it became someone with an idea about having an auction on the Internet, and it became eBay, and most of us know about eBay. Or it became Mark Zuckerberg who had an idea of something called Facebook. Well, I am talking about huge successes. But for every one of those—Facebook, eBay, Amazon, Google—for every one of those large companies that have now grown on the Internet, there are millions of people out there who are conducting a business in their kitchen, in their dorm room, in their garage, because they are the next enterprising person to succeed on the Internet.

The question is this: If there is someone in my hometown—and let me describe that someone, because it happened to be someone who is now occupying the home that I grew up in; a very small, two-bedroom home in a small town of 300 people. I had not been back for some long while to see the home. So I knocked on the front door. When the woman answered, I asked if I could see the home that I grew up in, where I spent my first 17 years, and she said: Of course. Come on in. So I came in and she was doing something that I found kind of interesting. She had in the small kitchen on the table a camera, and the camera was pointed at an aperture with an arm and on the arm was hanging a bracelet, a little gold bracelet, and she was taking a picture of the gold bracelet.

I said: What are you doing?

Well, I have a business, she said.

I said: Well, what kind of business do you have?

Well, I sell on the Internet. I purchase jewelry and then I sell it on the Internet.

Sure enough, in the little porch coming into the home she had cardboard boxes and tape and the kinds of things you would do to box something up and send it. Here in this little town in southwestern North Dakota, a town of 300 people, a woman, in the home I grew up in, was running a business.

I said: How do you do?

She said: Pretty well. This income supplements my husband's income. She said: I sell on eBay.

Well, you know what? In that little kitchen, anybody in the world can find her business—anybody in the world can find that business. Why? Because the Internet is open. The architecture has never been closed. The whole notion of the Internet is this notion of freedom, of liberty to go anywhere you want to go. In the last 3½ years I have written two books and I have discovered in the writing of books how unbelievable the Internet is to be able to go to anywhere in the world and do research. If you want to know something, go there, and nobody is going to stop you from going wherever you wish to go. Put it in a search engine, go find it, and you will find it in some crevice on the Internet. Somebody out there has put it on the Internet for you to see. It is the most unbelievable research tool I have ever found.

So, yes, it is Google, it is Amazon, it is eBay, it is the big companies, but much more than that, it is the backbone that allows people all over this country and the world to do business. Yes, from their kitchen, from their garage. Some of those businesses will grow to become names we don't now know but will, because they will be successful. They will be the next invention, the next opportunity on this thing called the Internet.

Here is the question: The Internet was created under circumstances that required rules of nondiscrimination. For the first portion of its birth and then origin, it was an Internet that was described as a telephone service and it was subject to rules that had non-discrimination, so no one could discriminate. It was completely open, completely free. Its architecture was available to anyone at any time. Anybody can go anywhere at any time. Nobody has a toll booth, nobody is a gatekeeper. It is completely open and free. The biggest company over here and the smallest enterprise over here—big corporate executives wearing gray suits making lots of money, and two people in a dorm room or someone in a small kitchen in a small town—they are equal. Anybody has access to both sites, or all sites. That is called non-discrimination and the nondiscrimination rules say no one can set up a barrier. No one can set up a gate. No one

can set up a toll booth. Anyone has freedom and access anywhere on the Internet.

That is the way the Internet was developed. That is its origin and that is the way most of its life has existed. Then the Federal Communications Commission came along and said, We are going to redefine the Internet as an information service rather than a telephone service and the result is the non-discrimination rules fell off the chart because they attached to the telephone service. So some of us have said, Well, we certainly want to maintain and continue nondiscrimination rules. I mean, who would be for discrimination, right? So we want to maintain the non-discrimination rules. We want to, with what is called network neutrality or net neutrality, restore the non-discrimination rules and the basic freedom under which the Internet developed in the first instance. That has been our effort. That is what the Chairman of the Federal Communications Commission is attempting to do. It is to begin tomorrow with a notice of proposed rulemaking. It doesn't mean he is saying, Here is exactly what we are going to do; it is saying, Let's propose a rulemaking and that rulemaking process will allow everybody to weigh in, to make comments, to be involved with the question of exactly what kind of a rule they may or may not write.

I think what the Federal Communications Commission is doing tomorrow is exactly the right thing. I know there are some who are pushing back. In fact, there are some who have said, We want to set up a toll booth. There are some CEOs of some large companies who have suggested, You know what. Those wires belong to us. We want to be able to have some toll booths and so on.

I don't believe they should be able to set up any impediments. By that I am not suggesting they don't have a right to have security for their networks; they certainly do. I am not suggesting they don't have a right to do certain kinds of inspections to make sure that the kinds of things that are prohibited—child pornography and others—are stopped on the Internet. But what I am saying is the architecture under which the Internet itself was created is an architecture all of us should aspire to continue, and that is nondiscrimination rules and transparency. This is very simple. So tomorrow there will be a vote at the FCC. I would say to the chairman of the FCC and to all of the Commissioners that you are doing the right thing by proceeding to make certain that the future of the Internet is open and has free access with non-discrimination rules and transparency.

Here are a couple of letters I wish to have printed in the RECORD, if I might ask unanimous consent. One is a letter to Chairman Genachowski and this letter is dated October 19th:

We write to express our support for your announcement that the FCC will begin a process to adopt rules to preserve an open

Internet. We believe a process that results in common sense baseline rules is critical to ensuring that the Internet remains a key engine of economic growth, innovation, and global competitiveness.

Let me not read it all, but let me read the final paragraph of this letter:

America's leadership in the technology space has been due, in large part, to an open Internet. We applaud your leadership in initiating a process to develop rules that ensure the qualities that have made the Internet so successful are protected.

That is a letter from a large group of people who run Internet companies and applications, from Craigslist, EchoStar, Google, Mozilla, Skype, Amazon, Expedia, Netflix, Sony Electronics, XO Communications, Facebook, eBay, and so many others; Twitter, and Meetup, so many different folks who know of what they are speaking. I support this letter and commend it to the Chairman of the FCC. Again, I ask unanimous consent that it be printed in the RECORD.

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

OCTOBER 19, 2009.

Hon. JULIUS GENACHOWSKI,
Chairman, Federal Communications Commission, Washington, DC.

DEAR CHAIRMAN GENACHOWSKI: We write to express our support for your announcement that the Federal Communications Commission will begin a process to adopt rules that preserve an open Internet. We believe a process that results in common sense baseline rules is critical to ensuring that the Internet remains a key engine of economic growth, innovation, and global competitiveness.

For most of the Internet's history, FCC rules have ensured that consumers have been able to choose the content and services they want over their Internet connections. Entrepreneurs, technologists, and venture capitalists have previously been able to develop new online products and services with the guarantee of neutral, nondiscriminatory access by users, which has fueled an unprecedented era of economic growth and creativity. Existing businesses have been able to leverage the power of the Internet to develop innovative product lines, reach new consumers, and create new ways of doing business.

An open Internet fuels a competitive and efficient marketplace, where consumers make the ultimate choices about which products succeed and which fail. This allows businesses of all sizes, from the smallest startup to larger corporations, to compete, yielding maximum economic growth and opportunity.

America's leadership in the technology space has been due, in large part, to the open Internet. We applaud your leadership in initiating a process to develop rules to ensure that the qualities that have made the Internet so successful are protected.

Sincerely,

Jared Kopf, Chairman & President, AdRoll.com; Craig Newmark, Founder, Craigslist; Charles E. Ergen, Chairman & CEO, EchoStar Corporation; Eric Schmidt, CEO, Google Inc.; John Lilly, CEO, Mozilla Corporation; Josh Silverman, CEO, Skype; Gilles BianRosa, CEO, Vuze, Inc.; Jeff Bezos, Founder & CEO, Amazon.com; Jay Adelson, CEO, Digg; Erik Blachford, Former CEO, Expedia.

Barry Diller, Chairman & CEO, IAC; Reed Hastings, Co-Founder & CEO,

Netflix, Inc.; Stan Glasgow, President & COO, Sony Electronics; Carl J. Grivner, CEO, XO Communications; Ashwin Navin, Co-Founder, BitTorrent, Founding Partner, i/o Ventures; Kevin Rose, Founder, Digg; Mark Zuckerberg, Founder & CEO, Facebook; Reid Hoffman, Executive Chairman, LinkedIn; Howard Janzen, CEO, One Communications; Thomas S. Rogers, President & CEO, TiVo Inc.

Steven Chen, Founder, YouTube; James F. Geiger, Chairman & CEO, Cbeyond; John Donahoe, CEO, eBay, Inc.; Caterina Fake, Founder, Flickr; Scott Heiferman, CEO & Co-Founder, Meetup; David Ulevitch, Founder, OpenDNS; Evan Williams, Co-Founder & CEO, Twitter; Mark Pincus, CEO, Zynga.

Mr. DORGAN. Mr. President, this is a letter from the largest venture capital funds in the country that have made substantial investments in these companies that have helped the Internet grow;

Dear Chairman Genachowski: We write to express our support for the Commission's ongoing efforts to adopt rules to safeguard the open Internet. As business investors in technology companies, we have first-hand experience with the importance of guaranteeing an open market for new applications for services on the Internet. Clear rules to protect and promote innovation at the edges of the Internet will reinforce the core principles that led to its extraordinary social and economic benefits. Open markets for Internet content will drive investment, entrepreneurship and innovation. For these reasons, Net Neutrality policy is pro-investment, pro-competition, and pro-consumer.

I ask unanimous consent to have printed in the RECORD this letter from the venture capital firms that know a lot about the Internet.

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

OCTOBER 21, 2009.

Hon. JULIUS GENACHOWSKI,
Chairman, Federal Communications Commission, Washington, DC.

DEAR CHAIRMAN GENACHOWSKI: We write to express our support for the Commission's ongoing efforts to adopt rules to safeguard the open Internet. As business investors in technology companies, we have first-hand experience with the importance of guaranteeing an open market for new applications and services on the Internet. Clear rules to protect and promote innovation at the edges of the Internet will reinforce the core principles that led to its extraordinary social and economic benefits. Open markets for Internet content will drive investment, entrepreneurship and innovation. For these reasons, Net Neutrality policy is pro-investment, pro-competition, and pro-consumer.

Permitting network operators to close network platforms or control the applications market by favoring certain kinds of content would endanger innovation and investment in an investment sector which represents many billions of dollars in economic activity. The Commission is absolutely correct to propose clear rules that require competition. The promise of permanently securing an open Internet will deliver consumers and innovators a perfect free market that drives investment, job creation, and consumer welfare. These principles should apply across all Internet access networks, wired or wireless.

Investment and innovation at the edge of the network will create not just jobs but also

new tools and opportunities for communication, education, health care, business, and every other human endeavor.

We look forward to working with you in developing clear rules to protect the open Internet, and in building together a framework to secure its future and promote its continued growth.

Sincerely,

Immad Akhund, Co Founder, Heyzap; Brian Ascher, Venrock; Aneel Bhusri, Partner, Greylock Partners (and Co-Founder and Co-CEO, Workday); Matt Blumberg, Chairman & CEO, Return Path, Inc.; Brad Burnham, Union Square Ventures; Stewart Butterfield, Co-Founder, Flickr; Ron Conway, Founder, SV Angel LLC; John Doerr, Partner, Kleiner Perkins Caufield & Byers; Timothy Draper, Founder and Managing Director, Draper Fisher Jurvetson; Caterina Fake, Co-Founder, Flickr & Hunch.

Brad Feld, Co-Founder, Foundry Group; Peter Fenton, Benchmark Partners; Eyal Goldwenger, CEO, TargetSpot; Jude Gomila, Co founder, Heyzap; Mark Gorenberg, Managing Director, Hummer Winblad; Jordan Greenhall, Founder of Divx; Bill Gurley, Benchmark Partners; Jed Katz, Managing Director, Javelin Venture Partners; Dany Levy, Founder, DailyCandy; Mario Marino, Member, Executive Advisory Board, General Atlantic LLC.

Jason Mendelson, Managing Director, Mobius Venture Capital; Michael Moritz, Sequoia Capital; Kim Polese, CEO of Spike Source, Inc.; Avner Ronen, CEO of Boxee; Pete Sheinbaum, Former CEO of Daily Candy; Ram Shriram, Founder, Sheralo; David Sze, Partner, Greylock Partners; Albert Wenger, Union Square Ventures; Steve Westly, Managing Director, The Westly Group; Fred Wilson, Union Square Ventures.

Mr. DORGAN. Mr. President, finally, I ask unanimous consent to have printed in the RECORD a letter from the folks who created the Internet. The list is headed by Vinton Cerf, who is often called the "father of the Internet." I know Vint Cerf. He is an extraordinary man. Others signing this letter include Stephen Crocker, David Reed, Lauren Weinstein, and Daniel Lynch: these are all Internet pioneers. They were there at the beginning. They created this unbelievable engine of opportunity for the American people. They write a similar letter saying:

As individuals who have worked on the Internet and its predecessors continuously beginning in the late 1960s, we are very concerned that access to the Internet be both open and robust. We are very pleased by your recent proposal to initiate a proceeding for the consideration of safeguards to that end.

This is a letter to Chairman Genachowski from the folks I mentioned. I ask unanimous consent to have printed in the RECORD this letter.

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

OCTOBER 15, 2009.

Hon. JULIUS GENACHOWSKI,
Chairman, Federal Communications Commission, Washington, DC.

DEAR MR. CHAIRMAN: We appreciate the opportunity to send you this letter. As individuals who have worked on the Internet and its predecessors continuously beginning in the

late 1960s, we are very concerned that access to the Internet be both open and robust. We are very pleased by your recent proposal to initiate a proceeding for the consideration of safeguards to that end.

In particular, we believe that your network neutrality proposal's key principles of "nondiscrimination" and "transparency" are necessary components of a pro-innovation public policy agenda for this nation. This initiative is both timely and necessary, and we look forward to a data-driven, on-the-record proceeding to consider all of the various options.

We understand that your proposal, while not even yet part of a public proceeding, already is meeting with strong and vocal resistance from some of the organizations that the American public depends upon for broadband access to the Internet. As you know, the debate on this topic has been lengthy, and many parties opposing the concept have systematically mischaracterized the views of those who endorse and support your position.

We believe that the existing Internet access landscape in the U.S. provides inadequate choices to discipline the market through facilities-based competition alone. Your network neutrality proposals will help protect U.S. Internet users' choices for and freedom to access all available Internet services, worldwide, while still providing for responsible network operation and management practices, including appropriate privacy-preserving protections against denial of service and other attacks.

One persistent myth is that "network neutrality" somehow requires that all packets be treated identically, that no prioritization or quality of service is permitted under such a framework, and that network neutrality would forbid charging users higher fees for faster speed circuits. To the contrary, we believe such features are permitted within a "network neutral" framework, so long they are not applied in an anti-competitive fashion.

We believe that the vast numbers of innovative Internet applications over the last decade are a direct consequence of an open and freely accessible Internet. Many now-successful companies have deployed their services on the Internet without the need to negotiate special arrangements with Internet Service Providers, and it's crucial that future innovators have the same opportunity. We are advocates for "permissionless innovation" that does not impede entrepreneurial enterprise.

We commend your initiative to protect and maintain the Internet's unique openness, and support the FCC process for considering the adoption of your proposed nondiscrimination and transparency principles.

Respectfully,

VINTON G. CERF,

Internet Pioneer.

STEPHEN D. CROCKER,

Internet Pioneer.

DAVID P. REED,

Internet Pioneer.

LAUREN WEINSTEIN,

Internet Pioneer.

DANIEL LYNCH,

Internet Pioneer.

Mr. DORGAN. Mr. President, let me finally say this: I understand this issue has been controversial. I and Senator SNOWE have worked on this issue for a long while. The only time it has been voted on in the Congress was an attempt by us to add an amendment in a Commerce Committee markup. This was about 2½ years ago. We had an 11-to-11 tie. Why was there a tie vote? It

is a controversial issue, although it should not be.

The basic principle of freedom on the Internet, open architecture on the Internet, the openness with which this Internet was created ought to persuade everyone to say: Yes, let's restore the conditions under which the Internet has always operated, up until recently; that is, nondiscrimination and transparency.

There are some interests in this country, I understand, some economic interests that say: No, we don't want that. We want some opportunity to perhaps go a different direction. We had one CEO in this country say: You know what. I want some of these companies on the Internet to pay me for the right to move on my lines. Once that starts, once we go down that road with those who have the muscle or the strength to decide who is going to cross and who is not, who can get by their toll booth and who cannot, then I am telling you there are Larrys and Sergeys in a dorm room out there someplace or a woman in a kitchen with a small business that is not going to succeed. And that innovation, that new company, that new business for this country, the expansion of the Internet and opportunity that comes with it will not exist. Why? Because we failed to continue the open architecture and the basic freedoms on which the Internet was created and on which we still ought to govern the future of the Internet.

What Julius Genachowski, the new chairman, is doing tomorrow at the FCC is exactly the right thing. He is not mandating some specific menu. He is beginning a rulemaking process which, at the end, in my judgment, will result in the restoration of two basic principles: nondiscrimination on the Internet and transparency. Is there anyone who believes those principles are not fair, are not reasonable? I don't think so.

There has been a flurry of protests, an unbelievable dust created by a lot of noise, a lot of crowd noise around this issue. I hope perhaps the chairman and those on the Commission who believe we ought to move in this direction understand there is very substantial support for what they are trying to do. That support exists in a letter I am sending today with some of my colleagues to say that support is here. Work that Senator SNOWE and I have done on this issue will be reflected as well in a message tomorrow.

I just want the Chairman to know: Keep going. You are doing the right thing. Don't worry about some of the dust that is out there. Do the public business, do the right thing, and this country will be best served.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

SUPREME COURT APPEAL

Mr. McCONNELL. Mr. President, yesterday the Supreme Court announced it would hear a case that has critical

ramifications for our ability to detain foreign nationals safely outside our borders during wartime at the U.S. naval station at Guantanamo Bay, Cuba. The case also provides insight into the question of the best place to detain and try foreign terrorists.

The case involves a group of ethnic Chinese Uighurs who are detained at Guantanamo Bay. The Uighurs won their habeas corpus petition to be released from custody. Many of these Uighurs, however, had received terrorist training in the Tora Bora Mountains of Afghanistan, including weapons training on AK-47 assault rifles at a camp run by the head of a group that our State Department has designated a terrorist organization and that the United Nations has listed as a group associated with Osama bin Laden, al-Qaida, or the Taliban.

Not surprisingly, it has not been easy to find countries eager to accept the Uighurs into their civilian populations. So the Uighurs sued to be released into the United States. Federal District Court Judge Ricardo Urbina granted the Uighurs' request and ordered them released in our country. It did not matter to Judge Urbina that the Uighurs did not have an immigration status or that they had received military-style weapons training or that they had associated with a terrorist group. He was persuaded by their argument that justice required that they be released right here in the United States.

Fortunately, the DC Circuit Court reversed Judge Urbina. It ruled that even though the Uighurs had won their habeas corpus petition, they did not have a right to be released into the United States. In other words, it ruled that even if the government had to release them, it did not have to release them into Alexandria or Annandale or Falls Church or anywhere else in Northern Virginia that the Uighurs might like to go.

The DC Circuit's ruling is important to national security in general and to the debate over where we should try foreign terrorists in particular. The DC Circuit noted that the Supreme Court has held that foreign nationals, without property or presence in the United States, have fewer legal rights than foreign nationals who are present on American soil.

The DC Circuit also noted that the Supreme Court has repeatedly ruled that a sovereign has a right to control its borders, and that means it has a right to bar from being released into its territory foreign nationals whom it has not admitted onto its soil.

In short, because these detainees remain at Guantanamo outside our borders, they have fewer legal rights than they would have if they were brought within our borders, including the right to be released into our civilian population.

We don't know how the DC Circuit would have ruled if the Uighurs had been present on U.S. soil. But we do know a couple of things. First, the DC

Circuit's reason for not releasing them into the United States was that they had not been brought into the United States. Let me say that again. The DC Circuit's reason for not releasing them in the United States was that they had not been brought here. Second, other foreign nationals who have committed murder and other serious crimes who were in the United States have been released here when our government could not transfer them to another country, either because they did not want to go to another country or because other countries did not want to take them.

The administration and its defenders in the Senate say that because we have tried terrorists in civilian courts before, we should do so again. They say there is no problem with us doing so because the administration would never release detainees into the United States, by which they really mean to say the administration would not intentionally release detainees into the United States. Both assertions miss the mark.

First, whether we can try terrorists here is not the issue. The issue is whether we should try terrorists here. We can try them here, but should we? Before he became Attorney General, Michael Mukasey was a noted Federal trial judge who presided over civilian trials of terrorists such as the trial of the so-called Blind Sheik, Omar Abdel Rahman, for the 1993 World Trade Center bombing. He has written that there are very good reasons we should not try terrorists in a civilian court. This is a judge who presided over a terrorist trial in a U.S. civilian court, and this is what he says: We should not try terrorists in civilian court, including the additional legal rights terrorists will receive if they are brought here.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks General Mukasey's recent op-ed on the topic.

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

(See Exhibit 1.)

Mr. McCONNELL. Mr. President, second, once the administration brings detainees into the United States—right here in our country—it is no longer simply a matter for the administration. In other words, once they get here, the administration cannot entirely control the issue of whether they are going to be released. It is no longer about what it will or will not do. It is also about what a Federal judge will or will not do.

As we saw with Judge Urbina and the Uighurs, a judge may very well agree with the legal arguments of Guantanamo detainees and order them released right here in the United States. In other words, no matter what the administration's intention may be, once we bring them here, they do not control the situation; the courts do.

Those risks do not exist if the Obama administration does not bring the Guantanamo detainees into the United States. That risk does not exist if it

leaves them at Guantanamo and tries them at the modern, multimillion-dollar courtroom at Guantanamo Bay under the very military commission rules it has now rewritten to its liking and which we will soon vote on when we consider the Defense authorization conference report.

The Supreme Court should affirm the DC Circuit Court's decision and let the political branches maintain control over our borders, including deciding whether and how foreign nationals outside our borders may be admitted within them.

If it does, it will bring clarity to the debate over whether terrorist detainees at Guantanamo Bay ought to be transferred to the United States. That clarity is this: If we want certitude that foreign terrorists detained at Guantanamo Bay are not released into the United States, then do not bring them here in the first place.

Mr. President, I repeat. We could try terrorists in the United States—we could do that—but the issue is should we do that. The answer is no.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Oct. 19, 2009]

CIVILIAN COURTS ARE NO PLACE TO TRY TERRORISTS

(By Michael B. Mukasey)

The Obama administration has said it intends to try several of the prisoners now detained at Guantanamo Bay in civilian courts in this country. This would include Khalid Sheikh Mohammed, the mastermind of the Sept. 11, 2001 terrorist attacks, and other detainees allegedly involved. The Justice Department claims that our courts are well suited to the task.

Based on my experience trying such cases, and what I saw as attorney general, they aren't. That is not to say that civilian courts cannot ever handle terrorist prosecutions, but rather that their role in a war on terror—to use an unfashionable harsh phrase—should be, as the term "war" would suggest, a supporting and not a principal role.

The challenges of a terrorism trial are overwhelming. To maintain the security of the courthouse and the jail facilities where defendants are housed, deputy U.S. marshals must be recruited from other jurisdictions; jurors must be selected anonymously and escorted to and from the courthouse under armed guard; and judges who preside over such cases often need protection as well. All such measures burden an already overloaded justice system and interfere with the handling of other cases, both criminal and civil.

Moreover, there is every reason to believe that the places of both trial and confinement for such defendants would become attractive targets for others intent on creating mayhem, whether it be terrorists intent on inflicting casualties on the local population, or lawyers intent on filing waves of lawsuits over issues as diverse as whether those captured in combat must be charged with crimes or released, or the conditions of confinement for all prisoners, whether convicted or not.

Even after conviction, the issue is not whether a maximum-security prison can hold these defendants; of course it can. But their presence even inside the walls, as proselytizers if nothing else, is itself a danger. The recent arrest of U.S. citizen Michael Finton, a convert to Islam proselytized in prison and charged with planning to blow up

a building in Springfield, Ill., is only the latest example of that problem.

Moreover, the rules for conducting criminal trials in federal courts have been fashioned to prosecute conventional crimes by conventional criminals. Defendants are granted access to information relating to their case that might be useful in meeting the charges and shaping a defense, without regard to the wider impact such information might have. That can provide a cornucopia of valuable information to terrorists, both those in custody and those at large.

Thus, in the multidefendant terrorism prosecution of Sheik Omar Abdel Rahman and others that I presided over in 1995 in federal district court in Manhattan, the government was required to disclose, as it is routinely in conspiracy cases, the identity of all known co-conspirators, regardless of whether they are charged as defendants. One of those co-conspirators, relatively obscure in 1995, was Osama bin Laden. It was later learned that soon after the government's disclosure the list of unindicted co-conspirators had made its way to bin Laden in Khartoum, Sudan, where he then resided. He was able to learn not only that the government was aware of him, but also who else the government was aware of.

It is not simply the disclosure of information under discovery rules that can be useful to terrorists. The testimony in a public trial, particularly under the probing of appropriately diligent defense counsel, can elicit evidence about means and methods of evidence collection that have nothing to do with the underlying issues in the case, but which can be used to press government witnesses to either disclose information they would prefer to keep confidential or make it appear that they are concealing facts. The alternative is to lengthen criminal trials beyond what is tolerable by vetting topics in closed sessions before they can be presented in open ones.

In June, Attorney General Eric Holder announced the transfer of Ahmed Ghailani to this country from Guantanamo. Mr. Ghailani was indicted in connection with the 1998 bombing of U.S. Embassies in Kenya and Tanzania. He was captured in 2004, after others had already been tried here for that bombing.

Mr. Ghailani was to be tried before a military commission for that and other war crimes committed afterward, but when the Obama administration elected to close Guantanamo, the existing indictment against Mr. Ghailani in New York apparently seemed to offer an attractive alternative. It may be as well that prosecuting Mr. Ghailani in an already pending case in New York was seen as an opportunity to illustrate how readily those at Guantanamo might be prosecuted in civilian courts. After all, as Mr. Holder said in his June announcement, four defendants were "successfully prosecuted" in that case.

It is certainly true that four defendants already were tried and sentenced in that case. But the proceedings were far from exemplary. The jury declined to impose the death penalty, which requires unanimity, when one juror disclosed at the end of the trial that he could not impose the death penalty—even though he had sworn previously that he could. Despite his disclosure, the juror was permitted to serve and render a verdict.

Mr. Holder failed to mention it, but there was also a fifth defendant in the case, Mamdouh Mahmud Salim. He never participated in the trial. Why? Because, before it began, in a foiled attempt to escape a maximum security prison, he sharpened a plastic comb into a weapon and drove it through the eye and into the brain of Louis Pepe, a 42-year-old Bureau of Prisons guard. Mr. Pepe was blinded in one eye and rendered nearly unable to speak.

Salim was prosecuted separately for that crime and found guilty of attempted murder. There are many words one might use to describe how these events unfolded; “successfully” is not among them.

The very length of Mr. Ghailani’s detention prior to being brought here for prosecution presents difficult issues. The Speedy Trial Act requires that those charged be tried within a relatively short time after they are charged or captured, whichever comes last. Even if the pending charge against Mr. Ghailani is not dismissed for violation of that statute, he may well seek access to what the government knows of his activities after the embassy bombings, even if those activities are not charged in the pending indictment. Such disclosures could seriously compromise sources and methods of intelligence gathering.

Finally, the government (for undisclosed reasons) has chosen not to seek the death penalty against Mr. Ghailani, even though that penalty was sought, albeit unsuccessfully, against those who stood trial earlier. The embassy bombings killed more than 200 people.

Although the jury in the earlier case declined to sentence the defendants to death, that determination does not bind a future jury. However, when the government determines not to seek the death penalty against a defendant charged with complicity in the murder of hundreds, that potentially distorts every future capital case the government prosecutes. Put simply, once the government decides not to seek the death penalty against a defendant charged with mass murder, how can it justify seeking the death penalty against anyone charged with murder—however atrocious—on a smaller scale?

Even a successful prosecution of Mr. Ghailani, with none of the possible obstacles described earlier, would offer no example of how the cases against other Guantanamo detainees can be handled. The embassy bombing case was investigated for prosecution in a court, with all of the safeguards in handling evidence and securing witnesses that attend such a prosecution. By contrast, the charges against other detainees have not been so investigated.

It was anticipated that if those detainees were to be tried at all, it would be before a military commission where the touchstone for admissibility of evidence was simply relevance and apparent reliability. Thus, the circumstances of their capture on the battlefield could be described by affidavit if necessary, without bringing to court the particular soldier or unit that effected the capture, so long as the affidavit and surrounding circumstances appeared reliable. No such procedure would be permitted in an ordinary civilian court.

Moreover, it appears likely that certain charges could not be presented in a civilian court because the proof that would have to be offered could, if publicly disclosed, compromise sources and methods of intelligence gathering. The military commissions regimen established for use at Guantanamo was designed with such considerations in mind. It provided a way of handling classified information so as to make it available to a defendant’s counsel while preserving confidentiality. The courtroom facility at Guantanamo was constructed, at a cost of millions of dollars, specifically to accommodate the handling of classified information and the heightened security needs of a trial of such defendants.

Nevertheless, critics of Guantanamo seem to believe that if we put our vaunted civilian justice system on display in these cases, then we will reap benefits in the coin of world opinion, and perhaps even in that part of the world that wishes us ill. Of course, we

did just that after the first World Trade Center bombing, after the plot to blow up airliners over the Pacific, and after the embassy bombings in Kenya and Tanzania.

In return, we got the 9/11 attacks and the murder of nearly 3,000 innocents. True, this won us a great deal of goodwill abroad—people around the globe lined up for blocks outside our embassies to sign the condolence books. That is the kind of goodwill we can do without.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

CAMPAIGN FINANCE REFORM

Mr. MCCAIN. Mr. President, I am joined by my friend and colleague and fellow warrior, Senator FEINGOLD. He and I both have some remarks to make. I was chosen to go first, and then Senator FEINGOLD, I know, will also want to address what we think is a very important issue. This is the issue of the U.S. Supreme Court case *Citizens United v. Federal Election Commission*.

On September 9, the U.S. Supreme Court heard oral arguments from both sides in the *Citizens United v. Federal Election Commission*. The implications of this case are very serious, and the Supreme Court’s decision could result in the unraveling of over 100 years of congressional action and judicial precedent with respect to corporate spending in political campaigns. Senator FEINGOLD and I were present in the Supreme Court chamber for the arguments in this case. I commend both sides for presenting their case in a thoughtful, intelligent manner. However, there was one part of the argument I found particularly disturbing.

While responding to a question from Justice Alito, the Solicitor General was interrupted by Justice Scalia, who said:

Congress has a self-interest. I mean, we—we are suspicious of Congressional action in the First Amendment area precisely because we—at least I am—

Here is the interesting part, when Justice Scalia said:

I doubt that one can expect a body of incumbents to draw election restrictions that do not favor incumbents. Now is that excessively cynical of me? I don’t think so.

Yes, I think it is excessively cynical. I take great exception to Justice Scalia’s statement, as should every Member of both Houses of Congress. It is an affront to the thousands of good, decent, honorable men and women who have served this Nation in these Halls for well over 200 years. Not only was Justice Scalia’s statement excessively cynical, it showed his unfortunate lack of understanding of the facts and history of campaign reform. Throughout our history, America has faced periods of political corruption, and in every instance, Congress has risen above its own self-interest and enacted the necessary reforms to address the scandals and corruption that have plagued our democratic institutions over time and throughout our history. The Tillman Act in 1907, the Publicity Act of 1910, the Federal Corrupt Practices Act in 1925, the Public Utilities Holding Act

in 1935, the Hatch Act in 1939, the Smith-Connolly Act in 1943, the Taft-Hartley Act of 1947, the Long Act in 1968, the Federal Election Campaign Act in 1974, and the bipartisan Campaign Reform Act in 2002 are just some of the reforms enacted by Congress over the years to address corruption in our government and in our campaigns.

Simply put, history has proven Justice Scalia wrong in his assessment that Congress will not act in anything but a self-serving manner.

Justice Scalia’s statement was also remarkable in that it exposed his belief that when it comes to issues relating to campaign reform, he somehow is a better arbiter of what is needed to reform the electoral process than the Congress or the American people. With all due respect, that is not the job of the judicial branch. Judges who stray beyond their constitutional role to try and take Congress’s place as policymakers falsely believe that judges somehow have a greater insight into what legislation is necessary and proper than representatives who are duly elected by the people and accountable to them every several years.

Activist judges—regardless of whether it is liberal or conservative activism—assume the judiciary is a super-legislature of moral philosophers, entitled to support Congress’s policy choices whenever they choose. I believe this judicial activism is wrong and is contrary to the Constitution.

Our Constitution is very clear in its delineation and dispersment of power. It solely tasks the Congress with creating law, not the courts. I have a long history of opposing activist judges. Judicial activism demonstrates a lack of respect for the popular will, and that is at fundamental odds with our republican system of government. I believe a judge should seek to uphold all acts of Congress and State legislatures, unless they clearly violate a specific section of the Constitution, and refrain from interpreting the law in a manner which creates new law. That is a fundamentally conservative position I have held throughout my career. I wish Justice Scalia shared that position.

Let us be very clear. At stake in the *Citizens United* case are the voices of millions and millions of Americans that could be drowned out by large corporations if the decades-old restrictions on corporate electioneering are rescinded. Overturning Supreme Court precedent would open the floodgates to unlimited corporate and union spending during elections and undermine election laws across the country. Those able to spend tens of millions of dollars, such as a Fortune 500 company or a big labor union, are much more likely to be heard during an election than the average American voter is. For this reason, I have always advocated laws that would prevent big-moneyed special interests from drowning out the voices of individual American citizens in elections and dominating the decisionmaking process of our government.

Contrary to some of my critics, I am a firm believer in the first amendment.

For more than 100 years, laws have stood to limit corporate donations to political candidates and campaigns—for more than 100 years. The concern about corporate involvement in campaigns is not new in America. On September 3, 1897, in a speech on government and citizenship, Elihu Root, who would go on to become Theodore Roosevelt's Secretary of State and a Nobel Peace Prize winner, said:

The idea . . . is to prevent the great moneyed corporations of the country from furnishing the money with which to elect members of the legislature . . . in order that those members of the legislature may vote to protect the corporations. It is to prevent the great railroad companies, the great insurance companies, the great telephone companies, the great aggregations of wealth, from using their corporate funds, directly or indirectly, to send members of the legislature to these halls, in order to vote for their protection and the advancement of their interests as against those of the public.

It strikes, Mr. Chairman, at a constantly growing evil in our political affairs, which has, in my judgment, done more to shake the confidence of the plain people of small means in our political institutions, than any other practice which has ever obtained since the foundation of our government.

Remember, this was in 1897. He went on to say:

And I believe that the time has come when something ought to be done to put a check upon the giving of \$50,000 or \$100,000 by a great corporation toward political purposes, upon the understanding that a debt is created from a political party to it; a debt to be recognized and repaid with the votes of representatives in the legislature and in Congress, or by the action of administrative or executive officers who have been elected in a measure through the use of the money so contributed.

Additionally, one can make the case that the concern about corporate influence extends as far back as our Founding Fathers. In 1816, Thomas Jefferson wrote:

I hope we shall crush in its birth the aristocracy of our moneyed corporations which dare already to challenge our government in a trial of strength, and bid defiance to the laws of our country.

Kentucky was the first State to ban corporations from spending their funds in State elections in 1891, and by 1897 Florida, Missouri, Nebraska, and Tennessee had all enacted similar corporate spending prohibitions in their State elections. While some States began enacting limits on the influence of money on politics during the Civil War era, Congress did not begin to pass major campaign finance regulations until some decades later. By that time, political contributions by major corporate interests and business leaders dominated campaign fundraising, and this development sparked the first major movement for national reform.

Progressive reformers, such as President Theodore Roosevelt and investigative journalists, charged that these business interests were attempting to gain special access and favors; thereby, corrupting the democratic process.

This reform movement, combined with allegations of financial impropriety in the 1904 Presidential election, resulted in the enactment of significant reforms.

On October 1, 1904, Joseph Pulitzer published an editorial in the *New York World* questioning President Roosevelt's ties to many of the large corporations that had donated to his campaign. Those questions led Roosevelt's opponent, Judge Alton Parker, to describe the donations as blackmail and insinuated there was a quid pro quo involved. President Roosevelt responded angrily, calling the accusations monstrous and said:

The assertion that there has been any blackmail, direct or indirect . . . is a falsehood. The assertion that there has been made any pledge or promise or that there has been any understanding as to future immunities or benefits, in recognition from any source is a wicked falsehood.

President Roosevelt, not wanting to give the appearance of improper influence, directed his staff to return a \$100,000 contribution from the Standard Oil Corporation. In his memo he wrote:

We cannot under any circumstances afford to take a contribution which can be even improperly construed as putting us under an improper obligation.

The allegations of impropriety also led Roosevelt to call for an end to corporate donations to campaigns. In his fifth annual message to the Congress on December 5, 1905, Roosevelt said:

The power of the Government to protect the integrity of the elections of its own officials is inherent and has been recognized and affirmed by repeated declarations of the Supreme Court. There is no enemy of free government more dangerous and none so insidious as the corruption of the electorate.

He warned:

If [legislators] are extorted by any kind of pressure or promise, express or implied, direct or indirect, in the way of favor or immunity, then the giving or receiving becomes not only improper but criminal. All contributions by corporations to any political committee or for any political purpose should be forbidden by law; directors should not be permitted to use stockholders money for such purposes; and, moreover, a prohibition of this kind would be, as far as it went, an effective method of stopping the evils aimed at in the corrupt practices acts. Not only should both the national and the several State legislatures forbid any officer of a corporation from using the money of the corporation in or about any election, but they should also forbid such use of money in connection with any legislation.

Again, the following year, in his sixth annual message to Congress in December 1906, President Roosevelt tried to limit corporate influence, stating:

I again recommend a law prohibiting all corporations from contributing to the campaign expenses of any party. Such a bill has already passed one House of Congress. Let individuals contribute as they desire . . .

I repeat what he said:

Let individuals contribute as they desire; but let us prohibit in effective fashion all corporations from making contributions for any political purpose, directly or indirectly.

In January 1907, Theodore Roosevelt signed into law the Tillman Act. This

law prohibited nationally chartered banks and corporations from contributing to campaigns. In the report to accompany the Senate version of the legislation, dated April 27, 1906, the Senate Committee on Privileges and Elections wrote:

The evils of the use of money in connection with political elections are so generally recognized that the committee deems it unnecessary to make any argument in favor of the general purpose of this measure. It is in the interest of good government and calculated to promote purity in the selection of public officials."

Following passage of the Tillman Act, Roosevelt again addressed the issue in his Seventh Annual Message to Congress in December, 1907. He said:

Under our form of government voting is not merely a right but a duty, and, moreover, a fundamental and necessary duty if a man is to be a good citizen. It is well to provide that corporations shall not contribute to Presidential or National campaigns, and furthermore to provide for the publication of both contributions and expenditures.

Although the Tillman Act constituted a landmark in Federal law, according to campaign finance expert Anthony Corrado, "its adoption did not quell the cries for reform. Eliminating corporate influence was only one of the ideas being advanced at this time to clean up political finance." In the years following the passage of the Tillman Act, reducing the influence of wealthy individuals and labor unions became a concern and reformers pushed for further limits on donations.

Consequently, in 1947, Congress enacted the Taft-Hartley Act, which explicitly banned corporate and labor union expenditures in Federal campaigns. In doing so, Senator Robert Taft made clear that the purpose of the new language was simply to affirm what had been understood to always be the case—that the 1907 corporate ban had prohibited corporate expenditures, or indirect contributions, as well as direct corporate contributions.

A ban on corporate expenditures in campaigns has been consistently upheld by the Supreme Court as constitutional and as "firmly embedded in our law."

The constitutionality of the ban on corporate campaign expenditures was upheld by the Supreme Court in the *Austin v. Michigan Chamber of Commerce* decision in 1990 and reaffirmed by the Court in the *McConnell v. Federal Election Commission* decision in 2003. And the corporate expenditure ban had been commented on favorably by the Court in earlier cases.

In 1990, in the *Austin* case, the Supreme Court acknowledged the importance of maintaining the integrity of the political process. From the Court's opinion:

Michigan identified as a serious danger the significant possibility that corporate political expenditures will undermine the integrity of the political process, and it has implemented a narrowly tailored solution to that problem. By requiring corporations to make all independent political expenditures

through a separate fund made up of money solicited expressly for political purposes, the Michigan Campaign Finance Act reduces the threat that huge corporate treasuries amassed with the aid of favorable state laws will be used to influence unfairly the outcome of elections.

In the McConnell case, the Supreme Court recognized its long-standing support for the constitutionality of bans on corporate campaign expenditures going back to its Buckley decision in 1976. From the Court's decision:

Since our decision in Buckley, Congress' power to prohibit corporations and unions from using funds in their treasuries to finance advertisements expressly advocating the election or defeat of candidates in federal elections has been firmly embedded in our law.

Additionally, in 1982, in the National Right to Work Committee case, the Supreme Court, in an opinion authored by Chief Justice William Rhenquist, stated regarding the Federal ban on corporate and labor union expenditures:

The careful legislative adjustment of the federal electoral laws, in a cautious advance, step by step, to account for the particular legal and economic attributes of corporations and labor organizations warrants considerable deference. [I]t also reflects a permissible assessment of the dangers posed by those entities to the electoral process.

In order to prevent both actual and apparent corruption, Congress aimed a part of its regulatory scheme at corporations. The statute reflects a legislative judgment that the special characteristics of the corporate structure require particularly careful regulation. Nor will we second guess a legislative determination as to the need for prophylactic measures where corruption is the evil feared. As we said in *California Medical Association v. FEC*, the "differing structures and purposes; of different entities 'may require different forms of regulation in order to protect the integrity of the electoral process . . .'"

The governmental interest in preventing both actual corruption and the appearance of corruption of elected representatives has long been recognized, *First National Bank of Boston v. Bellotti*, supra, and there is no reason why it may not in this case be accomplished by treating unions, corporations and similar organizations different from individuals.

In 1986, in the *Massachusetts Citizens for Life* case, the Supreme Court stated regarding the Federal ban on corporate expenditures in campaigns:

This concern over the corrosive influence of concentrated corporate wealth reflects the conviction that it is important to protect the integrity of the marketplace of political ideas . . . Direct corporate spending on political activity raises the prospect that resources amassed in the economic marketplace may be used to provide an unfair advantage in the political marketplace . . . The resources in the treasury of a business corporation . . . are not an indication of popular support for the corporation's political ideas. They reflect instead the economically motivated decisions of investors and customers. The availability of these resources may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas.

By requiring that corporate independent expenditures be financed through a political committee expressly established to engage

in campaign spending, section 441b seeks to prevent this threat to the political marketplace. The resources available to this fund, as opposed to the corporate treasury, in fact reflect popular support for the political positions of the committee.

If anyone has doubts about the influence of big-moneyed special interests on policy makers in this town, let me relay a personal observation. During the Senate Commerce Committee's consideration of the 1996 Telecommunications Act, every company affected by the legislation had purchased a seat at the table with soft money. Consequently, the bill attempted to protect them all, a goal that is obviously incompatible with competition. Consumers, who only give us their votes, had no seat at the table, and the lower prices that competition produces never materialized. Cable rates went up. Phone rates went up. And huge broadcasting giants received billions of dollars in digital spectrum, property that belonged to the American people, for free. They got it for free, billions of dollars worth of spectrum.

Information gathered from various sources in the press at the time indicated that the special interest groups involved spent nearly \$150 million to lobby Congress on telecommunications reform—and they all came out on top—at the expense of the American consumer.

Similarly, the pharmaceutical industry has spent millions of dollars to sway lawmakers against the idea of drug importation. In the 2008 election cycle, pharmaceutical companies gave almost \$30 million in campaign contributions to Members of Congress. Just this year, according to an article published in the June 3 edition of *The Hill*, the prescription drug industry has given more than one million dollars to both Republicans and Democrats. And these contributions were from the limited funds of corporate PACs—a fraction of the flood of money that could be spent out of corporate treasuries if the Supreme Court changes the law by judicial fiat.

As my colleagues know, for many years my colleague from Wisconsin, Senator FEINGOLD and I fought to ban soft money—the large, unregulated donations from corporations, labor unions, and wealthy individuals—from Federal elections. As the sponsors of the Bipartisan Campaign Finance Reform Act, we submitted, together with our colleagues from the House, Representatives Shays and Meehan, a brief for the court. In this brief we stated:

More fundamentally, Austin and McConnell were correctly decided. Unlimited expenditures supporting or opposing candidates may create at least the appearance of corruption, as *Caperton v. A.T. Massey Coal Co.* illustrates. The tremendous resources business corporations and unions can bring to bear on elections, and the greater magnitude of the resulting apparent corruption, amply justify treating corporate and union expenditures differently from those by individuals and ideological nonprofit groups.

So, too, does the countervailing free-speech interest of the many shareholders

who may not wish to support corporate electioneering but have no effective means of controlling what corporations do with what is ultimately the shareholders' money. Austin was rightly concerned with the corruption of the system that will result if campaign discourse becomes dominated not by individual citizens—whose right it is to select their political representatives—but by corporate and union war-chests amassed as a result of the special benefits the government confers on these artificial "persons." That concern remains a compelling justification for restrictions on using corporate treasury funds for electoral advocacy—constraints that ban no speech but only require that it be funded by individuals who have chosen to do so.

The holdings of Austin and McConnell—that it is constitutional to require business corporations to use segregated funds contributed by shareholders, officers and employees for express candidate advocacy or its functional equivalent—remain sound today. The interests in preventing actual or apparent corruption of the electoral process and protecting shareholders provide compelling justification for such requirements, which neither unduly burden nor overbroadly inhibit protected speech.

The corporate PAC option, moreover, is ideally suited to balancing the First Amendment interests of corporate entities and their shareholders. It allows the corporation to direct political spending only to the extent shareholders have personally decided to contribute for that specific purpose. It thus ensures that the corporation may have a voice, but one that is not subsidized unwillingly by those who may disagree with its electoral message. And there is no basis in the record for concluding that PACs are inadequate or unduly burdensome for business corporations, whatever may be true of certain ideological nonprofit corporations. Indeed, PAC requirements pale in comparison with the detailed recordkeeping and accounting otherwise required of corporations and unions.

The ability of corporate campaign expenditures to buy influence with Federal officeholders, and to create the appearance of such influence-buying is sadly evident in nearly every aspect of the legislative process. This fact was recognized in the McConnell case.

The brief filed in the McConnell case by me and my colleagues stated:

Not surprisingly, the McConnell record provided strong corroboration that corporate and union expenditures on ads that were the functional equivalent of express advocacy created the appearance of corruption. Based on that record, Judge Kollar-Kotelly found that such expenditures "permit corporations and labor unions to inject immense aggregations of wealth into the process" and "radically distort the electoral landscape." She further found that candidates are "acutely aware of" and "appreciate" such expenditures, and "feel indebted to those who spend money to help get them elected." She concluded that "the record demonstrates that candidates and parties appreciate and encourage corporations and labor unions to deploy their large aggregations of wealth into the political process," and that "the record presents an appearance of corruption stemming from the dependence of officeholders and parties on advertisements run by these outside groups."

According to the Solicitor General's brief, the record in the McConnell case showed that:

Federal officeholders and candidates were aware of and felt indebted to corporations

and unions that financed electioneering advertisements on their behalf or against their opponents.

The brief further stated:

[T]he record compiled in the McConnell case indicated that corporate spending on candidate-related speech, even if conducted independent of candidates, had come to be used as a means of currying favor with and attempting to influence Federal office-holders.

It is important for us to remember that this case does not affect solely the integrity of Federal elections. The States also have a great deal at stake in this case. In a brief filed in the Citizens United case, 26 State attorneys general wrote that "Courts have repeatedly upheld these State and Federal corporate electioneering restrictions from their inception."

In their brief, the attorneys general wrote:

This case does not concern the traditional regulation of corporate spending by State Laws. Instead it presents the application of a recent Federal statute to a novel form of political campaigning through the medium of video-on-demand and the message of a ninety-minute film. These and other political campaign innovations present an occasion to draw on State law experiments, not end them. The court cannot reach the validity of these laws under Austin without departing from its conventional approach to constitutional avoidance and as-applied review of campaign finance statutes, and ignoring its cautions against facial challenges in election law generally.

Austin follows a century of campaign finance law at the State and Federal level honed by six decades of this Court's holdings. Those decisions, and the State and Federal laws that gave rise to and rely on them, delineate a workable segregated-fund requirement for corporate electioneering that is embedded in campaign laws and practice at the Federal and State level. While imposing minimal burdens on corporations, the segregated fund protects the integrity of the political process from the corrupting influence of corporate executives funding political campaigns that have no proven support from the shareholders or customers whose money pays for the advocacy. The flourishing of corporate speech through PACs, and continued harms of direct corporate electioneering, has vindicated rather than undermined Austin's approval of segregated funds.

It is clear that the Austin and McConnell cases were correctly decided on the merits and those decisions remain sound today. According to the brief filed by the U.S. Solicitor General:

The Court in Austin held that corporations may constitutionally be prohibited from financing electoral advocacy with funds derived from business activities. That holding was correct when issued and should not be overturned now. Use of corporate treasury funds for electoral advocacy is inherently likely to corrode the political system both by actually corrupting political officeholders and by creating the appearance of corruption. Moreover, such use of corporate funds diverts shareholders' money to the support of candidates who the shareholders may oppose.

Congress's interest in preventing these pernicious consequences is compelling, and Congress has chosen a valid message of achieving it, requiring a corporation to fund its electoral advocacy through the voluntary

contributions of officers and shareholders who agree with its political statements.

The Solicitor General's brief further stated:

Corporate participation in candidate elections creates a substantial risk of corruption or the appearance thereof. Corporations can use electoral spending to curry favor with particular candidates and thus to acquire undue influence over the candidates' behavior once in office.

The record in McConnell, which is by far the most extensive body of evidence ever compiled on these issues, indicates that during the period leading up to BCRA's enactment, Federal office-holders and candidates were aware of and felt indebted to corporations and unions that financed electioneering advertisements on their behalf or against their opponents.

The nature of business corporations makes corporate political activity inherently more likely than individual advocacy to cause quid pro quo corruption or the appearance of such corruption. Even minor modifications in complex legislation have great potential to benefit or burden particular companies, industries, or sectors. The economic stake of corporations in the nuances of such matters as industry-specific tax credits, subsidies, or tariffs generally dwarfs that of any set of individuals.

And when those benefits can be obtained through a game of "pay to play," corporations are better suited than individuals to afford the ante. Corporate managers need not assemble a coalition of the like-minded; they can draw on the firm's entire capitalization without seeking the approval of shareholders. If only businesses can afford the investment necessary to pursue rents in this way, only businesses can reap the (even larger) reward. And the public perception that businesses reap such rewards from legislators whom they support in campaigns creates an appearance of corruption that corrodes popular confidence in our democracy.

At the heart of the Citizens United case is a critical question: Do the cherished individual rights protected by the Constitution extend in the same manner to corporations? Corporations, after all, are artificial creations of law, provided for by acts of Congress and the State legislatures, and endowed under these laws with perpetual existence, special tax status, and other privileges, all for the sole purpose of economic gain. The resolution of this question in the affirmative will have wide-ranging and unpredictable results for our legal system.

For example, if the Court determines corporations have first amendment rights, it will be logical that corporations also have fifth amendment rights against self-incrimination. Is a corporation "endowed by its creator with inalienable rights"? Just last year the Court found that the second amendment right to bear arms is a personal right. If the Court were to determine that corporations had the same rights as persons, would corporations have the right to arm themselves? Would lobbies of Fortune 500 companies contain grand weapon caches? The absurdity of the argument should be apparent to the members of the Court.

John Marshall, former Chief Justice of the Supreme Court, wrote in 1819 that corporations were "an artificial

being, invisible, intangible." Therefore, he stated, "Being the more creature of law, it possesses only those properties which the charter of its creation confers upon it, either expressly or as incidental to its very existence."

Essential to a corporation's existence is a first amendment right to speak about their products and services. Essential to a corporation's existence is the right to sue for the theft of its intellectual property. Essential to a corporation's existence is the right to enter into contracts. Not essential to a corporation's existence is the ability to contribute unlimited funds to political candidates.

It is for this reason and others that the Supreme Court has repeatedly and consistently upheld a ban on direct contributions to political candidates by corporations and unions. Chief Justice Roberts stated at one point during the argument in the Citizens United case that: "We do not put our First Amendment rights in the hands of FEC bureaucrats." I agree. And that is why the Court has repeatedly upheld bans passed by the Congress of the United States and by the State legislators on unlimited corporate or union spending in elections.

Under current law, corporations are free to give to political candidates through political action committees. In an editorial in the Boston Globe entitled "Corporations Aren't People Yet," the editorial board rightly states: "Even under current financial restrictions, health care industry groups are pouring millions of dollars into Congressional campaigns in the hope of thwarting reforms that might constrain their members."

A September 10, 2009 editorial in the Philadelphia Inquirer stated:

Allowing corporations to flood elections with their aggregate corporate wealth would place a heavy thumb on the scales of democracy. If a certain industry did not like the way a Senator voted on environmental regulations, for example, there would be nothing to stop that industry from dumping \$200 million into the campaign of that Senator's opponent.

The editorial goes on to say:

If the high court rules now that corporations have the same political speech rights as individuals, average citizens will have that much more trouble being heard . . . the distinction between corporate speech and individual speech is clear enough, and the importance of limiting the undue influence of money and politics is significant enough that the court, in all its wisdom, should leave well enough alone.

I agree.

In conclusion, the Court should not overturn precedent and Congress's clear intent to limit corporate contributions to political candidates. In summary, there are three simple points raised by the Court's consideration of the Citizens United case. First, whatever one thinks of a first amendment right for corporations, it is not appropriate for a nondemocratic branch of government to raise a question of the broadest scope at the last minute when

such a question was not raised in the trial court and there is no ability to build a record.

Congress is the most democratically elected branch of government and should be able to make laws that do not stand in the face of the Constitution whether or not the members of the Court would themselves support such legislation if they served in the elected branches of government.

Secondly, the principle enshrined in law for many years was that corporations, because of their artificial legal nature and special privileges, including perpetual existence, pose a unique threat to our democracy. However, the current court seems poised to find that Thomas Jefferson, Theodore Roosevelt, and others were wrong despite there being no record built on this point in this case. In *McConnell*, there was a record built to support the decision. Here, the trial court never examined the idea of corporations having broad first amendment rights. The Court is reaching to find such a conclusion as part of the *Citizens United* case.

Lastly, I stress again to my colleagues the implications of the decision the Court may reach in this case. The Court is considering a question that may lead to corporations being treated as "persons" under the Constitution, would allow corporations to assert a fifth amendment right to refuse to testify under oath and to keep documents from lawful investigations, and would allow corporations to be subject to individual tax brackets.

Are my colleagues prepared to provide such rights to corporations? Are my colleagues prepared to pass legislation that taxes corporations and persons at the same rate? If the Court provides full first amendment rights to corporations, there is no reason that corporations could not receive the benefits as well as the responsibilities of being a person.

Justice Sandra Day O'Connor wrote in the *McConnell* decision, and I think with such accuracy, that "money, like water, will always find an outlet," and that the government was therefore justified in taking steps to prevent schemes developed to get around the contribution limits. Again, Justice O'Connor knew better than most jurists, as a former Arizona State Senator, and majority leader of the Arizona State Senate. I hope and wish that the current Court heeds the words of this brilliant jurist who had real-life experiences in politics.

Needless to say, I am very concerned about the integrity of our elections should the Supreme Court rule to overturn the *Austin* decision. I sincerely hope that the Justices will practice restraint and rule in a manner consistent with judicial precedent and the Constitution of the United States of America.

I again want to, as I have on many occasions, thank my friend from Wisconsin, a man of courage and a man of integrity, and a man I have always

been proud to be associated with on issues such as these that are important to the integrity of the institution that we both try to serve with honor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Arizona for all the work he has done over these many years to improve our campaign finance system. We have been partners in this effort for over a decade. In fact, it will soon be 15 years. Of course, there is no one in this body whom I admire more than JOHN MCCAIN.

In early September, Senator MCCAIN and I had the opportunity to walk across the street to the Supreme Court and hear the oral argument in the *Citizens United* case. It was a morning of firsts: The first case that Justice Sonia Sotomayor has heard since the Senate confirmed her nomination to become only the third woman to sit on our Nation's highest court. And the first oral argument that Solicitor General Elena Kagan has done since becoming the first woman to hold that important position in our government.

And it was the first time since the Tillman Act was passed in 1907 prohibiting spending by corporations on elections, and the Taft-Hartley Act in 1947 clarified and strengthened that prohibition, that a majority of the Court has suggested it is prepared to hold that Congress and the many State legislatures that have passed similar laws have violated the Constitution. Such a decision could have a truly calamitous impact on our democracy.

Until a few months ago, as the Senator from Arizona pointed out, no one had any idea that the *Citizens United* case would potentially become the vehicle for such a wholesale uprooting of the principles that have governed the financing of our elections for so long. The case started out as a simple challenge to the application of title II of the law that Senator MCCAIN and I sponsored, the Bipartisan Campaign Reform Act of 2002. The issue was whether the provisions of BCRA relating to so-called issue ads could constitutionally be applied to a full-length feature film about then-Presidential candidate Hillary Clinton. The movie was to be distributed solely as video on demand.

Yet somehow at the end of its last term, instead of deciding the case on the basis of the briefs and arguments submitted by the parties early this year, the Court reached out and asked for supplemental briefing on whether it should overturn its decisions in *McConnell v. FEC*, the case that upheld BCRA in 2003, and *Austin v. Michigan Chamber of Commerce*, a 1991 decision that upheld a State statute prohibiting corporate funding of campaign ads expressly advocating the election or defeat of a candidate. That set the stage for the recent special session to hear reargument in the case. And now we await the Court's verdict on whether

these longstanding laws will be in jeopardy.

I certainly hope the Court steps back from the brink. A decision to overturn the *Austin* decision would open the door to corporate spending on elections the likes of which this Nation truly has never seen. Our elections would become like NASCAR races—underwritten by companies. Only in this case, the corporate underwriters wouldn't just be seeking publicity, they would be seeking laws and policies that the candidates have the power to provide.

We were headed well down that road in the soft money system that BCRA stopped. It may seem like a long time ago, but the Senator from Arizona and I remember that hundreds of millions of dollars were contributed by corporations and unions to the political parties between 1988 and 2002. The system led to scandals like the White House coffees and the sale of overnight stays in the Lincoln bedroom. The appearance of corruption was well documented in congressional hearings and fully justified the step that Congress took in 2002—prohibiting the political parties from accepting soft money contributions.

Before BCRA was passed, corporations were making huge soft money donations. They were also spending money on phony issue ads. That is what title II was aimed at. But what they were not doing was running election ads that expressly advocated the election or defeat of a candidate. That has been prohibited in this country for at least 60 years, though it is arguable that the Tillman Act in 1907 prohibited it 40 years before that. So it is possible that the Court's decision will not just take us back to a pre-McCain-Feingold era, but back to the era of the robber baron in the 19th century. That result should frighten every citizen of this country. The Court seems poised to ignite a revolution in campaign financing with a stroke of its collective pen that no one contemplated even 6 months ago.

While I have disagreed with many Supreme Court decisions, I have great respect for that institution and for the men and women who serve on the Court. But this step would be so damaging to our democracy and is so unwarranted and unnecessary that I must speak out. That is why Senator MCCAIN and I have taken the unusual step of coming to the floor today.

To overrule the *Austin* decision in this case, the Court would have to ignore several time-honored principles that have served for the past two centuries to preserve the public's respect for and acceptance of its decisions. First, it is a basic tenet of constitutional law that the Court will not decide a case on constitutional grounds unless absolutely necessary, and that if there is no choice but to reach a constitutional issue, the Court will decide the case as narrowly as possible.

This is the essence of what some have called "judicial restraint." What seems

to be happening here though is the antithesis of judicial restraint. The Court seems ready to decide the broadest possible constitutional question—the constitutionality of all restrictions on corporate spending in connection with elections in an obscure case in which many far more narrow rulings are possible.

The second principle is known as *stare decisis*, meaning that the Court respects its precedents and overrules them only in the most unusual of cases. Chief Justice John Roberts, whom many believe to be the swing justice in this case, made grand promises of what he called “judicial modesty,” when he came before the Senate Judiciary Committee in 2005. Respect for precedent was a key component of the approach that he asked us to believe he possessed. Here is what he said:

I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness. It is not enough—and the court has emphasized this on several occasions—it is not enough that you may think the prior decision was wrongly decided. That really doesn't answer the question, it just poses the question. And you do look at these other factors, like settled expectations, like the legitimacy of the court, like whether a particular precedent is workable or not, whether a precedent has been eroded by subsequent developments. All of those factors go into the determination of whether to revisit a precedent under the principles of *stare decisis*.

So said then Judge Roberts. Talk about a jolt to the legal system. It is hard to imagine a bigger jolt than to strike down laws in over 20 States and a Federal law that has been the cornerstone of the Nation's campaign finance system for 100 years. The settled expectations that would be upset by this decision are enormous. And subsequent developments surely have not shown that the Austin decision is unworkable. Indeed, the Court relied on it as recently as 2003 in the McConnell case and even cited it in the Wisconsin Right to Life decision just 2 years ago, written by none other than Chief Justice Roberts. To be sure, there are Justices on the Court who dissented from the Austin decision when it came down and continue to do so today. But if *stare decisis* means anything, a precedent on which so many State legislatures and the American people have relied should not be cast aside simply because a few new Justices have arrived on the Court.

Third, the courts decide cases only on a full evidentiary record so that all sides have a chance to put forward their best arguments and the court can be confident that it is making a decision based on the best information available. In this case, precisely because the Supreme Court reached out to pose a broad constitutional question that had not been raised below, there is no record whatsoever to which the Court can turn. None. The question here demands a complete record be-

cause the legal standard under prevailing first amendment law is whether the statute is designed to address a compelling State interest and is narrowly tailored to achieve that result. My colleagues may recall that when we passed the McCain-Feingold bill, a massive legislative record was developed to demonstrate the corrupting influence of soft money. And the facial constitutional challenge to that bill led to months of depositions and the building of an enormous factual record for the court. None of that occurred here. And furthermore, the over 20 States whose laws would be upended if Austin is overruled were given no opportunity to defend their legislation and show whatever legislative record had been developed when their statutes were enacted.

Instead, the Court seems to be ready to rely on its intuition, its general sense of the political process. From what I observed at oral argument, that intuition is sorely lacking. One Justice blithely asserted that the 100-year-old congressional decision to bar corporate expenditures must have been motivated by the self-interest of Members of Congress as incumbent candidates, ignoring the fact that the modern Congress prohibited soft money contributions even though the vast majority of those contributions were used to support incumbents. Another Justice opined that it was paternalistic for Congress to be concerned about corporations using their shareholders' money for political purposes, even though most Americans invest through mutual funds and have little or no idea what corporations their money has actually gone to.

For the Court to overrule Austin and McConnell in this case would require it to reject these three important principles of judicial modesty. It would amount to the unelected branch of government reaching out to strike down carefully considered and longstanding judgments of the most democratic branch. It would be, in my view, a completely improper exercise of judicial power.

Let me discuss for a moment the consequences of this decision. A fundamental principle of our democracy is that the people elect their representatives. Each citizen gets just one vote. Our system of financing campaigns with private money obviously gives people of means more influence than average voters, but Congress over the years has sought to provide some reasonable limits and preserve the importance of individual citizens' votes. One of the most important and longstanding limits is that only individuals can contribute to candidates or spend money in support of or against candidates. Corporations and unions are prohibited from doing so, except through their PACs, which themselves raise money only from individuals. The Supreme Court may very well be about to change that forever.

According to a 2005 IRS estimate, the total net worth of U.S. corporations

was \$23.5 trillion, and after-tax profits were nearly \$1 trillion. During the 2008 election cycle, Fortune 100 companies alone had profits of \$605 billion. That is quite a war chest that may be soon unleashed on our political system. Just for comparison, spending by candidates, outside groups, and political parties on the last Presidential election totaled just over \$2 billion. Federal and State parties spent about \$1.5 billion on all Federal elections in 2008. PACs spent about \$1.2 billion. That usually sounds like a lot of money, but it is nothing compared to what corporations and unions have in their treasuries. So we are talking here about a system that could very easily be completely transformed by corporate spending in 2010.

Does the Supreme Court really believe that the first amendment requires the American people to accept a system where banks and investment firms, having just taken our country into its worst economic collapse since the Great Depression, can spend millions upon millions of dollars of ads directly advocating the defeat of those candidates who didn't vote to bail them out or want to prevent future economic disaster by imposing strict new financial services regulations? I say that because that is where we are headed. Is the Court really going to say that oil companies that oppose action on global warming are constitutionally entitled to spend their profits to elect candidates who will oppose legislation to address that problem?

The average winning Senate candidate in 2008 spent \$8.5 million. The average House winner spent a little under \$1.4 million. A single major corporation could spend three or four times those amounts without causing even a smudge on its balance sheet. This is not about the self-interest of legislators who will undoubtedly fear the economic might that might be brought against them if they vote the wrong way. This is about the people they represent, who live in a democracy and who deserve a political system where their views and their interests are not completely drowned out by corporate spending.

At the oral arguments last month, one Justice seemed to suggest it is perfectly acceptable for a tobacco company to try to defeat a candidate who wants to regulate tobacco and to use its shareholders' money to do so. This is the system the Supreme Court may bequeath to this country if it does not turn back.

Some will say that corporate interests already have too much power and that Members of Congress listen to the wishes of corporations instead of their constituents. I will not defend the current system, but I will say: Imagine how much worse things would be in a system where every decision by a Member of Congress that contradicts the wishes of a corporation could unleash a tsunami of negative advertising in the next election.

In light of the immense wealth a corporation can bring to bear on such a project, I frankly wonder how our democracy would function under such a system. We are talking about a political system where corporate wealth rules in a way that we have simply never seen in our history.

So, once again, I certainly want to thank my friend from Arizona for his friendship and his courage. We will continue to fight for a campaign finance system that allows the American people's voices to be heard.

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

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

The legislative clerk proceeded to call the roll.

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

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

HEALTH INSURANCE INDUSTRY ANTITRUST
ENFORCEMENT ACT

Mr. WHITEHOUSE. Mr. President, I come to the floor to speak in strong support of the Health Insurance Industry Antitrust Enforcement Act, introduced by the senior Senator from Vermont, the chairman of our Judiciary Committee, Mr. PATRICK LEAHY. I believe this bill is an important part of health care reform, and I am hopeful it can be included in the final reform bill as it makes its way through this body.

Our antitrust laws embody the proud American idea that democracy shapes capitalism and not vice versa; that vigorous economic competition is not an amoral, Hobbesian contest but disciplined by a strong rule of law tradition; and that ours is not a society in which might makes right and only the powerful write the rule book.

The great Supreme Court jurist and antitrust crusader William O. Douglas, wrote:

Industrial power should be decentralized. It should be scattered into many hands so that the fortunes of the people will not be dependent on the whim or caprice, the political prejudices, the emotional stability of a few self-appointed men. . . . That is the philosophy and the command of the Sherman [Antitrust] Act.

The passage of the Sherman Antitrust Act and the Clayton Antitrust Act and the creation of the Federal Trade Commission and the Antitrust Division at the Department of Justice demonstrated a Federal commitment to a level economic playing field. Small businessmen and entrepreneurs, shouldering the enormous task of starting and sustaining a new enterprise, would know that powerful competitors could not collude to keep them out of the market. Consumers could rest assured that prices were not being fixed artificially high by scheming monopolists. Every industry, every vector of American business, was made subject to these rules of the road—except for one: the insurance industry.

In 1944, insurance companies challenged the Federal Government's very

ability to enforce antitrust laws against them, and the Supreme Court ruled that the insurance business was subject to antitrust laws just like everybody else. In response, insurance companies came to Congress, where they launched a massive lobbying campaign, pressuring Congress to invalidate the Supreme Court's decision—not unlike the current lobbying barrage they are aiming at killing health care reform. That campaign back in 1944 was successful. In March 1945, the McCarran-Ferguson Act exempted insurance companies entirely from the reach of America's antitrust laws. If that exemption ever made sense, it no longer does, especially when it comes to health insurance coverage.

Today, Americans pay ever-higher premiums for less care because a small group of wealthy, powerful companies control the health insurance market. Just consider these numbers: A study by the American Medical Association shows that 94 percent of metropolitan areas—virtually every one—has a health insurance market that is “highly concentrated,” as measured by Department of Justice standards. This means that if the Department of Justice's Antitrust Division had enforcement authority over the health insurance industry, it would be carefully scrutinizing this market for signs of anticompetitive conduct that hurts consumers. But due to the antitrust exemption, the Department of Justice cannot do that job. That same study shows that, in 39 States 2 health insurers control at least half of the health insurance market and in 9 States a single insurer controls at least 70 percent of the market.

Back in 1945, the insurance industry argued that it should be exempted from the antitrust laws because the market was heavily localized and not concentrated. Well, if that were true then, it is not true now.

Overhead for private insurers is an astounding 20 to 27 percent—charges that consumers pay for in higher premiums. A Commonwealth Fund report indicates that private insurer administrative costs increased 109 percent from 2000 to 2006—109 percent in those 6 years—and the McKinsey Global Institute estimates that Americans spend roughly \$150 billion annually on what the report calls “excess administrative overhead” in the private health insurance market. Mr. President, \$150 billion a year in “excess administrative overhead.” Clearly, this is not a competitive market. If it were, companies would be driven to cut these costs in order to compete effectively in the marketplace.

Without competition and without economic incentive to avoid massive administrative costs, health insurance premiums have increased 120 percent—more than doubled—in one decade, while insurance industry profits increased 428 percent in the same period—428 percent.

Doctors and other health care providers have been hurt as well. For

many years, United Health Care, a massive health insurance company, owned and operated a computerized pricing system that was used by almost every other health insurer. The New York attorney general recently found that the system was designed to systematically underpay doctors for their services and that this had been going on for years. United Health paid \$400 million to settle lawsuits by the State, but if the Federal Trade Commission or the U.S. Department of Justice had tried to bring suit under the Federal antitrust laws, they would have been blocked by McCarran-Ferguson.

Finally, ironically, health insurers threaten and sue doctors all the time under these same antitrust laws while protecting their own exemption from the laws they seek to impose on the providers and the doctors whom they torment.

One might ask how this exemption has survived so long. A certain school of political thought holds that the only proper relationship of government to the market is hands off, that any government involvement in the marketplace is unnatural and unwelcome. But with respect to antitrust enforcement, we crossed that Rubicon long ago, and every industry in the country is required to play by rules that support the market by increasing competition, again, except insurance. Experience in those other areas has shown that the government referee on the field of play creates a better environment for competition, and the public wins.

Think of the benefits of a competitive health insurance market. Insurers would have to compete on price, lowering premiums for individuals and small businesses purchasing insurance, and work hard to lower those unnecessary administrative costs. New competitors would be able to enter more easily and offer better consumer service, quicker claims processing, streamlined enrollment—competition that is desperately needed in a market where 36 percent of physician overhead is consumed by fighting with the insurance industry over inappropriate denial and delay of health insurance claims.

Senator LEAHY's Health Insurance Industry Antitrust Enforcement Act would repeal the unique and peculiar exemption for health insurance and medical malpractice insurance companies. The bill ensures that these companies are no longer permitted to engage in the most egregious forms of antitrust violations—price fixing, bid rigging, and market allocations—while preserving insurers' ability to share statistical information with each other in a procompetitive manner, with appropriate approvals.

Let me conclude with the words of a distinguished Senator, one of the greatest advocates for the elderly, ill, and disabled this Chamber has seen, Senator Claude Pepper. Senator Pepper, at the time, strongly opposed the McCarran-Ferguson antitrust exemption for the insurance industry, and he

warned of the “carte blanche authority . . . which had been contained in no previous legislation . . . [and] which for the first time gives the States carte blanche to legitimize the very vices against which the Clayton Act and the Sherman Act were directed.”

It appears to me the exemption for the insurance industry was a mistake then, and it is assuredly unwise now. Let’s repeal this unfair law and give health insurance consumers the same benefits of free, open, and fair competition that all Americans enjoy.

Let me finally add that the state of the health insurance market reinforces the need to which I have spoken, and so many of my colleagues have spoken before, for an efficient, nonprofit public health insurance option. The health insurance industry has been artificially sheltered by government for decades, building huge profit margins, massive market share, and colossal overhead and administrative costs. Now these same companies argue vehemently against the public option on the grounds that it would amount to government interference—government interference with their government protection from competition. That irony just doesn’t pass the laugh test.

According to the AMA study I quoted in the beginning of my remarks, Rhode Island is the second most concentrated health insurance market in the country. Just two insurers control 95 percent of the market. My constituents desperately would like the chance to choose a public option and would benefit from a more competitive health insurance market, one in which vigorous competition brings down costs and improves the quality of care and encourages health insurers to treat people decently.

Mr. President, I have concluded the remarks on the McCarran-Ferguson exemption. I wish to turn to another topic, but I see the majority whip on the Senate floor, and I would be delighted to yield to him if he wishes to take a moment.

I will continue, then. I thank the distinguished majority whip.

BIPARTISAN CAMPAIGN REFORM ACT

Mr. President, I wish now to say a few words about the colloquy that took place between Senator McCAIN and Senator FEINGOLD on the Senate floor a few moments ago over the need to protect our Nation’s political system from the influence of corporate money.

For more than a decade, Senators MCCAIN and FEINGOLD have been stalwart defenders of the integrity of our political system, and they achieved a hard-fought victory in 2002 with the passage of the Bipartisan Campaign Reform Act, which everybody around here knows as the McCain-Feingold law. As they said in their remarks, we face a real danger that an activist Supreme Court will strike down portions of that law, overturn the will of Congress and the American people, and allow corporations to spend freely in order to elect and defeat candidates

and influence public policy to meet their ends. The consequences of such a decision by our Supreme Court could be nightmarish.

Federal laws restricting corporate spending on campaigns have a long pedigree. Back in 1907, the Tillman Act restricted corporate spending on political campaigns. While various loopholes have come and gone over the years, the principle embodied in that law that corporations aren’t free to spend unlimited dollars to influence political campaigns is a cornerstone of our American system of government. That principle now appears to be at risk as the Supreme Court may be poised to open the floodgates now holding back corporate cash.

In September, the Supreme Court heard oral argument in *Citizens United v. The Federal Election Commission*. *Citizens United* is an organization that accepts, channels, and funnels corporate funding. It sought to broadcast a documentary attacking our former colleague, Senator Clinton, now Secretary of State Clinton, at the time a candidate for President, on On Demand cable broadcasts. Current law prohibits the broadcast of this kind of corporate advocacy on the eve of an election. *Citizens United* filed a lawsuit arguing that the law infringed on its first amendment rights.

Many observers expected the Court to rule narrowly on the case, perhaps focusing on whether McCain-Feingold applies to On Demand broadcasts. Instead, after hearing oral argument, the Court asked for an additional briefing and a new round of oral argument, something the Supreme Court does very rarely, to consider whether the first amendment bans such restrictions on corporate campaign spending. There is some indication that the activist conservative wing of the Court believes it does. We may be on the verge of another effort by a Roberts court to advance its ideologically charged view of the Constitution. In so doing, the Court would overturn its own longstanding precedents, opinions such as *Austin v. Michigan State Chamber of Commerce* where Justice Thurgood Marshall warned of “the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public support for the corporation’s political ideas.”

Should the Court upturn so much long-settled law, it would upend our entire political system and we could see a new era of corporate influence over politics not seen in the history of our Republic.

Imagine for a moment what our political system would look like if the Court takes the fateful step of allowing corporations to unrestrictedly spend money to influence campaigns. Corporate polluters under investigation by the Department of Justice, running unlimited advertisements for a more sympathetic Presidential candidate; fi-

nancial services companies spending unlimited money to defeat Members of Congress who have the nerve to want to reform the way things are done on Wall Street; defense contractors overwhelming candidates who dare question a weapons program they build. It would become government of the CEOs, by the CEOs, and for the CEOs.

Nothing in the history of the first amendment requires the protection of such activities. To the contrary, Congress long has been understood to hold the power to protect the electoral process from the corrupting flood of corporate money. This is because, as the Supreme Court long has recognized, a corporation holds no inalienable right to participate in an election. Unlike the people from whom the sovereign power of the State is drawn, a corporation is created by and subject to the sovereign power of the State. Indeed, as Chief Justice John Marshall explained in 1809, only 18 years after ratification of the first amendment, a corporation is “a mere creature of the law, invisible, intangible, and incorporeal and certainly not a citizen.”

In 1906, a century later, the Supreme Court explained that:

The corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law.

Corporations are created by government charter. They are legal fictions, tools for organizing human behavior. Neither logic nor history justifies unleashing them from the bonds of government to master and control the very government that created them—new monsters on the political landscape, bending public wealth to their peculiar private purposes.

How might they do that? Well, let’s look at one recent case involving Bank of America.

All of us remember in September of 2008, Bank of America announced that it would buy Merrill Lynch for \$50 billion. In August of this year, the Securities and Exchange Commission filed a civil suit against the Bank of America alleging that it had made a misrepresentation to its shareholders that Merrill Lynch would not pay bonuses to its executives in 2008 when, in fact, Bank of America had agreed that Merrill Lynch could pay up to \$5.8 billion in bonuses to its executives. That is the background.

Bank of America and the Securities and Exchange Commission submitted a proposed final consent judgment proposing to resolve that case by giving \$33 million of shareholder money to the Securities and Exchange Commission. The U.S. District Court in New York took a look at this proposal and threw it out. The judge rightfully rejected it as neither fair nor reasonable nor adequate. The Court said it well; I can’t improve on the Court’s decision:

The parties were proposing that the management of Bank of America—having allegedly hidden from the bank’s shareholders

that as much as \$5.8 billion of their money, shareholder money, would be given as bonuses to the executives of Merrill who had run that company nearly into bankruptcy—would settle the legal consequences of their lying by paying the SEC \$33 million more of their shareholders' money.

As the Court noted, this was all done “at the expense not only of the shareholders, but also of the truth.”

That is a pretty stark example of corporate management trying to use shareholder money to serve its own ends, even against shareholder interests. Well, guess whose interests corporate managers would pursue politically if they could open the spigots of shareholder money in elections.

Longstanding statutes and judicial precedents that limit corporate involvement in campaigns rests on the well-established and long-accepted recognition that corporations and their corrupting self-interests must be controlled. There is no reason now for a fundamental rethinking of such a plain and well-settled principle. The right-wing of the Supreme Court will be hard pressed to justify departing from such settled understandings of the first amendment, from the century-long tradition of controlling corporate spending, to invent new constitutional rights for corporations against real human beings.

In closing, I stand with my colleagues, Senator MCCAIN and Senator FEINGOLD, in readiness to do what it takes to protect our system of campaign finance laws from the danger of corporate corruption. I look forward to working with them and my other colleagues to ensure that our elections remain enlivened by a robust debate among human participants in which CEOs don't have favored princely status because they can direct corporate funds to drown out people's voices.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The majority whip is recognized.

Mr. DURBIN. Mr. President, let me say at the outset the Senator from Rhode Island has addressed two issues that are timely and important. I certainly concur with him and cosponsor the legislation offered by the chairman of the Senate Judiciary Committee, Senator PATRICK LEAHY, which would repeal the McCarran-Ferguson Act as it relates to health insurance companies and medical malpractice insurers. The McCarran-Ferguson Act, since the 1940s, if I am not mistaken, has exempted the insurance industry from antitrust regulation, which literally means those insurance companies, exempt from the supervision of the Justice Department, can engage in conduct absolutely illegal and unacceptable by any other corporation in America, save one. Organized baseball is given the same basic exemption for reasons that are lost in the pages of history. But I will say that under the current McCarran-Ferguson law, the health insurance companies have the power to fix prices, to allocate mar-

kets. In other words, they can make good on their threat 2 weeks ago that they are going to raise health insurance premiums if we pass health care reform in America. There is nothing we can do to stop them, short of creating a competitive model where they might have an actual competitor in markets such as Rhode Island and Illinois. It is known as the public option. Some people brand it as socialism or some wild French idea, but what it comes down to is basic competition—something the health insurance companies loathe. Because of the antitrust exemption, McCarran-Ferguson, they have not been held to the same standards as any other business in America.

I believe Senator LEAHY is on the right track. It is part of the health care reform. I know he is supported by Senator HARRY REID, the majority leader, that we should repeal the McCarran-Ferguson antitrust legislation as it exists today.

I concur with Senator WHITEHOUSE as well on the notion that the case which is now pending before the U.S. Supreme Court could, in my mind, completely destroy our political climate and campaigning in America. If we allow corporations to be exempt from limitations in their involvement in this political process, it is virtually the end of campaigns as we have known them.

It is time for us to not only endorse the position that has been expressed by Senator MCCAIN, Senator FEINGOLD, and Senator WHITEHOUSE, but also step back and take an honest look at this system, which I think is unsustainable and intolerable.

I have introduced legislation with Senator SPECTER calling for public financing of campaigns. When will we ever reach the conclusion that this system, if it is not corrupt, is corrupting? In order to take the big money out of politics, whether from corporations or from individuals, we need to move to a model that has been embraced by States that are more progressive in their outlooks. The States of Maine and Arizona have moved in this direction. We should as well.

I support public financing, and I hope our Rules Committee can consider a hearing on this important measure soon.

UNEMPLOYMENT INSURANCE BENEFITS

Yesterday, I came to the Senate floor to talk about a Republican hold on our efforts to extend unemployment insurance benefits to millions of Americans. These are people who have worked hard their entire adult lives and are struggling now to make ends meet. Some of them earned six-figure salaries and others more modest incomes, and now they are struggling to put food on the table. Some had high-ranking bank jobs, others more mundane and routine jobs. But they are all in trouble, and they are counting on us to let them have the money they put into a fund for their unemployment.

These people worked for years on factory floors, building expertise in ma-

chines and equipment, and now have depleted their savings and do not know where to turn, and they are frightened.

Listen to the words a husband and father from Joliet, IL, has written to me:

I am one of the millions who has become dependent on my unemployment benefits to help carry our family from week to week. I've been employed full time since I was legally old enough to work and have always had a job.

I worked at the same company for 8 years before losing my job due to lack of work. Confident that I'd find a job right away, I didn't sweat it. But I haven't. Eighteen months later and I'm still unemployed and terrified because I'm about to receive my last unemployment check.

I have two young children, a modest house, one vehicle and a lot of bills. I'm horrified at the thought that I won't be able to pay my bills or put food on our table. We just got hit with unforeseen medical bills that the insurance company has decided not to cover (apparently vaccinating children falls under the “unimportant” category), my truck needs tires and brakes, but we can't afford to pay for either, and my refrigerator is threatening to die on me.

My entire world feels like it's crumbling around me but I was confident that the government, my government, would be there to back us up and I'm appalled that this extension is being held up.

Without this extension, things are going to get much worse. I'm scared. Please don't let us fall through the cracks.

I say to the Senator from Rhode Island, I am sure he has received similar messages from his State, and I am sure our Republican colleagues have received similar messages. They have held us up in our attempt to extend unemployment benefits to millions of people just like the man who wrote to me from Joliet, IL.

Here is something I just learned. The Republicans say: We cannot go onto unemployment benefits because we want to offer some amendments. This is a common plank we hear from them, that they don't have enough of a chance to offer amendments. I have not seen the amendments, but they were described to me. I think the Senator from Rhode Island may be surprised to learn that two of the amendments they want to offer—the reason they are holding up unemployment benefits is because they want to take another whack at ACORN. Think about that. The Republican Senate leadership has reached the point where they would consider amendments on the organization of ACORN as an alternative or at least holding up even the most basic unemployment benefits for unemployed workers across America.

ACORN is a controversial organization. I know that as well as anyone. I said the people who were disclosed on a video several weeks ago should be held accountable. I know they have been fired. And if they have broken laws, they should be prosecuted, period. I called for an investigation of ACORN's involvement with the Federal Government to find out if there has been wrongdoing and misuse of Federal funds. We have gone even further on the floor of the Senate to actually barring ACORN from doing business with

the Federal Government. But that is not enough on the Republican side of the aisle. In order to feed the mouths of the rightwing cable shows, they keep pushing ACORN down our throats at the expense of unemployment benefits for millions of Americans.

When you look at this, this is such a vacuous, frivolous, embarrassing outcome that we would say to people like the man who has just written to me: Sorry, we cannot give you the peace of mind you get with an unemployment check; we have to take another whack at ACORN and we have to hold up the bill for weeks until we satisfy a few Senators who cannot get enough of this exercise. I don't think it is responsible. I sure don't think it is fair. And I can tell you that the people who are suffering because they lost their jobs and are feeling the pain and frustration are not going to be satisfied to know a few Republican Senators want to offer another amendment on ACORN.

Listen to the frustration and pain of a veteran from Cicero, IL. He writes:

My age is 61. I have been unemployed since March 2008. I am actively looking for work. It has been more than 6 months since I've even had an interview.

When I've had interviews, I feel that once the interviewer sees my gray hair, I am eliminated from competition, saying I'm over qualified.

I'm realistic, and willing to take a cut in pay [to get a job].

What I'm writing about is the extension of unemployment benefits. I've received notices from the State of Illinois my extended benefits and emergency benefits from the State of Illinois have expired.

I understand that the House [of Representatives in Washington] has voted to extend benefits by an overwhelming majority. But the extension is being held up in the Senate.

Sir, I am facing losing my home and all my possessions that I can't pack in my car.

I must urge you once again to look positively and in a timely manner to a vote in the Senate. Now, I must also ask you to consider extending relief to those who no longer have benefits.

I have now applied for State welfare benefits. I am now waiting for my scheduled interview to have my application reviewed.

All of these people have been helped by unemployment insurance. All of them are at risk of losing that lifeline.

Since I spoke on the floor yesterday about the Republican obstructionism stopping us from bringing up unemployment benefits, 7,000 people have lost their unemployment insurance, 7,000 more will lose it today and 7,000 more tomorrow. Why? So that several Senators can have another amendment attacking ACORN. Does that make any sense? Is that fair or just? These Senators ought to go home to their States and tell the people who are out of work and not receiving unemployment: Sorry, we can't help you yet because we have a few more political items to work on, an agenda.

Republicans in this body, unfortunately—some of them—are too concerned about the political agenda and not concerned enough about the human agenda of hard-working Americans out of work. Mr. President, 1.3 million

Americans will lose benefits by the end of the year if we do not pass the Democratic extension of unemployment benefits; 1.3 million Americans will suffer needless poverty and deprivation for their families because of this obstructionism. These are working-class families. These are families we value in this country. These are families who deserve a fighting chance.

I say to my Republican colleagues who have stopped the Democrats from extending unemployment insurance benefits: What are you waiting for? Don't you receive the same e-mails, mail, and phone calls we receive? You have unemployed people in your State. Clearly, they need help.

Mr. President, 50,000 families in Illinois will lose their unemployment insurance, while they look for work, by the end of the year if the Senate does not act. Some seem to be worried about how to pay for this extension, but we have paid into this for years. Workers put in a little bit of money out of their paychecks, and employers as well. It goes right into a fund to cover unemployment. So it is not as if the money is not there; it is just the political will is lacking. Unfortunately, there are other things that are more important to some people on the other side of the aisle.

I say to my colleagues in the Senate, it is time for us—in fact, it is over time for us—to pass extension of unemployment benefits.

HATE CRIMES LEGISLATION

Mr. President, the Defense authorization bill includes hate crimes language which for several years has been passed by both the House and the Senate only to see it blocked by filibuster threats or by the threat of a veto. What a difference a year has made. When Congress took up the hate crimes bill last Congress, President George W. Bush called it "unnecessary and constitutionally questionable." He said he would veto it.

The American people said last November that they wanted a new President and a change. They wanted our country to move in a different direction. President Obama is doing that. In this case, he is supporting the hate crimes legislation.

This bill has another important champion who sadly is no longer with us. Senator Ted Kennedy of Massachusetts was our leader on this issue for over a decade. I only wish he were here to vote and join us on the passage of this important legislation. Nobody spoke to this issue with more authority and clarity than Senator Ted Kennedy. He was the heart and soul of the Senate, and passing this bill will honor the great work he gave in his public career to the cause of civil rights.

I generally believe Congress should be careful in federalizing crime, but in the case of hate crimes, there is a demonstrated problem and a carefully crafted solution.

There are two parts to this problem. First, the existing Federal hate crimes

law, which was passed over 40 years ago in 1968 after the assassination of Dr. Martin Luther King Jr., only carries six narrow categories of conduct. The hate crime has to take place, for example, while using a public accommodation. The hate crimes bill now being considered would expand coverage so that hate crimes could be prosecuted wherever they take place. Federal prosecutors would no longer be limited to these six narrow categories.

Second, the bill would expand the categories of people covered under the Federal hate crimes law. The current law provides no coverage for hate crimes based on the victim's sexual orientation, gender, gender identity, or disability. Unfortunately, statistics tell us that hate crimes based on sexual orientation are the third most common after those based on race and religion. About 15 percent—one out of six or seven—of all hate crimes is based on sexual orientation. We cannot ignore this reality.

Let me address one or two arguments made against this bill.

Many have written to me and said they believe this bill would be an infringement on religious speech. Their concern is that a minister in a religious setting could be prosecuted if he sermonizes against homosexuality and then a member of his congregation assaults someone on the basis of their sexual orientation. I certainly understand this, but their concern is misplaced.

The chair of the Senate Judiciary Committee, Senator LEAHY, held a hearing a few months ago with Attorney General Eric Holder. I attended the hearing, and I asked the Attorney General of the United States pointblank whether a religious leader could be prosecuted under the facts I just described. This is what the Attorney General said in response to the hypothetical question I raised:

This bill seeks to protect people from conduct that is motivated by bias. It has nothing to do with regard to speech. The minister who says negative things about homosexuality, about gay people, this is a person I would not agree with, but is not somebody who would be under the ambit of this statute.

This clear representation from the Nation's top law enforcement officer puts to rest, in my mind and the mind of any reasonable person listening to it, any misunderstanding people might have about how this law would work.

It is also important to note that the hate crimes bill requires bodily injury before prosecution. Words are not enough. It does not apply to speech or harassment. It does not apply to those who would carry signs with messages which exhibit their religious belief. Attorney General Holder assured the Senate that unless there is bodily injury involved, no hate crimes prosecution could be brought. I don't know how he could have been clearer and more definitive. People who listen to his statement in good faith will understand it.

I also note that 24 States, nearly half the States in our Nation, have hate crime laws on the books that include sexual orientation, and religious leaders are not being prosecuted in those States.

That is not the purpose of the hate crimes law. Prosecutors aren't looking to put ministers in jail for their religious beliefs. To the contrary, the hate crimes bill will actually help religious communities. Understand, 20 percent of all hate crimes that are committed in the United States are committed on the basis of religion. This bill would eliminate the narrow requirements that currently prevent Federal prosecutors from bringing certain hate crimes cases motivated by religious bias.

Another criticism of the legislation is there is no need to pass a Federal hate crimes law because some States are already doing it on their own. This argument is similar to one we faced before. Almost a century ago, when Congress debated an antilynching law between 1881 and 1964, almost 5,000 people were lynched in the United States. The victims were mostly—but not exclusively—African American. Yet Congress resisted addressing this problem for generations. Criminal law is primarily a State and local function. I understand that. An estimated 95 percent of prosecutions for crimes occur at that level. But in some areas of criminal law, the Federal Government can and should step in to help.

We have 4,000 Federal criminal laws, 600 of which have been passed in the last 10 years. Hate crimes are a sad and tragic reality in America. The killing this past summer of an African-American security guard at the Holocaust Museum here in Washington, DC, was a reminder that hate-motivated violence still plagues our Nation.

Earlier this year, in my home State of Illinois, two White men in the town of Joliet used a garbage can to beat a 43-year-old Black man outside a gas station, while yelling racial epithets and stating: "This is for Obama." The victim sustained serious injuries, lacerations, and bruises to his head.

Just 2 weeks ago, in Springfield, in my hometown, three University of Illinois students were arrested for viciously beating and punching two men while yelling antigay slurs at them.

These are incidents in my home State, a State I am proud to represent, but I am not proud of this criminal conduct, and I don't think America should be proud of it.

According to FBI data, based on voluntary reporting, there are 8,000 hate crimes annually in America. Some experts think the number is closer to 50,000. The hate crimes bill would not eliminate hate crimes, but it will help ensure these crimes do not go unpunished.

In closing, I wish to quote the words of Senator Kennedy when he introduced the hate crimes bill in April. This is what he said:

It has been over 10 years since Matthew Shepard was left to die on a fence in Wyoming because of who he was. It has also been 10 years since this bill was initially considered by Congress. In those 10 years, we have gained the political and public support that is needed to make this bill into law. Today, we have a President who is prepared to sign hate crimes legislation into law, and a Justice Department that is willing to enforce it. We must not delay the passage of this bill. Now is the time to stand up against hate-motivated violence and recognize the shameful damage it has done to our Nation.

We will honor the memory and legacy of Senator Edward Kennedy by passing this Defense authorization conference report, which includes the hate crimes law language. We need to send this to President Obama, who has promised he will sign it into law. I urge my colleagues to join me in support of this important legislation.

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. 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.

MORNING BUSINESS

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

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

TRIBUTE TO REV. AND MRS. MELVIN SANDERS

Mr. REID. Mr. President, I rise today to honor Rev. Melvin Sanders and his wife Emma Sanders for 40 years of service to the Las Vegas community. Mr. SANDERS and his wife moved to Las Vegas, NV, from Arizona in 1954. Mr. and Mrs. Sanders entered the business field successfully and have remained involved for over 40 years.

Reverend Sanders and Emma Sanders are known all over Las Vegas for their generosity and warmth toward their neighbors. He and his wife assisted multiple families in financial need and have also provided ministerial and spiritual outreach to the people of the Las Vegas Valley. The Sanders are known as Mom and Dad to literally hundreds of Nevadans. Reverend Sanders and his beloved wife have been married for 57 years and are the proud parents of six children, one of whom tragically preceded them in death. The Sanders' church has been in existence for 40 years.

The House of Holiness Church has been open to its congregation for 40 years, and may best be described as a vibrant and joyful place of worship. The church has Sunday school, afternoon service, evening service, prayer

and Bible band as well as Bible study. The House of Holiness may best be described by a verse of Scripture which attests "Holiness becometh thine house o Lord for ever." It is clear that Reverend Sanders and his wife are holy people who try to live as lights for God in our world.

President Obama once said "Focusing your life solely on making a buck shows a certain poverty of ambition. It asks too little of yourself. Because it's only when you hitch your wagon to something larger than yourself that you realize your true potential." This ideal is exemplified by Reverend Sanders and Emma, as together they serve others and help make Nevada a better place. Whether it be through their volunteer efforts with the Salvation Army or by way of their many other selfless endeavors, the Sanders help to better their community.

The Sanders and the House of Holiness Church have a bright future on their horizon. I congratulate the Sanders on 57 years of loving marriage and 40 years of saintly service to the Las Vegas community.

HONORING OUR ARMED FORCES

CAPTAIN BENJAMIN A. SKLAVER

Mr. LIEBERMAN. Mr. President, I wish pay tribute to CPT Benjamin A. Sklaver, U.S. Army, of Hamden, CT, who died of injuries sustained when an improvised explosive device detonated near his dismounted patrol in Murcheh, Afghanistan, on October 2, 2009.

Captain Sklaver was assigned to Headquarters Company, 422nd Civil Affairs Battalion, U.S. Army Reserve, of Greensboro, NC.

Ben Sklaver was a remarkable young man. He lived not only as a true patriot and defender of our Nation's principles of freedom and justice but as a compassionate ambassador of good will and humanitarian assistance to thousands in need.

Though he was called "Captain" by those soldiers around him, he was known as "Moses Ben" to thousands of Ugandans who now have clean water thanks to Ben's efforts. After serving in Africa and being struck by the number of deaths and illnesses resulting from dirty drinking water, he returned home and founded ClearWater Initiative. In the short time since its inception, with the aid of his parents Laura and Gary, ClearWater Initiative constructed wells for more than 6,500 people, primarily in northern Uganda.

Captain Sklaver served as a messenger of high justice and idealism in the best tradition of American principles and patriotism. Our Nation extends its heartfelt condolences to his mother and father, Laura and Gary Sklaver, his brother Samuel, sister Anna, and fiancée Beth, whom I have known since she was a baby because she is the daughter of my dear friends Jim and Barbara Segaloff.

To Ben's family and the people he touched during his life, we extend our

deepest appreciation for sharing this outstanding soldier and humanitarian with us. Ben was a true national hero, and his many contributions made significant and lasting impacts throughout the world. You may be justifiably proud of his contributions which extend above and beyond the call of duty.

REPUBLIC OF CONGO

Mr. FEINGOLD. Mr. President, I am deeply concerned by the deteriorating humanitarian situation in the eastern and northeastern regions of the Democratic Republic of Congo. In the east, the FDLR rebels have deliberately and brutally targeted civilians in response to a new military offensive, while the Congolese military—an undisciplined force now including several former militias—has also targeted civilians with killings, rapes, and looting amidst ongoing operations. Last week, a coalition of 84 humanitarian agencies released a report stating that more than 1,000 civilians have been killed and nearly 900,000 displaced in eastern Congo since January. In addition, the United Nations reports that there have been over 5,000 cases of rape in South Kivu Province in the first 6 months of this year alone, and that number is increasing. With the offensive continuing and the onset of the dry season, the level of violence is likely to increase in the months ahead.

Meanwhile, Doctors without Borders reported last week that hundreds of thousands of people in northeastern Congo are fleeing from renewed attacks by the Lord's Resistance Army. For two decades, the LRA operated in northern Uganda and southern Sudan, but they have shifted their base of operations in recent years into northeastern Congo. This year, facing renewed pressure from a cross-border Ugandan military offensive, the LRA have scaled up their attacks on civilians, killing an estimated 1,200 Congolese and abducting 1,500 in the first 6 months alone. Ongoing Ugandan military operations have reportedly had some success, but the LRA leader Joseph Kony continues to evade capture and his forces exploit the region's porous borders. The Congolese military has deployed new forces to the northeast, but their inability to protect civilians from the LRA and their own abuses against civilians have only made things worse.

Over the last decade, the people of eastern Congo have already lived through violent conflict and humanitarian crisis. According to the best estimates, more than 5.4 million people have been killed, making this the single deadliest conflict since the Second World War. Millions have been displaced from their homes, forced to live in squalid conditions. Women and girls and even some men and boys in the Congo have endured horrific levels of sexual violence. Yet, rather than coming to an end of this nightmare, I am worried that Congo is now entering an-

other chapter of it. Without a clear and viable plan for civilian protection, continuing military operations and deployments will likely lead to further reprisal attacks by armed groups and greater displacement. At the same time, without real progress to demilitarize the economy and reform the Congolese military, any security gains are likely to be short-lived.

I was very pleased that Secretary Clinton chose to travel to eastern Congo during her trip to Africa in August and pledged \$17 million in new funds to address the sexual violence there. I also know the State Department has been exploring ways to build on her historic visit. And last week, the United States hosted meetings with our European and U.N. partners under the auspices of the Great Lakes Contact Group to discuss our collective efforts going forward. This is all well and good. I hope the international community will take immediate steps to bolster civilian protection and humanitarian access in both the east and northeast. But as we go forward, we also need to finally get serious about pressing regional governments to address the underlying causes of the conflict: the continued plunder and militarized trade of eastern Congo's rich mineral base, the region's porous and unregulated borders, outside support of armed groups, and the lack of accountability and discipline in the Congolese army.

Addressing these issues will not be easy. But continuing to rely on half-measures and focusing on the symptoms offer little hope of ending Congo's crises. It is time for a comprehensive and concerted international effort toward the Congo and the Great Lakes Region of Africa, and I am confident that there is no better administration in recent history to lead such an effort. President Obama has already demonstrated his commitment to and understanding of this issue with his work on the DRC Relief, Security and Democracy Promotion Act of 2006. Secretary Clinton was reportedly the most senior U.S. Government official to ever visit eastern Congo. And finally, Johnnie Carson is perhaps the most experienced Assistant Secretary for African Affairs that we have ever had. Together, we have an opportunity to reverse the trends and address Congo's crises—both in the east and with the LRA—and I hope we will seize it. For Africa, few achievements could be more important for the sake of regional stability and saving lives.

ADDITIONAL STATEMENTS

100TH ANNIVERSARY OF UNION MISSIONARY BAPTIST CHURCH

• Ms. STABENOW. Mr. President, it is my great pleasure today to congratulate the Union Missionary Baptist Church on its 100th anniversary. This wonderful church was the first African-

American Baptist church in Lansing, established by a small group of worshippers meeting in a living room. In 2001, the congregation built a Family Life Center, which ministers to the community with classrooms, a computer lab, a chapel, a prayer garden, and a commercial kitchen. The congregation today consists of over 700 members.

The church has been blessed by excellent leadership over the years. The first pastor was Rev. H.C. Randolph, who was succeeded by many other distinguished pastors over the years, including Rev. G.W. Carr, Rev. J.G. Bruce, Rev. S.L. Johnson, Rev. Norris Jackson, Rev. Joel L. King (uncle of Dr. Martin Luther King), Rev. Charles J. Patterson, and the current pastor, a wonderful leader and a dear friend, Rev. Melvin T. Jones.

Throughout its great history, Union Missionary Baptist Church has enriched the lives of thousands of people who have come through its doors to worship. It has been my privilege to work with Reverend Jones over the years. He and his church truly reflect what Paul urged of the Galatians: "Whenever we have an opportunity, let us work for the good of all." I congratulate Reverend Jones and the congregation, and I look forward to participating in the church's centennial celebrations. ●

MESSAGES FROM THE HOUSE

At 12:37 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3319. An act to designate the facility of the United States Postal Service located at 440 South Gulling Street in Portola, California, as the "Army Specialist Jeremiah Paul McCleery Post Office Building".

H.R. 3763. An act to amend the Fair Credit Reporting Act to provide for an exclusion from Red Flag Guidelines for certain businesses.

H.R. 3819. An act to extend the commercial space transportation liability regime.

At 1:58 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1818. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to honor the legacy of Stewart L. Udall, and for other purposes.

At 3:52 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1793. An act to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 43. Concurrent resolution authorizing the use of the rotunda of the Capitol for the presentation of the Congressional Gold Medal to former Senator Edward Brooke.

ENROLLED BILLS SIGNED

At 4:09 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1818. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to honor the legacy of Stewart L. Udall, and for other purposes.

H.R. 621. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

H.R. 2892. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes.

MEASURES REFERRED

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

H.R. 3319. An act to designate the facility of the United States Postal Service located at 440 South Gullwing Street in Portola, California, as the "Army Specialist Jeremiah Paul McCleery Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3763. An act to amend the Fair Credit Reporting Act to provide for an exclusion from Red Flag Guidelines for certain businesses; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3819. An act to extend the commercial space transportation liability regime; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3423. A communication from the Chief of the Planning and Regulatory Affairs Branch, Supplemental Foods Programs Division, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Vendor Cost Containment" (RIN0584-AD71) received in the Office of the President of the Senate on October 19, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3424. A communication from the Deputy Secretary of Defense, transmitting the report of an officer authorized to wear the insignia of the grade of rear admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-3425. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Robert Wilson, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-3426. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Ronald S. Coleman, United States Ma-

rine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-3427. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Terry L. Gabreski, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-3428. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-3429. A communication from the Assistant General Counsel for Legislation and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Production Incentives for Cellulosic Biofuels; Reverse Auction Procedures and Standards" (RIN1904-AB73) received in the Office of the President of the Senate on October 19, 2009; to the Committee on Energy and Natural Resources.

EC-3430. A communication from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting; Approval of Tungsten-Iron-Fluoropolymer Shot Alloys as Nontoxic for Hunting Waterfowl and Coots; Availability of Final Environmental Assessment" (RIN1018-AW46) received in the Office of the President of the Senate on October 20, 2008; to the Committee on Environment and Public Works.

EC-3431. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Foreign Repairs to American Vessels" ((CPB Dec. 09-40)(RIN1505-AB71)) received in the Office of the President of the Senate on October 19, 2009; to the Committee on Finance.

EC-3432. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to List of User Fee Airports: Removal of User Fee Status for Roswell Industrial Air Center, Roswell, New Mexico and March Inland Port Airport, Riverside, California and Name Change for Capital City Airport, Lansing, Michigan" (CPB Dec. 09-39) received in the Office of the President of the Senate on October 19, 2009; to the Committee on Finance.

EC-3433. A communication from the Regulations Officer, Office of Legislative and Regulatory Affairs, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Revised Medical Criteria for Evaluating Malignant Neoplastic Diseases" (RIN0960-AG57) received in the Office of the President of the Senate on October 16, 2009; to the Committee on Finance.

EC-3434. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2010" (RIN0938-AP48) received in the Office of the President of the Senate on October 19, 2009; to the Committee on Finance.

EC-3435. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the

report of a rule entitled "Medicare Program; Part A Premium for Calendar Year 2010 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN0938-AP43) received in the Office of the President of the Senate on October 19, 2009; to the Committee on Finance.

EC-3436. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for Calendar Year 2010" (RIN0938-AP42) received in the Office of the President of the Senate on October 19, 2009; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 668. A bill to reauthorize the Northwest Straits Marine Conservation Initiative Act to promote the protection of the resources of the Northwest Straits, and for other purposes (Rept. No. 111-90).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. HARKIN for the Committee on Health, Education, Labor, and Pensions.

*Craig Becker, of Illinois, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2009.

*Craig Becker, of Illinois, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2014.

*Brian Hayes, of Massachusetts, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2012.

*Mark Gaston Pearce, of New York, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2013.

*Rolena Klahn Adorno, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

*Marvin Krislov, of Ohio, to be a Member of the National Council on the Humanities for a term expiring January 26, 2014.

*Robert James Grey, Jr., of Virginia, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

*John Gerson Levi, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

*Martha L. Minow, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

*Julie A. Reiskin, of Colorado, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2010.

*Gloria Valencia-Weber, of New Mexico, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to

respond to requests to appear and testify before any duly constituted committee of the Senate.

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 Mrs. HAGAN:

S. 1819. A bill to require the Secretary of the Treasury to mint coins in commemoration of the opening of the International Civil Rights Center and Museum; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURBIN:

S. 1820. A bill to amend the Federal Water Pollution Control Act to establish national standards for discharges from cruise vessels; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself, Ms. MIKULSKI, Mr. LEMIEUX, and Mr. LEAHY):

S. 1821. A bill to protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, to establish programs that provide for emergency crisis response teams to combat elder abuse, and for other purposes; to the Committee on the Judiciary.

By Mr. MERKLEY (for himself and Mrs. BOXER):

S. 1822. A bill to amend the Emergency Economic Stabilization Act of 2008, with respect to considerations of the Secretary of the Treasury in providing assistance under that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS:

S. 1823. A bill to renew the temporary suspension of duty on certain footwear; to the Committee on Finance.

By Mr. BAUCUS:

S. 1824. A bill to extend the temporary suspension of duty on lug bottom boots for use in fishing waders; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 1825. A bill to extend the authority for relocation expenses test programs for Federal employees, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAUCUS:

S. 1826. A bill to suspend temporarily the duty on certain glass snow globes; to the Committee on Finance.

By Mr. BAUCUS:

S. 1827. A bill to suspend temporarily the duty on certain glass polyresin magnets; to the Committee on Finance.

By Mr. BAUCUS:

S. 1828. A bill to suspend temporarily the duty on certain metal key chains with acrylic mini-globes; to the Committee on Finance.

By Mr. BAUCUS:

S. 1829. A bill to suspend temporarily the duty on certain acrylic snow globes; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. CARPER):

S. 1830. A bill to establish the Chief Conservation Officers Council to improve the energy efficiencies of Federal agencies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KERRY:

S. 1831. A bill to amend the Small Business Investment Act of 1958 to reauthorize the venture capital program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Ms. LANDRIEU (for herself, Mr. KERRY, Mrs. SHAHEEN, Mr. CASEY, Mr. CARDIN, and Mr. HARKIN):

S. 1832. A bill to increase loan limits for small business concerns, provide for low interest refinancing for small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. UDALL of Colorado:

S. 1833. A bill to amend the Credit Card Accountability Responsibility and Disclosure Act of 2009 to establish an earlier effective date for various consumer protections, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. LEVIN, Mr. LAUTENBERG, and Mr. MENENDEZ):

S. 1834. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ENZI (for himself, Mr. BARRASSO, Mr. REID, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNETT, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHANNIS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. McCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 315. A resolution relative to the death of Clifford Peter Hansen, former United States Senator for the State of Wyoming; considered and agreed to.

By Mr. MENENDEZ (for himself and Mr. ENSIGN):

S. Res. 316. A resolution calling upon the President to ensure that the foreign policy of

the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes; to the Committee on Foreign Relations.

By Ms. KLOBUCHAR (for herself, Mr. LEAHY, Mr. KOHL, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. CRAPO, Ms. COLLINS, Mr. SPECTER, Ms. LANDRIEU, Ms. STABENOW, Mr. KAUFMAN, Mr. DURBIN, Mr. BROWN, and Mr. BURRIS):

S. Res. 317. A resolution supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating effects on families and communities, and support programs designed to end domestic violence; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Mr. BAUCUS, Mr. BEGICH, Mrs. BOXER, Mr. CARPER, Mr. CASEY, Mrs. GILLIBRAND, Mr. INOUE, Mr. LAUTENBERG, Mr. LEVIN, Mrs. LINCOLN, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. SANDERS, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. SPECTER):

S. Res. 318. A resolution supporting "Lights On Afterschool", a national celebration of afterschool programs; considered and agreed to.

By Mr. JOHANNIS (for himself, Mrs. LINCOLN, Mr. CHAMBLISS, Mr. LUGAR, Mr. ROBERTS, Ms. STABENOW, Mr. ISAKSON, Mr. NELSON of Nebraska, Mrs. MURRAY, Mr. KOHL, Mr. BAUCUS, Mr. PRYOR, Ms. KLOBUCHAR, Mr. FEINGOLD, Mr. BARRASSO, Mr. LEAHY, Ms. COLLINS, Mr. GRASSLEY, Mr. CRAPO, Mr. BENNETT, and Mrs. SHAHEEN):

S. Res. 319. A resolution commemorating 40 years of membership by women in the National FFA Organization and celebrating the achievements and contributions of female members of the National FFA Organization; considered and agreed to.

ADDITIONAL COSPONSORS

S. 252

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 252, a bill to amend title 38, United States Code, to enhance the capacity of the Department of Veterans Affairs to recruit and retain nurses and other critical health-care professionals, to improve the provision of health care veterans, and for other purposes.

S. 306

At the request of Mr. NELSON of Nebraska, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 306, a bill to promote biogas production, and for other purposes.

S. 584

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 584, a bill to ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are

able to travel safely and conveniently on and across federally funded streets and highways.

S. 621

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 621, a bill to amend the Public Health Service Act to coordinate Federal congenital heart disease research efforts and to improve public education and awareness of congenital heart disease, and for other purposes.

S. 799

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 799, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 831

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 886

At the request of Mr. NELSON of Florida, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 886, a bill to establish a program to provide guarantees for debt issued by State catastrophe insurance programs to assist in the financial recovery from natural catastrophes.

S. 945

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 945, a bill to require the Secretary of the Treasury to mint coins in commemoration of Robert M. La Follette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States.

S. 950

At the request of Mrs. LINCOLN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 950, a bill to amend title XVIII

of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 952

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 952, a bill to develop and promote a comprehensive plan for a national strategy to address harmful algal blooms and hypoxia through baseline research, forecasting and monitoring, and mitigation and control while helping communities detect, control, and mitigate coastal and Great Lakes harmful algal blooms and hypoxia events.

S. 964

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 964, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Robert M. LaFollette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States.

S. 987

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1156

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 1413

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 1413, a bill to amend the Adams National Historical Park Act of 1998 to include the Quincy Homestead within the boundary of the Adams National Historical Park, and for other purposes.

S. 1442

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1442, a bill to amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service-learning opportunities on public lands, establish a grant program for Indian Youth Service Corps, 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. 1518

At the request of Mr. BURR, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1518, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune.

S. 1559

At the request of Mr. KERRY, the names of the Senator from Maryland (Mr. CARDIN), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Delaware (Mr. KAUFMAN) were added as cosponsors of S. 1559, a bill to consolidate democracy and security in the Western Balkans by supporting the Governments and people of Bosnia and Herzegovina and Montenegro in reaching their goal of eventual NATO membership, and to welcome further NATO partnership with the Republic of Serbia, and for other purposes.

S. 1723

At the request of Mr. CORKER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1723, a bill to authorize the Secretary of the Treasury to delegate management authority over troubled assets purchased under the Troubled Asset Relief Program, to require the establishment of a trust to manage assets of certain designated TARP recipients, and for other purposes.

S. 1728

At the request of Mrs. MCCASKILL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1728, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyer credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

S. 1731

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1731, a bill to require certain mortgages to make loan modifications, to establish a grant program for State and local government mediation programs, to create databases on foreclosures, and for other purposes.

S. 1743

At the request of Mr. LEAHY, his name was added as a cosponsor of S.

1743, a bill to amend the Internal Revenue Code of 1986 to expand the rehabilitation credit, and for other purposes.

S. 1749

At the request of Mrs. FEINSTEIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1749, a bill to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners.

S. 1772

At the request of Mr. BUNNING, the names of the Senator from Nebraska (Mr. JOHANNIS), the Senator from South Carolina (Mr. DEMINT), the Senator from New Hampshire (Mr. GREGG), the Senator from Idaho (Mr. CRAPO), the Senator from South Dakota (Mr. THUNE), the Senator from Louisiana (Mr. VITTER), the Senator from Mississippi (Mr. WICKER), the Senator from Nevada (Mr. ENSIGN), the Senator from Oklahoma (Mr. COBURN), the Senator from Idaho (Mr. RISCH), the Senator from Oklahoma (Mr. INHOFE), the Senator from Alabama (Mr. SESSIONS), the Senator from Ohio (Mr. VOINOVICH), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. BROWNBACK), the Senator from Wyoming (Mr. BARRASSO), the Senator from Wyoming (Mr. ENZI), the Senator from North Carolina (Mr. BURR), the Senator from Tennessee (Mr. CORKER), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kansas (Mr. ROBERTS), the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 1772, a bill to require that all legislative matters be available and fully scored by CBO 72 hours before consideration by any subcommittee or committee of the Senate or on the floor of the Senate.

S.J. RES. 12

At the request of Mr. DURBIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S.J. Res. 12, a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously.

S. RES. 275

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. Res. 275, a resolution honoring the Minute Man National Historical Park on the occasion of its 50th anniversary.

S. RES. 312

At the request of Mr. DODD, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. Res. 312, a resolution expressing the sense of the Senate on empowering and strengthening the United States Agency for International Development (USAID).

AMENDMENT NO. 2683

At the request of Mr. CHAMBLISS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of amendment No. 2683 intended to be proposed to H.R. 2847, a bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 1820. A bill to amend the Federal Water Pollution Control Act to establish national standards for discharges from cruise vessels; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, today I am introducing the Clean Cruise Ship Act of 2009. This bill would address a serious and growing threat to U.S. waters by placing limits on the dumping of wastewater by cruise ships. Cruise ships generate millions of gallons of wastewater every day—much of it vile sewage. These ships can directly dump their waste into the oceans with minimal oversight.

This bill would require cruise ships to obtain permits through EPA's National Pollutant Discharge Elimination System in order to discharge sewage, graywater, and bilge water. It also would require cruise ships to upgrade their wastewater treatment systems to meet the standards of today's best available technology. This technology significantly reduces the pollutants that ships discharge and is already being used successfully on cruise ships in Alaska, thanks to that state's forward-thinking regulations.

The problem is real. The number of cruise ship passengers has been growing nearly twice as fast as any other mode of travel. In the U.S. alone the numbers are approaching ten million passengers a year, with some ships carrying 3,000 or more passengers. These ships produce massive amounts of waste: one ship can produce over 200,000 gallons of sewage each week; a million gallons of graywater from kitchens, laundry, and showers; and over 25,000 gallons of oily bilge water that collects in ship bottoms.

I have nothing against cruise vacations. They can be a wonderful way to visit beautiful places. What my bill proposes to do is change the way the cruise ships manage the removal of waste. Here is the unpleasant reality. Within three miles of shore, vessels can discharge human body wastes and other toilet waste provided that a "marine sanitation device" is installed. The Environmental Protection Agency released a report in December of 2008, however, that concluded that these systems simply don't work. These sewage treatment devices leave discharges that consistently exceed national effluent standards for fecal coliform and

other pathogens and pollutants. In fact, fecal coliform levels in effluent are typically 20 to 200 times greater than in untreated domestic wastewater.

Beyond three miles from shore there are no restrictions on sewage discharge. Cruise ships can directly dump raw sewage into U.S. waters.

The situation with cruise ship graywater also requires attention. While cruise ships must obtain permits to discharge graywater within three miles of the coast, there is still a pollution issue. Graywater from sinks, tubs, and kitchens contains large amounts of pathogens and pollutants. Fecal coliform concentrations, for example, are 10 to 1000 times greater than those in untreated domestic wastewater. These pollutants sicken our marine ecosystems, wash up onto our beaches, and contaminate food and shellfish that end up on our dinner plates.

Beyond 3 miles from shore there are no restrictions on graywater discharge. Cruise ships can directly dump graywater into U.S. waters.

Following the lead of Alaska, the Clean Cruise Ship Act seeks to address these oversights. No discharges would be allowed within twelve miles of shore. Beyond twelve miles, discharges of sewage, graywater, and bilge water would be allowed, provided that they meet national effluent limits consistent with the best available technology. That technology works and is commercially available now. The recent Environmental Protection Agency study found that these "advanced wastewater treatment" systems effectively remove pathogens, suspended solids, metals, and oil and grease.

Under this legislation, the release of raw, untreated sewage would be banned. No dumping of sewage sludge and incinerator ash would be allowed in U.S. waters. All cruise ships calling on U.S. ports would have to dispose of hazardous waste in accordance with the Resource Conservation and Recovery Act. The bill would establish inspection and enforcement mechanisms to ensure compliance.

The protection of U.S. waters is vital to our Nation's health and economy. The oceans not only support the life of nearly 50 percent of all species on Earth, but they also provide 20 percent of the animal protein and 5 percent of the total protein in the human diet.

Some cruise ship companies already are trying to improve their environmental footprint. They also want to preserve the environment that attracts their passengers. But the efforts between cruise ship companies are not uniform. A Federal standard would apply one set of requirements to all companies.

It is time to bring the cruise ship industry into the 21st century. It is time to update the laws that protect our oceans, and urge adoption of the best available wastewater treatment technology at sea.

Working together, we can support the industry while protecting the natural treasures that are our oceans. I think the approach taken in the Clean Cruise Ship Act will achieve that goal. I encourage my colleagues here in the Senate to work with me to pass legislation that will put a stop to the dumping of hazardous pollutants along our coasts. Together we can clean up this major source of pollution that is harming our waters.

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. 1820

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 “Clean Cruise Ship Act of 2009”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) cruise ships carry millions of passengers through North American waters each year, showcase some of the most beautiful ocean and coastal environments in the United States, and provide opportunities for passengers to relax and enjoy oceans and marine ecosystems;

(2) the number of cruise passengers continues to grow, making the cruise industry one of the fastest growing tourism sectors in the world;

(3) in 2007, more than 10,000,000 passengers departed from North America on thousands of cruise ships;

(4) during the 2 decades preceding the date of enactment of this Act, the average cruise ship size has increased at a rate of approximately 90 feet every 5 years;

(5) an average-sized cruise vessel generates millions of gallons of liquid waste and many tons of solid waste;

(6) in just 1 week, a 3000-passenger cruise ship generates approximately 210,000 gallons of human sewage, 1,000,000 gallons of water from showers and sinks and dishwashing water (commonly known as “graywater”), 37,000 gallons of oily bilge water, more than 8 tons of solid waste, and toxic wastes from dry cleaning and photo-processing laboratories;

(7) in an Environmental Protection Agency survey of 29 ships traveling in Alaskan waters, reported sewage generation rates ranged from 1,000 to 74,000 gallons per day per vessel, with the average volume of sewage generated being 21,000 gallons per day per vessel;

(8) those frequently untreated cruise ship discharges deliver nutrients, hazardous substances, pharmaceuticals, and human pathogens, including viruses and bacteria, directly into the marine environment;

(9) in the final report of the United States Commission on Ocean Policy, that Commission found that cruise ship discharges, if not treated and disposed of properly, and the cumulative impacts caused when cruise ships repeatedly visit the same environmentally sensitive areas, “can be a significant source of pathogens and nutrients with the potential to threaten human health and damage shellfish beds, coral reefs, and other aquatic life”;

(10) pollution from cruise ships not only has the potential to threaten marine life and human health through consumption of contaminated seafood, but also poses a health

risk for recreational swimmers, surfers, and other beachgoers;

(11) according to the Environmental Protection Agency, “Sewage may host many pathogens of concern to human health, including Salmonella, Shigella, Hepatitis A and E, and gastro-intestinal viruses. Sewage contamination in swimming areas and shellfish beds poses potential risks to human health and the environment by increasing the rate of waterborne illnesses”;

(12) the nutrient pollution from human sewage discharges from cruise ships can contribute to the incidence of harmful algal blooms;

(13) algal blooms have been implicated in the deaths of marine life, including the deaths of more than 150 manatees off the coast of Florida;

(14) in a 2005 report requested by the International Council of Cruise Lines, the Science Panel of the Ocean Conservation and Tourism Alliance recommended that—

(A) “[a]ll blackwater should be treated”;

(B) treated blackwater should be “avoided in ports, close to bathing beaches or water bodies with restricted circulation, flushing or inflow”;

(C) blackwater should not be discharged within 4 nautical miles of shellfish beds, coral reefs, or other sensitive habitats;

(15) that Science Panel further recommended that graywater be treated in the same manner as blackwater and that sewage sludge be off-loaded to approved land-based facilities;

(16) in a summary of recommendations for addressing unabated point sources of pollution, the Pew Oceans Commission states that, “Congress should enact legislation that regulates wastewater discharges from cruise ships under the Clean Water Act by establishing uniform minimum standards for discharges in all State waters and prohibiting discharges within the U.S. Exclusive Economic Zone that do not meet effluent standards.”; and

(17) a comprehensive statutory regime for managing pollution discharges from cruise vessels, applicable throughout the United States, is needed—

(A) to protect coastal and ocean areas from pollution generated by cruise vessels;

(B) to reduce and better regulate discharges from cruise vessels; and

(C) to improve monitoring, reporting, and enforcement of standards regarding discharges.

(b) PURPOSE.—The purpose of this Act is to amend the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) to establish national standards and prohibitions for discharges from cruise vessels.

SEC. 3. CRUISE VESSEL DISCHARGES.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

“(s) CRUISE VESSEL DISCHARGES.—

“(1) DEFINITIONS.—In this subsection:

“(A) BILGE WATER.—

“(i) IN GENERAL.—The term ‘bilge water’ means wastewater.

“(ii) INCLUSIONS.—The term ‘bilge water’ includes lubrication oils, transmission oils, oil sludge or slops, fuel or oil sludge, used oil, used fuel or fuel filters, and oily waste.

“(B) COMMANDANT.—The term ‘Commandant’ means the Commandant of the Coast Guard.

“(C) CRUISE VESSEL.—

“(i) IN GENERAL.—The term ‘cruise vessel’ means a passenger vessel that—

“(I) is authorized to carry at least 250 passengers; and

“(II) has onboard sleeping facilities for each passenger.

“(ii) EXCLUSIONS.—The term ‘cruise vessel’ does not include—

“(I) a vessel of the United States operated by the Federal Government;

“(II) a vessel owned and operated by the government of a State; or

“(III) a vessel owned by a local government.

“(D) DISCHARGE.—The term ‘discharge’ means the release, escape, disposal, spilling, leaking, pumping, emitting, or emptying of bilge water, graywater, hazardous waste, incinerator ash, sewage, sewage sludge, trash, or garbage from a cruise vessel into the environment, however caused, other than—

“(i) at an approved shoreside reception facility, if applicable; and

“(ii) in compliance with all applicable Federal, State, and local laws (including regulations).

“(E) EXCLUSIVE ECONOMIC ZONE.—The term ‘exclusive economic zone’ has the meaning given the term in section 2101 of title 46, United States Code (as in effect on the day before the date of enactment of Public Law 109-304 (120 Stat. 1485)).

“(F) FUND.—The term ‘Fund’ means the Cruise Vessel Pollution Control Fund established by paragraph (11)(A)(i).

“(G) GARBAGE.—The term ‘garbage’ means solid waste from food preparation, service and disposal activities, even if shredded, ground, processed, or treated to comply with other requirements.

“(H) GRAYWATER.—

“(i) IN GENERAL.—The term ‘graywater’ means galley water, dishwasher, and bath, shower, and washbasin water.

“(ii) INCLUSIONS.—The term ‘graywater’ includes, to the extent not already covered under provisions of law relating to hazardous waste—

“(I) spa, pool, and laundry wastewater;

“(II) wastes from soot tanker or economizer cleaning;

“(III) wastes from photo processing;

“(IV) wastes from vessel interior surface cleaning; and

“(V) miscellaneous equipment and process wastewater.

“(I) HAZARDOUS WASTE.—The term ‘hazardous waste’ has the meaning given the term in section 6903 of the Solid Waste Disposal Act (42 U.S.C. 6903).

“(J) INCINERATOR ASH.—The term ‘incinerator ash’ means ash generated during the incineration of solid waste or sewage sludge.

“(K) NEW VESSEL.—The term ‘new vessel’ means a vessel, the construction of which is initiated after promulgation of standards and regulations under this subsection.

“(L) NO-DISCHARGE ZONE.—

“(i) IN GENERAL.—The term ‘no-discharge zone’ means an area of ecological importance, whether designated by Federal, State, or local authorities.

“(ii) INCLUSIONS.—The term ‘no-discharge zone’ includes—

“(I) a marine sanctuary;

“(II) a marine protected area;

“(III) a marine reserve; and

“(IV) a marine national monument.

“(M) PASSENGER.—The term ‘passenger’ means any person (including a paying passenger and any staff member, such as a crew member, captain, or officer) traveling on board a cruise vessel.

“(N) SEWAGE.—The term ‘sewage’ means—

“(i) human and animal body wastes; and

“(ii) wastes from toilets and other receptacles intended to receive or retain human and animal body wastes.

“(O) SEWAGE SLUDGE.—

“(i) IN GENERAL.—The term ‘sewage sludge’ means any solid, semi-solid, or liquid residue removed during the treatment of on-board sewage.

“(ii) INCLUSIONS.—The term ‘sewage sludge’ includes—

“(I) solids removed during primary, secondary, or advanced wastewater treatment;

“(II) scum;

“(III) septage;

“(IV) portable toilet pumpings;

“(V) type III marine sanitation device pumpings (as defined in part 159 of title 33, Code of Federal Regulations (or a successor regulation)); and

“(VI) sewage sludge products.

“(iii) EXCLUSIONS.—The term ‘sewage sludge’ does not include—

“(I) grit or screenings; or

“(II) ash generated during the incineration of sewage sludge.

“(P) TRASH.—The term ‘trash’ means solid waste from vessel operations and passenger services, even if shredded, ground, processed, or treated to comply with other regulations.

“(2) PROHIBITIONS.—

“(A) PROHIBITION ON DISCHARGE OF SEWAGE SLUDGE, INCINERATOR ASH, AND HAZARDOUS WASTE.—

“(i) IN GENERAL.—Except as provided by subparagraph (C), no cruise vessel departing from, or calling on, a port of the United States may discharge sewage sludge, incinerator ash, or hazardous waste into navigable waters, including the contiguous zone and the exclusive economic zone.

“(ii) OFF-LOADING.—Sewage sludge, incinerator ash, and hazardous waste described in clause (i) shall be off-loaded at an appropriate land-based facility.

“(B) PROHIBITION ON DISCHARGE OF SEWAGE, GRAYWATER, AND BILGE WATER.—

“(i) IN GENERAL.—Except as provided by subparagraph (C), no cruise vessel departing from or calling on, a port of the United States may discharge sewage, graywater, or bilge water into navigable waters, including the contiguous zone and the exclusive economic zone, unless—

“(I) the sewage, graywater, or bilge water is treated to meet all applicable effluent limits established under this section and is in accordance with all other applicable laws;

“(II) the cruise vessel is underway and proceeding at a speed of not less than 6 knots;

“(III) the cruise vessel is more than 12 nautical miles from shore; and

“(IV) the cruise vessel complies with all applicable standards established under this Act.

“(ii) NO-DISCHARGE ZONES.—Notwithstanding any other provision of this paragraph, no cruise vessel departing from, or calling on, a port of the United States may discharge treated or untreated sewage, graywater, or bilge water into a no-discharge zone.

“(C) SAFETY EXCEPTION.—

“(i) SCOPE OF EXCEPTION.—Subparagraphs (A) and (B) shall not apply in any case in which—

“(I) a discharge is made solely for the purpose of securing the safety of the cruise vessel or saving human life at sea; and

“(II) all reasonable precautions have been taken to prevent or minimize the discharge.

“(ii) NOTIFICATION.—

“(I) IN GENERAL.—If the owner, operator, master, or other person in charge of a cruise vessel authorizes a discharge described in clause (i), the person shall notify the Administrator and the Commandant of the decision to authorize the discharge as soon as practicable, but not later than 24 hours, after authorizing the discharge.

“(II) REPORT.—Not later than 7 days after the date on which a discharge described in clause (i) occurs, the owner, operator, master, or other person in charge of a cruise vessel, shall submit to the Administrator and the Commandant a report that describes—

“(aa) the quantity and composition of each discharge authorized under clause (i);

“(bb) the reason for authorizing each such discharge;

“(cc) the location of the vessel during the course of each such discharge; and

“(dd) such other supporting information and data as are requested by the Commandant or the Administrator.

“(III) DISCLOSURE OF REPORTS.—Upon receiving a report under subclause (II), the Administrator shall make the report available to the public.

“(3) EFFLUENT LIMITS.—

“(A) EFFLUENT LIMITS FOR DISCHARGES OF SEWAGE, GRAYWATER, AND BILGE WATER.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate effluent limits for sewage, graywater, and bilge water discharges from cruise vessels.

“(ii) REQUIREMENTS.—The effluent limits shall—

“(I) be consistent with the capability of the best available technology to treat effluent;

“(II) take into account the best available scientific information on the environmental effects of sewage, graywater, and bilge water discharges, including conventional, nontoxic, and toxic pollutants and petroleum;

“(III) take into account marine life and ecosystems, including coral reefs, shell fish beds, endangered species, marine mammals, seabirds, and marine ecosystems;

“(IV) take into account conditions that will affect marine life, ecosystems, and human health, including seamounts, continental shelves, oceanic fronts, warm core and cold core rings, and ocean currents; and

“(V) require compliance with all relevant Federal and State water quality standards.

“(ii) MINIMUM LIMITS.—The effluent limits promulgated under clause (i) shall require, at a minimum, that treated sewage, treated graywater, and treated bilge water effluent discharges from cruise vessels, measured at the point of discharge, shall, not later than the date described in subparagraph (C)—

“(I) satisfy the minimum level of effluent quality specified in section 133.102 of title 40, Code of Federal Regulations (or a successor regulation); and

“(II) with respect to the samples from the discharge during any 30-day period—

“(aa) have a geometric mean that does not exceed 20 fecal coliform per 100 milliliters;

“(bb) not exceed 40 fecal coliform per 100 milliliters in more than 10 percent of the samples; and

“(cc) with respect to concentrations of total residual chlorine, not exceed 10 milligrams per liter.

“(B) REVIEW AND REVISION OF EFFLUENT LIMITS.—The Administrator shall—

“(i) review the effluent limits promulgated under subparagraph (A) at least once every 5 years; and

“(ii) revise the effluent limits to incorporate technology available at the time of the review in accordance with subparagraph (A)(ii).

“(C) COMPLIANCE DATE.—The Administrator shall require compliance with the effluent limits promulgated pursuant to subparagraph (A)—

“(i) with respect to new vessels put into water after the date of enactment of this subsection, as of the date that is 180 days after the date of promulgation of the effluent limits; and

“(ii) with respect to vessels in use as of that date of enactment, as of the date that is 1 year after the date of promulgation of the effluent limits.

“(D) SAMPLING, MONITORING, AND REPORTING.—

“(i) IN GENERAL.—The Administrator shall require sampling, monitoring, and reporting to ensure compliance with—

“(I) the effluent limitations promulgated under subparagraph (A);

“(II) all other applicable provisions of this Act;

“(III) any regulations promulgated under this Act;

“(IV) other applicable Federal laws (including regulations); and

“(V) all applicable international treaty requirements.

“(ii) RESPONSIBILITIES OF PERSONS IN CHARGE OF CRUISE VESSELS.—The owner, operator, master, or other person in charge of a cruise vessel, shall at a minimum—

“(I) conduct sampling or testing at the point of discharge on a monthly basis, or more frequently, as determined by the Administrator;

“(II) provide real-time data to the Administrator, using telemetric or other similar technology, for reporting relating to—

“(aa) discharges of sewage, graywater, and bilge water from cruise vessels;

“(bb) pollutants emitted in sewage, graywater, and bilge water from cruise vessels; and

“(cc) functioning of cruise vessel components relating to fuel consumption and control of air and water pollution;

“(III) ensure, to the maximum extent practicable, that technologies providing real-time data have the ability to record—

“(aa) the location and time of discharges from cruise vessels;

“(bb) the source, content, and volume of the discharges; and

“(cc) the operational state of components relating to pollution control technology at the time of the discharges, including whether the components are operating correctly;

“(IV) establish chains of custody, analysis protocols, and other specific information necessary to ensure that the sampling, testing, and records of that sampling and testing are reliable; and

“(V) maintain, and provide on a monthly basis to the Administrator, electronic copies of required sampling and testing data.

“(iii) REPORTING REQUIREMENTS.—The Administrator shall require the compilation and production, and not later than 1 year after the date of enactment of this subsection and biennially thereafter, the provision to the Administrator and the Commandant in electronic format, of documentation for each cruise vessel that includes, at a minimum—

“(I) a detailed description of onboard waste treatment mechanisms in use by the cruise vessel, including the manufacturer of the waste treatment technology on board;

“(II) a detailed description of onboard sludge management practices of the cruise vessel;

“(III) copies of applicable hazardous materials forms;

“(IV) a characterization of the nature, type, and composition of discharges by the cruise vessel;

“(V) a determination of the volumes of those discharges, including average volumes; and

“(VI) the locations, including the more common locations, of those discharges.

“(iv) SHORESIDE DISPOSAL.—The Administrator shall require documentation of shoreline disposal at approved facilities for all wastes by, at a minimum—

“(I) establishing standardized forms for the receipt of those wastes;

“(II) requiring those receipts to be sent electronically to the Administrator and Commandant and maintained in an onboard record book; and

“(III) requiring those receipts to be signed and dated by the owner, operator, master, or other person in charge of the discharging vessel and the authorized representative of the receiving facility.

“(v) REGULATIONS.—Not later than 18 months after the date of enactment of this subsection, the Administrator, in consultation with the Commandant, shall promulgate regulations that, at a minimum, implement the sampling, monitoring, and reporting protocols required by this subparagraph.

“(4) INSPECTION PROGRAM.—

“(A) IN GENERAL.—The Administrator shall establish an inspection program to require that—

“(i) regular announced and unannounced inspections be conducted of any relevant aspect of cruise vessel operations, equipment, or discharges, including sampling and testing of cruise vessel discharges;

“(ii) each cruise vessel that calls on a port of the United States be subject to an unannounced inspection at least once per year; and

“(iii) inspections be carried out by the Environmental Protection Agency or the Coast Guard.

“(B) COAST GUARD INSPECTIONS.—If the Administrator and the Commandant jointly agree that some or all inspections are to be carried out by the Coast Guard, the inspections shall—

“(i) occur outside the Coast Guard matrix system for setting boarding priorities;

“(ii) be consistent across Coast Guard districts; and

“(iii) be conducted by specially-trained environmental inspectors.

“(C) REGULATIONS.—Not later than 18 months after the date of enactment of this subsection, the Administrator, in consultation with the Commandant, shall promulgate regulations that, at a minimum—

“(i) designate responsibility for conducting inspections;

“(ii) require the owner, operator, master, or other person in charge of a cruise vessel to maintain and submit a logbook detailing the times, types, volumes, flow rates, origins, and specific locations of, and explanations for, any discharges from the cruise vessel not otherwise required by the International Convention for the Prevention of Pollution from Ships, 1973 (done at London on November 2, 1973; entered into force on October 2, 1983), as modified by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (done at London, February 17, 1978);

“(iii) provide for routine announced and unannounced inspections of—

“(I) cruise vessel environmental compliance records and procedures; and

“(II) the functionality, sufficiency, redundancy, and proper operation and maintenance of installed equipment for abatement and control of any cruise vessel discharge (including equipment intended to treat sewage, graywater, or bilge water);

“(iv) ensure that—

“(I) all crew members are informed of, in the native language of the crew members, and understand, the pollution control obligations under this subsection, including regulations promulgated under this subsection; and

“(II) applicable crew members are sufficiently trained and competent to comply with requirements under this subsection, including sufficient training and competence—

“(aa) to effectively operate shipboard pollution control systems;

“(bb) to conduct all necessary sampling and testing; and

“(cc) to monitor and comply with recording requirements;

“(v) require that operating manuals be on the cruise vessel and accessible to all crew members;

“(vi) require the posting of the phone number for a toll-free whistleblower hotline on all ships and at all ports using language likely to be understood by international crews;

“(vii) require any owner, operator, master, or other person in charge of a cruise vessel, who has knowledge of a discharge from the cruise vessel in violation of this subsection, including regulations promulgated under this subsection, to report immediately the discharge to the Administrator and the Commandant;

“(viii) require the owner, operator, master, or other person in charge of a cruise vessel to provide, not later than 1 year after the date of enactment of this subsection, to the Administrator, Commandant, and on-board observers (including designated representatives), a copy of cruise vessel plans, including—

“(I) piping schematic diagrams;

“(II) construction drawings; and

“(III) drawings or diagrams of storage systems, processing, treating, intake, or discharge systems, and any modifications of those systems (within the year during which the modifications are made); and

“(ix) inhibit illegal discharges by prohibiting all means of altering piping, tankage, pumps, valves, and processes to bypass or circumvent measures or equipment designed to monitor, sample, or prevent discharges.

“(D) DISCLOSURE OF LOGBOOKS.—The logbook described in subparagraph (C)(ii) shall be submitted to the Administrator and the Commandant.

“(5) CRUISE OBSERVER PROGRAM.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Commandant, in consultation with the Administrator, shall establish and carry out a program for the hiring and placement of 1 or more trained, independent, observers on each cruise vessel.

“(B) PURPOSE.—The purpose of the cruise observer program established under subparagraph (A) is to monitor and inspect cruise vessel operations, equipment, and discharges to ensure compliance with—

“(i) this subsection (including regulations promulgated under this subsection); and

“(ii) all other relevant Federal and State laws and international agreements.

“(C) REGULATIONS.—Not later than 18 months after the date of enactment of this subsection, the Commandant, in consultation with the Administrator and the Attorney General, shall promulgate regulations that, at a minimum—

“(i) specify that the Coast Guard shall be responsible for the hiring of observers;

“(ii) specify the qualifications, experience, and duties of the observers;

“(iii) specify methods and criteria for Coast Guard hiring of observers;

“(iv) establish the means for ensuring constant observer coverage and allowing for observer relief and rotation; and

“(v) establish an appropriate rate of pay to ensure that observers are highly trained and retained by the Coast Guard.

“(D) RESPONSIBILITIES.—Cruise observers participating in the program established under subparagraph (A) shall—

“(i) observe and inspect—

“(I) onboard liquid and solid handling and processing systems;

“(II) onboard environmental treatment systems;

“(III) use of shore-based treatment and storage facilities;

“(IV) discharges and discharge practices; and

“(V) documents relating to environmental compliance, including—

“(aa) sounding boards, logs, and logbooks;

“(bb) daily and corporate maintenance and engineers' logbooks;

“(cc) fuel, sludge, slop, waste, and ballast tank capacity tables;

“(dd) installation, maintenance, and operation records for oily water separators, incinerators, and boilers;

“(ee) piping diagrams;

“(ff) e-mail archives;

“(gg) receipts for the transfer of materials, including waste disposal;

“(hh) air emissions data; and

“(ii) electronic and other records of relevant information, including fuel consumption, maintenance, and spares ordering for all waste processing- and pollution-related equipment;

“(ii) have the authority to interview and otherwise query any crew member with knowledge of cruise vessel operations;

“(iii) have access to all data and information made available to government officials under this subsection;

“(iv) immediately report any known or suspected violation of this subsection or any other applicable Federal law or international agreement to—

“(I) the owner, operator, master, or other person in charge of a cruise vessel;

“(II) the Commandant; and

“(III) the Administrator;

“(v) maintain inspection records to be submitted to the Commandant and the Administrator on a semiannual basis; and

“(vi) have authority to conduct the full range of duties of the observers within the United States territorial seas, contiguous zone, and exclusive economic zone.

“(E) PROGRAM EVALUATION.—The cruise observer program established and carried out by the Commandant under subparagraph (A) shall include—

“(i) a method for collecting and reviewing data relating to the efficiency, sufficiency, and operation of the cruise observer program, including—

“(I) the ability to achieve program goals;

“(II) cruise vessel personnel cooperation;

“(III) necessary equipment and analytical resources; and

“(IV) the need for additional observer training; and

“(ii) a process for adopting periodic revisions to the program based on the data collected under clause (i).

“(F) OBSERVER SUPPORT.—Not later than 18 months after the date of enactment of this subsection, the Commandant, in consultation with the Administrator, shall implement a program to provide support to observers, including, at a minimum—

“(i) training for observers to ensure the ability of the observers to carry out this paragraph;

“(ii) necessary equipment and analytical resources, such as laboratories, to carry out the responsibilities established under this subsection; and

“(iii) support relating to the administration of the program and the response to any recalcitrant cruise vessel personnel.

“(G) REPORT.—Not later than 3 years after the date of establishment of the program under this paragraph, the Commandant, in consultation with the Administrator, shall submit to Congress a report describing—

“(i) the results of the program in terms of observer effectiveness, optimal coverage, environmental benefits, and cruise ship cooperation;

“(ii) recommendations for increased effectiveness, including increased training needs and increased equipment needs; and

“(iii) other recommendations for improvement of the program.

“(6) REWARDS.—

“(A) PAYMENTS TO INDIVIDUALS.—

“(i) IN GENERAL.—The Administrator or a court of competent jurisdiction, as the case may be, may order payment, from a civil penalty or criminal fine collected for a violation of this subsection, of an amount not to exceed ½ of the amount of the civil penalty or criminal fine, to any individual who furnishes information that leads to the payment of the civil penalty or criminal fine.

“(ii) MULTIPLE INDIVIDUALS.—If 2 or more individuals provide information described in clause (i), the amount available for payment as a reward shall be divided equitably among the individuals.

“(iii) INELIGIBLE INDIVIDUALS.—No officer or employee of the United States, a State, or an Indian tribe who furnishes information or renders service in the performance of the official duties of the officer or employee shall be eligible for a reward payment under this paragraph.

“(B) PAYMENTS TO INDIAN TRIBES.—The Administrator or a court of competent jurisdiction, as the case may be, may order payment, from a civil penalty or criminal fine collected for a violation of this subsection, to an Indian tribe providing information or investigative assistance that leads to payment of the penalty or fine, of an amount that reflects the level of information or investigative assistance provided.

“(C) PAYMENTS DIVIDED AMONG INDIAN TRIBES AND INDIVIDUALS.—In a case in which an Indian tribe and an individual under subparagraph (A) are eligible to receive a reward payment under this paragraph, the Administrator or the court shall divide the amount available for the reward equitably among those recipients.

“(7) LIABILITY IN REM.—A cruise vessel operated in violation of this subsection or any regulation promulgated under this subsection—

“(A) shall be liable in rem for any civil penalty or criminal fine imposed for the violation; and

“(B) may be subject to a proceeding instituted in any United States district court of competent jurisdiction.

“(8) PERMIT REQUIREMENT.—A cruise vessel may operate in the waters of the United States, or visit a port or place under the jurisdiction of the United States, only if the cruise vessel has been issued a permit under this section.

“(9) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Paragraphs (6)(A) and (12)(B) of section 502 shall not apply to any cruise vessel.

“(10) STATUTORY OR COMMON LAW RIGHTS NOT RESTRICTED.—Nothing in this subsection—

“(A) restricts the rights of any person (or class of persons) to regulate or seek enforcement or other relief (including relief against the Administrator or Commandant) under any statute or common law;

“(B) affects the right of any person (or class of persons) to regulate or seek enforcement or other relief with regard to vessels other than cruise vessels under any statute or common law; or

“(C) affects the right of any person (or class of persons) under any statute or common law, including this Act, to regulate or seek enforcement or other relief with regard to pollutants or emission streams from cruise vessels that are not otherwise regulated under this subsection.

“(11) ESTABLISHMENT OF FUND; FEES.—

“(A) CRUISE VESSEL POLLUTION CONTROL FUND.—

“(i) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, to be known as the ‘Cruise Vessel Pollution Control Fund’ (referred to in this paragraph as the ‘Fund’).

“(ii) AMOUNTS.—The Fund shall consist of such amounts as are deposited in the Fund under subparagraph (B)(vi).

“(iii) AVAILABILITY AND USE OF AMOUNTS IN FUND.—Amounts in the Fund shall be—

“(I) available to the Administrator and the Commandant as provided in appropriations Acts; and

“(II) used by the Administrator and the Commandant only for purposes of carrying out this subsection.

“(B) FEES ON CRUISE VESSELS.—

“(i) IN GENERAL.—The Commandant and the Administrator shall establish and collect from each cruise vessel a reasonable and appropriate fee for each paying passenger on a cruise vessel voyage, for use in carrying out this subsection.

“(ii) ADJUSTMENT OF FEE.—

“(I) IN GENERAL.—The Commandant and the Administrator shall biennially adjust the amount of the fee established under clause (i) to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor during the most recent 2-year period for which data are available.

“(II) ROUNDING.—The Commandant and the Administrator may round an adjustment under subclause (I) to the nearest 1/10 of a dollar.

“(iii) FACTORS IN ESTABLISHING FEES.—

“(I) IN GENERAL.—In establishing fees under clause (i), the Commandant and Administrator may establish lower levels of fees and the maximum amount of fees for certain classes of cruise vessels based on—

“(aa) size;

“(bb) economic share; and

“(cc) such other factors as are determined to be appropriate by the Commandant and the Administrator.

“(iv) FEE SCHEDULES.—Any fee schedule established under clause (i), including the level of fees and the maximum amount of fees, shall take into account—

“(I) cruise vessel routes;

“(II) the frequency of stops at ports of call by cruise vessels; and

“(III) other applicable considerations.

“(v) COLLECTION OF FEES.—A fee established under clause (i) shall be collected by the Administrator or the Commandant from the owner or operator of each cruise vessel to which this subsection applies.

By Mr. KOHL (for himself, Ms. MIKULSKI, Mr. LEMIEUX, and Mr. LEAHY):

S. 1821. A bill to protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, to establish programs that provide for emergency crisis response teams to combat elder abuse, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am proud to join Senators KOHL, MIKULSKI, and LEMIEUX to introduce the Elder Abuse Victims Act of 2009, a bill to protect older Americans from abuse and exploitation. It is clear that we are not doing enough to combat crime against seniors, and the Elder Abuse Victims Act will give us important tools to better prevent and punish this deplorable behavior.

I have long fought to improve and protect the lives of older Americans. In

2000, I joined Senator BAYH in sponsoring the Protecting Seniors from Fraud Act, which was signed into law nearly nine years ago today. A key provision that I worked to incorporate into that legislation required the Attorney General to conduct a study of crime against seniors and to include specific information about crimes that disproportionately affect seniors in the National Crime Victimization Survey. The information collected as a result of those provisions has been valuable in understanding the scope of crime perpetrated against seniors and how best to combat it. In 2003, I sought further protections by introducing the Seniors Safety Act. That bill aimed to strengthen enforcement of many of the most prevalent crimes perpetrated against seniors, including health care fraud, nursing home abuse, telemarketing fraud, and pension fraud.

The Elder Abuse Victims Act builds on these earlier efforts and ensures that fighting the abuse and exploitation of our seniors is a top law enforcement priority. Specifically, the bill provides grants to train prosecutors and establish elder justice units within State and local courts and law enforcement offices. It also requires the U.S. Department of Justice to further study state and local enforcement of elder abuse laws and establish more uniform procedures to improve the identification and handling of elder justice matters. Additionally, the bill provides funding for elder abuse victims advocacy groups to ensure that vulnerable seniors have access to critical support services.

It is particularly important that we strengthen our ability to protect older Americans because they are the most rapidly growing population group in our society, making them an ever more attractive target for criminals. The Department of Health and Human Services has predicted that the number of older Americans will grow from 13 percent of the U.S. population in 2000 to 20 percent by 2030. In Vermont, seniors comprise about 12 percent of the population, a number that is expected to increase to 20 percent by 2025.

The growing number of older Americans demands that we have enough advocacy programs and law enforcement services in place to protect our seniors. We all deserve to age with dignity, free of the threat of abuse or fraud. The Elder Abuse Victims Act can help by giving our justice system the tools it needs to prosecute offenders who prey on the elderly. I look forward to working with Senators KOHL, MIKULSKI, LEMIEUX, and others to better protect seniors from crime and abuse.

By Mr. MERKLEY (for himself and Mrs. BOXER):

S. 1822. A bill to amend the Emergency Economic Stabilization Act of 2008, with respect to considerations of the Secretary of the Treasury in providing assistance under that Act, and for other purposes; to the Committee

on Banking, Housing, and Urban Affairs.

Mr. MERKLEY. Mr. President, I join today with Senator BOXER of California to introduce legislation that will help create jobs by getting credit flowing to small businesses and consumers.

Small businesses employ half of the Nation's workforce and are key to creating jobs. Sadly, they have been hit hard by the credit crisis. Less than one-third of small businesses report that their credit needs are being met today, and 59 percent of them now rely on credit cards to finance their daily operations, up from 44 percent at the end of last year. We urgently need to speed credit to small businesses so that they can create jobs and grow the economy. The best way to do so is through the thousands of community banks located across our Nation.

Community banks are essential to small business lending. Our Nation's 7,500 community banks of under \$1 billion in assets hold 11 percent of our Nation's assets, but they make 38 percent of our Nation's small business loans by asset. Due to the current economic recession, these responsible, well-regulated institutions have seen their capital bases shrunk and have been forced to reduce lending, which negatively impacts surrounding businesses and communities. These institutions can help us turn our economy around if we give them the capital they need to increase the flow of credit to small businesses and entrepreneurs.

The Bank on Our Communities Act will help get capital to community banks—on the condition that they restart lending. The bill empowers the Secretary of the Treasury to redeploy up to \$15 billion in TARP into a new Community Credit Renewal Fund. Community banks of \$5 billion in assets or less can qualify for investment by the Fund if they conduct an internal stress test to determine the amount of capital they need to remain well-capitalized during adverse economic conditions and restart small business and consumer lending and raise at least 50 percent of that target recapitalization amount from private investors. Once in receipt of their new capital, participating banks would be required to increase small business and consumer lending by at least the amount provided by the Fund and to increase small business lending in particular by at least 5 percent over the lowest point in 2009. Additional incentives are given to increase lending to credit-worthy businesses above the minimum levels required for program participation.

This bill is common sense legislation with common sense values. It will give the folks on Main Street the same access and opportunity as those on Wall Street and create much needed jobs in the process. I ask that my colleagues join me in the effort to help small businesses thrive in our local communities and get our economy back on track.

By Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. CARPER):

S. 1830. A bill to establish the Chief of Conservation Officers Council to improve the energy efficiencies of Federal agencies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President I rise to introduce a bill that would improve the Federal Government's efforts to become more energy efficient and ensure accountability within executive branch agencies for meeting energy efficiency targets. The legislation would also amend Federal contracting rules to encourage energy efficiency across the Federal, State, and local governments by making energy-saving technologies more widely available and at lower costs to taxpayers. I am pleased to be joined by Senators LIEBERMAN and CARPER on this important bill.

As the largest institutional user of energy in the world, the Federal Government has ample opportunity to implement energy efficiency policies and technologies. According to the U.S. Department of Energy's Federal Energy Management Program, the Federal Government consumes 1.6 percent of the Nation's total energy—about \$17.5 billion in annual energy costs. Electricity at Federal buildings accounts for almost half of this usage.

Improving energy efficiency is not only good for the environment; it can also produce savings for taxpayers.

Agencies that have been more aggressive in implementing energy savings initiatives and have fully complied with existing laws and regulations have also enjoyed significant cost savings. For example, two of the Department of Energy laboratories have developed environmental management systems, which have shown a total of \$16.6 million in cost savings and avoidance within a 4-year period. Environmental management systems are a strategic approach to ensuring that an organization's environmental priorities are integrated into operational, planning, and management decisions. The systems these laboratories developed emphasized achieving full compliance, pollution prevention, and effective and focused communications and community outreach.

Over the last few decades, more than a dozen laws, regulations, and Executive Orders have been implemented to encourage energy efficiency and reduce environmental impacts of government operations. Unfortunately, agencies have been inconsistent and sporadic in meeting their environmental goals. The lack of a unified effort and accountability with agencies has undermined the good intentions of these policies.

A great variance exists across the government, both in terms of compliance with energy efficiency laws and regulations, as well as with initiatives individual agencies have developed to reduce energy usage.

Agencies should explore diverse and innovative ways to save money by de-

creasing energy consumption, as well as have greater incentives to undertake initiatives to meet energy reduction mandates.

The Obama administration issued an Executive Order earlier this month, which makes strides in establishing a more integrated strategy toward sustainability and energy efficiency.

This Executive Order, however, does not go far enough in providing agency officials with the authority and accountability necessary to enforce applicable efficiency mandates. The Executive Order directs each agency head to designate an "Agency Senior Sustainability Officer" from among the agency's senior management officials. This position is too similar to the agency environmental executives created by Executive Order in 2007, which did very little to improve agencies' compliance with applicable laws.

Our legislation, however, would create a Chief Conservation Officer within each agency. The officer would be drawn from career Senior Executives. These officers will help spur long-term leadership on this issue.

In contrast to the Executive Order, implementing energy efficiency and sustainability policies would also be the primary responsibility of this individual. Dedicating a senior-level career official to energy efficiency policy would improve the government's focus on implementation of existing laws and policies, enhance innovation, and help identify future initiatives.

The Chief Conservation Officer would also be responsible for incorporating environmental considerations into agency procurement practices. This involvement will encourage efficiency improvements in the agency's procurement of goods and services.

To improve the availability of efficiency technologies and help lower their costs, the bill would make several improvements in government procurement policies.

Specifically, the bill would allow state and local government to purchase "green" commodities and services off the General Services Administration Schedule. This procurement authority would help State and local governments reduce the administrative costs of negotiating their own contracts and would increase competition and lower costs. Federal agencies should also reap the benefits of this program as more goods and services become available at reduced costs.

Participation in the program would be voluntary for State and local governments, as well as vendors. The proposal would also provide small businesses with "green" products more efficient access to State and local markets, markets that geography and cost might otherwise foreclose. For comparison sake, 80 percent of GSA Schedule contracts are with small businesses.

Over the next 5 years, the legislation would also allow agencies to enter into power purchase agreements for electricity produced by renewable energy

sources. These agreements could last not more than 20 years and agencies would need to assess that the agreement would be cost effective before entering into them.

We know from examples such as the solar power system at Nellis Air Force Base what a well-designed public-private partnership can accomplish, if executed correctly. This project cost the Air Force less than \$100,000 in capital costs, yet saved the government more than \$1.2 million in its first year of operation by supplying ¼ of the total power used at the base, where 12,000 people live and work. Additionally, the project is expected to reduce carbon emissions by 24,000 tons annually.

Finally, the bill would expand the definition of renewable energy in Federal purchase requirements beyond electricity. Under the current definition, agencies cannot take advantage of “green” technologies like geothermal energy because geothermal energy is not considered electric.

By promoting accountability for meeting existing energy efficiency mandates and by encouraging initiatives to decrease energy usage and spur innovation, this bill would help “green” our federal operations. The associated savings should improve our government’s bottom line—to the benefit of taxpayers.

By Mr. KERRY:

S. 1831. A bill to amend the Small Business Investment Act of 1958 to reauthorize the venture capital program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, our country’s small businesses continue to struggle with access to credit and capital for maintaining and growing their businesses. Small businesses are the engine of our economy and a key factor in addressing unemployment. They employ more than half of all private sector employees and have generated approximately 64 percent of the net new jobs over the past 15 years. We should be doing more to aid small businesses so they can not only stay on their feet but also flourish to their full potential.

That is why I am reintroducing the Small Business Venture Capital Act, which reauthorizes the New Markets Venture Capital Program and promotes geographic equity so businesses across the country may benefit from the program. This program addresses the market gap in venture capital for companies located in low- and moderate-income, rural, and urban areas—i.e., high unemployment areas—as well as the need for smaller deals that neither traditional venture funds nor the SBIC Program will make. It has proven successful so far, and we need more community development venture capital to create sustainable, high-quality, local jobs.

Without this Government partnership, these investments are not going to be done. Particularly at a time when

our economy is pressured and hurting, when we need to create jobs, I encourage my colleagues to support this bill. Last Congress, this bill came out of the Small Business Committee in a totally bipartisan fashion and it is my hope that this time we complete the process.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. LEVIN, Mr. LAUTENBERG, and Mr. MENENDEZ):

S. 1834. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, today I introduce the Pet Safety and Protection Act of 2009. The legislation amends the Animal Welfare Act to ensure that all companion animals such as dogs and cats used by research facilities are obtained legally. I am pleased to be joined by a number of my colleagues, serving as cosponsors of the legislation including Senator SUSAN COLLINS, Senator FRANK LAUTENBERG, Senator CARL LEVIN, and Senator ROBERT MENENDEZ.

More than 40 years ago, Congress passed the Animal Welfare Act, AWA, to stop the mistreatment of animals and to prevent the unintentional sale of family pets for laboratory experiments. While the AWA has helped to safeguard animals across the country, we still find that the Act does not adequately provide pets and pet owners with reliable protection against the action of some unethical Class B dealers. Of the eleven Class B dealers licensed by the Department of Agriculture, USDA, to sell live dogs and cats for experimentation, one has been issued to a 5-year license suspension, and seven others are under investigation for apparent violations of the AWA.

Despite new enforcement guidelines and intensified inspection efforts by USDA, it is nearly impossible to assure that stolen or lost pets will not enter research laboratories via the Class B dealer system. Each year, hundreds of thousands of dollars are spent on regulating Class B dealers. Enactment of the Pet Safety and Protection Act helps reduce the Department of Agriculture’s regulatory burden by allowing the Department to use its resources more efficiently and effectively. In order to combat any future violations of the AWA, this bill increases the penalties under the Act to a minimum of \$1,000 per violation, in addition to any other existing penalties.

My legislation promotes humane treatment of animals and preserves the integrity of research laboratories to obtain animals from legitimate sources, while complying with the AWA. Such legitimate sources include USDA-licensed Class A dealers or breeders; municipal pounds that choose to release dogs and cats for research purposes; legitimate pet owners who want to donate their animals to research; and private and Federal facilities that breed their own animals.

These four sources are capable of supplying millions of animals for research, far more cats and dogs than are required by current laboratory demand.

A May 2009 study conducted by the National Academies, “Scientific and Humane Issues in the Use of Random Source Dogs and Cats in Research” found that while some random-source dogs and cats may be necessary and desirable for research that is funded by the National Institute of Health, NIH, Class B dealers are not necessary to supply such animals for NIH funded research. Further this report makes clear that there are sufficient, alternative sources to acquire animals with characteristics similar to animals provided by Class B dealers. As there are legitimate sources of such animals, the report leave little doubt that Class B dealers are no longer necessary.

In light of this recent report, this bill is an appropriate and feasible action, as alternatives to Class B dealers do exist to meet research needs. This bill does not address the larger issue of whether animals should or should not be used in research facilities. In fact, this bill does not impair or impede research. Medical research is one of our primary tools in the discovery of new drugs and surgical techniques that help develop cures for life-threatening diseases and animal research has been, and continues to be, a fundamental part of scientific advancements. Instead, this legislation targets the unethical practice of selling stolen pets and stray animals to research facilities by ending the fraudulent practices of Class B dealers, as well as the unnecessary suffering of animals in their care. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a letter of support be printed in the RECORD.

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

ANIMAL WELFARE INSTITUTE,
Washington, DC, October 19, 2009.

Hon. DANIEL AKAKA,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR AKAKA: We want to thank you for reintroducing the Pet Safety and Protection Act. For too long, Class B dealers who sell dogs and cats to research laboratories have flouted the Animal Welfare Act, acquiring animals through theft and fraud, lying about the origins of the animals, and keeping them in inhumane conditions. Despite the hundreds of thousands of tax dollars that the U.S. Department of Agriculture spends trying to regulate Class B dealers, the agency cannot guarantee that dogs and cats are not being illegally acquired for use in experiments.

A May 2009 report from the National Academy of Sciences supports the position that this bill will not have an adverse impact on the conduct of research. In addressing the question of whether Class B dealers are needed to supply NIH-sponsored research with random source animals, the NAS concluded that they are not. It found that animals with similar qualities are available from alternative sources. “The Committee therefore determined Class B dealers are not necessary

as providers of random source animals for NIH-related research." In fact, many researchers do not use Class B dealers to acquire dogs and cats, and it is time for the remainder who do to end their embarrassing association with these habitual violators of the law.

We are grateful to you for again taking on the important job of ensuring the safety of companion animals. We will do all that we can to achieve passage of this bill. Please contact me at 202-446-2121 or Lauren Silverman at the Humane Society of the U.S. if we can be of further assistance.

With much appreciation,

CATHY LISS,

President.

On behalf of: American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute, Born Free USA Humane Society of the United States In Defense of Animals, International Fund for Animal Welfare Last Chance for Animals Massachusetts Society for the Prevention of Cruelty to Animals Physicians Committee for Responsible Medicine World Society for the Protection of Animals.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 315—RELATIVE TO THE DEATH OF CLIFFORD PETER HANSEN, FORMER UNITED STATES SENATOR FOR THE STATE OF WYOMING

Mr. ENZI (for himself, Mr. BARRASSO, Mr. REID, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHANNIS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 315

Whereas Cliff Hansen worked as a cattle rancher and was inducted into the National

Cowboy Hall of Fame as a "Great Westerner;"

Whereas Cliff Hansen served as governor of the State of Wyoming from 1963-1967;

Whereas Cliff Hansen served the people of Wyoming with distinction in the United States Senate from 1967-1978; and

Whereas Cliff Hansen was the oldest former Senator at the time of his death: Now, therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Cliff Hansen, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Cliff Hansen.

SENATE RESOLUTION 316—CALLING UPON THE PRESIDENT TO ENSURE THAT THE FOREIGN POLICY OF THE UNITED STATES REFLECTS APPROPRIATE UNDERSTANDING AND SENSITIVITY CONCERNING ISSUES RELATED TO HUMAN RIGHTS, ETHNIC CLEANSING, AND GENOCIDE DOCUMENTED IN THE UNITED STATES RECORD RELATING TO THE ARMENIAN GENOCIDE, AND FOR OTHER PURPOSES

Mr. MENENDEZ (for himself and Mr. ENSIGN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 316

Resolved,

SHORT TITLE

SEC. 1. This resolution may be cited as the "Affirmation of the United States Record on the Armenian Genocide Resolution".

FINDINGS

SEC. 2. The Senate finds the following:

(1) The Armenian Genocide was conceived and carried out by the Ottoman Empire from 1915 to 1923, resulting in the deportation of nearly 2,000,000 Armenians, of whom 1,500,000 men, women, and children were killed, 500,000 survivors were expelled from their homes, and the elimination of the over 2,500-year presence of Armenians in their historic homeland.

(2) On May 24, 1915, the Allied Powers of England, France, and Russia, jointly issued a statement explicitly charging for the first time ever another government of committing "a crime against humanity".

(3) This joint statement stated that "the Allied Governments announce publicly to the Sublime Porte that they will hold personally responsible for these crimes all members of the Ottoman Government, as well as those of their agents who are implicated in such massacres".

(4) The post-World War I Turkish Government indicted the top leaders involved in the "organization and execution" of the Armenian Genocide and in the "massacre and destruction of the Armenians".

(5) In a series of courts-martial, officials of the Young Turk Regime were tried and convicted, as charged, for organizing and executing massacres against the Armenian people.

(6) The chief organizers of the Armenian Genocide, Minister of War Enver, Minister of the Interior Talaat, and Minister of the Navy

Jemal were all condemned to death for their crimes, but, the verdicts of the courts were not enforced.

(7) The Armenian Genocide and these domestic judicial failures are documented with overwhelming evidence in the national archives of Austria, France, Germany, Great Britain, Russia, the United States, the Vatican and many other countries, and this vast body of evidence attests to the same facts, the same events, and the same consequences.

(8) The United States National Archives and Record Administration holds extensive and thorough documentation on the Armenian Genocide, especially in its holdings under Record Group 59 of the United States Department of State, files 867.00 and 867.40, which are open and widely available to the public and interested institutions.

(9) The Honorable Henry Morgenthau, United States Ambassador to the Ottoman Empire from 1913 to 1916, organized and led protests by officials of many countries, among them the allies of the Ottoman Empire, against the Armenian Genocide.

(10) Ambassador Morgenthau explicitly described to the Department of State the policy of the Government of the Ottoman Empire as "a campaign of race extermination," and was instructed on July 16, 1915, by Secretary of State Robert Lansing that the "Department approves your procedure ... to stop Armenian persecution".

(11) Senate Concurrent Resolution 12, 64th Congress, agreed to February 9, 1916, resolved that "the President of the United States be respectfully asked to designate a day on which the citizens of this country may give expression to their sympathy by contributing funds now being raised for the relief of the Armenians," who at the time were enduring "starvation, disease, and untold suffering".

(12) President Woodrow Wilson concurred and also encouraged the formation of the organization known as Near East Relief, chartered by the Act of August 6, 1919, 66th Congress (41 Stat. 273, chapter 32), which contributed some \$116,000,000 from 1915 to 1930 to aid Armenian Genocide survivors, including 132,000 orphans who became foster children of the American people.

(13) Senate Resolution 359, 66th Congress, agreed to May 11, 1920, stated in part that "the testimony adduced at the hearings conducted by the sub-committee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered".

(14) The resolution followed the April 13, 1920, report to the Senate of the American Military Mission to Armenia led by General James Harbord, that stated "[m]utilation, violation, torture, and death have left their haunting memories in a hundred beautiful Armenian valleys, and the traveler in that region is seldom free from the evidence of this most colossal crime of all the ages".

(15) As displayed in the United States Holocaust Memorial Museum, Adolf Hitler, on ordering his military commanders to attack Poland without provocation in 1939, dismissed objections by saying "[w]ho, after all, speaks today of the annihilation of the Armenians?" and thus set the stage for the Holocaust.

(16) Raphael Lemkin, who coined the term "genocide" in 1944, and who was the earliest proponent of the United Nations Convention on the Prevention and Punishment of Genocide, invoked the Armenian case as a definitive example of genocide in the 20th century.

(17) The first resolution on genocide adopted by the United Nations at Mr. Lemkin's urging, the December 11, 1946, United Nations General Assembly Resolution 96(1), and the United Nations Convention on the Prevention and Punishment of Genocide recognized the Armenian Genocide as the type of

crime the United Nations intended to prevent and punish by codifying existing standards.

(18) In 1948, the United Nations War Crimes Commission invoked the Armenian Genocide, "precisely . . . one of the types of acts which the modern term 'crimes against humanity' is intended to cover," as a precedent for the Nuremberg tribunals.

(19) The Commission stated that "[t]he provisions of Article 230 of the Peace Treaty of Sevres were obviously intended to cover, in conformity with the Allied note of 1915 . . . offenses which had been committed on Turkish territory against persons of Turkish citizenship, though of Armenian or Greek race. This article constitutes therefore a precedent for Article 6c and 5c of the Nuremberg and Tokyo Charters, and offers an example of one of the categories of 'crimes against humanity' as understood by these enactments".

(20) House Joint Resolution 148, 94th Congress, adopted on April 8, 1975, resolved, "That April 24, 1975, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially those of Armenian ancestry . . .".

(21) President Ronald Reagan, in proclamation number 4838, dated April 22, 1981 (95 Stat. 1813), stated that, in part "[l]ike the genocide of the Armenians before it, and the genocide of the Cambodians, which followed it—and like too many other persecutions of too many other people—the lessons of the Holocaust must never be forgotten".

(22) House Joint Resolution 247, 98th Congress, adopted on September 10, 1984, resolved, "That April 24, 1985, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially the one and one-half million people of Armenian ancestry . . .".

(23) In August 1985, after extensive study and deliberation, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities voted 14 to 1 to accept a report entitled "Study of the Question of the Prevention and Punishment of the Crime of Genocide," which stated that "[t]he Nazi aberration has unfortunately not been the only case of genocide in the 20th century. Among other examples which can be cited as qualifying are . . . the Ottoman massacre of Armenians in 1915-1916".

(24) This report also explained that "[a]t least 1,000,000, and possibly well over half of the Armenian population, are reliably estimated to have been killed or death marched by independent authorities and eye-witnesses. This is corroborated by reports in United States, German and British archives and of contemporary diplomats in the Ottoman Empire, including those of its ally Germany".

(25) The United States Holocaust Memorial Council, an independent Federal agency, unanimously resolved on April 30, 1981, that the United States Holocaust Memorial Museum would include the Armenian Genocide in the Museum and has since done so.

(26) Reviewing an aberrant 1982 expression (later retracted) by the Department of State asserting that the facts of the Armenian Genocide may be ambiguous, the United States Court of Appeals for the District of Columbia in 1993, after a review of documents pertaining to the policy record of the

United States, noted that the assertion on ambiguity in the United States record about the Armenian Genocide "contradicted long-standing United States policy and was eventually retracted".

(27) On June 5, 1996, the House of Representatives adopted an amendment to House Bill 3540, 104th Congress (the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997), to reduce aid to Turkey by \$3,000,000 (an estimate of its payment of lobbying fees in the United States) until the Government of Turkey acknowledged the Armenian Genocide and took steps to honor the memory of its victims.

(28) President William Jefferson Clinton, on April 24, 1998, stated: "This year, as in the past, we join with Armenian-Americans throughout the nation in commemorating one of the saddest chapters in the history of this century, the deportations and massacres of a million and a half Armenians in the Ottoman Empire in the years 1915-1923."

(29) President George W. Bush, on April 24, 2004, stated: "On this day, we pause in remembrance of one of the most horrible tragedies of the 20th century, the annihilation of as many as 1,500,000 Armenians through forced exile and murder at the end of the Ottoman Empire."

(30) Despite the international recognition and affirmation of the Armenian Genocide, the failure of the domestic and international authorities to punish those responsible for the Armenian Genocide is a reason why similar genocides have recurred and may recur in the future, and that just resolution of this issue will help prevent future genocides.

DECLARATION OF POLICY

SEC. 3. The Senate—

(1) calls upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide and the consequences of the failure to realize a just resolution; and

(2) calls upon the President in the President's annual message commemorating the Armenian Genocide issued on or about April 24, to accurately characterize the systematic and deliberate annihilation of 1,500,000 Armenians as genocide and to recall the proud history of United States intervention in opposition to the Armenian Genocide.

SENATE RESOLUTION 317—SUPPORTING THE GOALS AND IDEALS OF NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH AND EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD CONTINUE TO RAISE AWARENESS OF DOMESTIC VIOLENCE IN THE UNITED STATES AND ITS DEVASTATING EFFECTS ON FAMILIES AND COMMUNITIES, AND SUPPORT PROGRAMS DESIGNED TO END DOMESTIC VIOLENCE.

Ms. KLOBUCHAR (for herself, Mr. LEAHY, Mr. KOHL, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. CRAPO, Ms. COLLINS, Mr. SPECTER, Ms. LANDRIEU, Ms. STABENOW, Mr. KAUFMAN, Mr. DURBIN, Mr. BROWN, and Mr. BURRIS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 317

Whereas the President has designated October 2009 as "National Domestic Violence Awareness Month";

Whereas domestic violence affects people of all ages as well as racial, ethnic, gender, economic, and religious backgrounds;

Whereas females are disproportionately victims of domestic violence, and 1 in 4 women will experience domestic violence at some point in her life;

Whereas on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas in 2005, 1,181 women were murdered by an intimate partner constituting 78 percent of all intimate partner homicides that year;

Whereas a 2001 study by the Centers for Disease Control and Prevention found that female intimate partners are more likely to be murdered with a firearm than all other means combined;

Whereas women ages 16 to 24 experience the highest rates, per capita, of intimate partner violence;

Whereas 1 out of 3 Native American women will be raped and 6 out of 10 will be physically assaulted in their lifetimes;

Whereas the cost of intimate partner violence exceeds \$5,800,000,000 each year, \$4,100,000 of which is for direct medical and mental health care services;

Whereas ¼ to ½ of domestic violence victims report that they have lost a job due, at least in part, to domestic violence;

Whereas the annual cost of lost productivity due to domestic violence is estimated at \$727,800,000 with over 7,900,000 paid workdays lost per year;

Whereas some landlords deny housing to victims of domestic violence who have protection orders or evict victims of domestic violence for seeking help after a domestic violence incident, such as by calling 911, or who have other indications that they are domestic violence victims;

Whereas 92 percent of homeless women experience severe physical or sexual abuse at some point in their lifetimes;

Whereas approximately 40 to 60 percent of men who abuse women also abuse children;

Whereas approximately 15,500,000 children are exposed to domestic violence every year;

Whereas children exposed to domestic violence are more likely to attempt suicide, abuse drugs and alcohol, run away from home, and engage in teenage prostitution;

Whereas one large study found that men exposed to physical abuse, sexual abuse, and adult domestic violence as children were almost 4 times more likely than other men to have perpetrated domestic violence as adults;

Whereas nearly 1,500,000 high school students nationwide experienced physical abuse from a dating partner in a single year;

Whereas 13 percent of teenage girls who have been in a relationship report being hit or hurt by their partners and 1 in 4 teenage girls has been in a relationship in which she was pressured by her partner into performing sexual acts;

Whereas adolescent girls who reported dating violence were 60 percent more likely to report one or more suicide attempts in the past year;

Whereas there is a need for middle schools, secondary schools, and post-secondary schools to educate students about the issues of domestic violence, sexual assault, dating violence, and stalking;

Whereas 88 percent of men in a national poll reported that they think that our society should do more to respect women and girls;

Whereas a recently released multi-State study shows conclusively that the Nation's

domestic violence shelters are addressing victims' urgent and long-term needs and are helping victims protect themselves and their children;

Whereas a 2008 National Census Survey reported that 60,799 adults and children were served by domestic violence shelters and programs around the Nation in a single day;

Whereas those same understaffed programs were unable to meet 8,927 requests for help that day;

Whereas there is a need to increase funding for programs aimed at intervening and preventing domestic violence in the United States; and

Whereas individuals and organizations that are dedicated to preventing and ending domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating effects on families and communities, and support programs designed to end domestic violence.

Ms. KLOBUCHAR. Mr. President, I rise to speak about an issue that has been very important to me for a long time, when I was a prosecutor as well as a member of the Judiciary Committee with the Senate; that is, domestic violence.

I am here because I am submitting a resolution supporting the goals and ideals of National Domestic Violence Awareness Month. A number of our colleagues are cosponsoring the resolution. I am also here on behalf of Pam Taschuk.

The police in Lino Lakes, MN, knew Pam Taschuk and they knew her husband Allen. The police knew both of them because of the dozens of 911 calls that had been made about Mr. Allen over the last 15 years. He bullied his wife, their sons, and other people so many times that local police had set up a special tactical response plan just to respond to calls at the Taschuk house.

Pam Taschuk was not your ordinary domestic violence victim, if there is such a thing. She was actually a juvenile probation officer and so many police I know in Minnesota knew her. They worked with her. She was a long-time probation officer and had worked in the field for years. She was also a social worker. So it goes to show you anyone can be a victim of domestic violence.

In January of 2008, Pam called the police and reported that her husband had threatened to kill her, that Allen Taschuk had threatened to kill her. On August 25 of this year, Allen Taschuk bloodied Pam's nose, split her lip, and trapped her in their home overnight. He was arrested, but he posted bail and was released.

On October 1, 2009, the Lino Lakes Police Department received the last 911 call they would ever get about Allen Taschuk. On that day, Allen Taschuk called 911 himself to preemptively report a shooting at his house. By the time the police arrived at his home, both he and Pam Taschuk were dead of gunshot wounds.

This happened last month in our State. This looks like a murder-suicide. Of course, it looks like Allen killed Pam before finally turning the gun on himself. But we do not need to speculate about the final end order to focus on the sad prelude to this story—so many previous 911 calls, so many earlier acts of violence, yet another victim of what some domestic violence advocates have called the war at home; a war that affected Pam, their children, and the community at large.

The most disturbing part of this story is Pam's death is not a tragic anomaly. Pam is one of 200 Minnesota women killed as a result of domestic violence since 2000.

That is why I am submitting a resolution today to designate October National Domestic Violence Awareness Month, because Pam Taschuk and too many other women and children have to fight this "war at home" every day.

In the past several decades, thanks to the work of many individuals and organizations, there has been a sea change in the way our society looks at the issue of domestic violence. Police, the courts, and the public used to consider it a private family matter. Not surprisingly, domestic violence was the No. 1 underreported crime in the country.

Today, there is much more awareness, and we have started to pass critical legislation at both the State and Federal level to combat domestic violence. So there has been a lot of progress, but there is still a lot more to be done.

Last year, a survey done by the National Network to End Domestic Violence found that in 1 day, while more than 60,000 people received help from domestic violence programs, nearly 9,000 requests for help went unanswered because the resources were not there.

The current statistics are staggering. Currently, one in four women will experience abuse. More than three women are killed every day by their husbands or boyfriends. Millions of children witness abuse every year, some studies say as many as 10 million children.

I remember the cases we had when I was county attorney for Hennepin County. When we looked at the records of someone who was an offender, we would find way back in the records that they lived in a home where there was domestic violence. In fact, statistics show that a child who grows up in a home where there is domestic violence is 76 times more likely to commit an act of domestic violence. That is why we had a poster framed in the hallway of our office. It was a picture of a woman with a Band-Aid on her nose, holding a little baby, and the words under the picture read: "Beat your wife and your son will go to jail."

We all must recognize as well that it doesn't take a bruise or a broken bone for a child to be a victim of domestic violence. Kids who witness this violence are victims too. Witnessing violence between adults in the home, especially when it is repeated and ongoing,

inflicts a real trauma on kids that can have damaging effects for years to come. In many respects, ending the cycle of violence in communities begins by getting violence out of the home because a violent home is, in fact, a factory for producing a new generation of violent offenders.

When I was a county attorney, I saw firsthand how domestic abuse harmed women and children, destroyed families, and challenged local law enforcement agencies, the court system, social service, and health care providers. We actually had a recent shooting of a well-respected and longtime police officer who was killed responding to a domestic abuse call. Both the prevention and prosecution of domestic violence were always among my top priorities when I was county attorney. We had one of the most landmark, cutting-edge domestic abuse service centers in the country, and still do in Hennepin County.

Sheila Wellstone, whom we honored this month for Domestic Violence Awareness Month, would always point to the work in that center. It was a one-stop shop. It is hard enough for lawyers to get through the redtape of a courtroom. This was a place where a victim of domestic violence, man or woman, could get a protective order signed, fill out a complaint, talk to a police officer, with a play area for children. Also—and this was unique for this center—there were representatives from domestic violence shelters there so they could find a place to live.

The other challenge I found we had in these cases was working with the victims so the case could be prosecuted after they filed the complaint. That is why it is so important we reauthorize the Violence Against Women Act. It was landmark legislation when it was passed over 15 years ago. It has helped to train police so they do a better job dealing with victims and children of domestic violence. It also gives them a sense, when they go to the scene, of the kind of evidence they should look for. Many times victims get scared and decide not to prosecute. We have had many cases where we could prosecute with a reticent victim simply because of the evidence police were able to gather at the scene.

The Violence Against Women Act created a new culture for police officers, judges, and those who work in the courthouse to treat this crime as the serious crime it is. It is a very important tool, and it must be reauthorized. As a member of the Judiciary Committee and one of two women on the committee, I look forward to working hard to reauthorize the Violence Against Women Act in 2010.

During tough economic times, we need to be extra vigilant against domestic violence. Millions of Americans have already lost their jobs, their homes, or their retirement savings. Some have lost all three. This kind of stress in the home and in the checkbook can lead to substance abuse and

acts of violence. We need to make sure law enforcement has the tools it needs to protect families. That is why in the Economic Recovery Act, we included \$225 million for Violence Against Women Programs and \$100 million for programs that are part of the Victims of Crime Act. We also provided critical funding for law enforcement to keep cops on the street and support law enforcement programs and services through the Byrne Grant Program.

There is so much at stake, and there is so much each of us can still do to make a difference. We have to remember that any act of domestic violence hurts not only the individual victim, it hurts their family and hurts our community at large.

I will always remember a case we prosecuted when I was county attorney that brought home that point to me. It was a very sad case. The victim was a Russian immigrant. She was very isolated from the community, didn't have many friends, a victim of domestic violence, they later learned, over the years. Her husband murdered her one day. They had a little 4-year-old girl. I don't want to get into the gory details of what happened with her body, but he basically sickly brought her body to another State with the 4-year-old girl in the back seat. He later confessed to the crime, and there was a little service. I say "little" because the only people at the funeral service were her parents, who were from Russia, and her identical twin sister, the victim's identical twin sister. I was there, and the victim witness advocate was there. That was it. The little 4-year-old girl, I was told, had been at the airport when the plane came in from Russia to meet for the first time her grandmother and her now deceased mother's identical twin sister.

When they got off the plane and came into the airport, this little girl ran across the airport and hugged that identical twin sister and said: Mommy, mommy, mommy. She thought it was her mother who had come back.

That moment and that story always remind me that when we are talking about domestic violence, it is not just one victim. It is the children and it is our entire community. That is why it is so important we recognize Domestic Violence Month as well as reauthorize the Violence Against Women Act.

I thank Senators LEAHY, KOHL, FEINGOLD, GILLIBRAND, CRAPO, COLLINS, SPECTER, LANDRIEU, STABENOW, KAUFMAN, DURBIN, BROWN, and Senator BURRIS, the Presiding Officer, for being cosponsors. I invite all other colleagues to join us.

I am proud to come from a State that has long been a leader in a nationwide effort to end domestic violence. We opened one of the first shelters in the country in 1974, and we started one of the first programs aimed at addressing batterers in the early 1980s. The city of Duluth, MN, was the first city to mandate that its police officers make arrests in domestic abuse cases. The city

of Duluth in northern Minnesota recognized before the rest of the country that violence is violence, whether it is perpetrated by someone you love or a stranger on the street.

We can never stop working on behalf of women, children, and families everywhere to end domestic violence.

I ask unanimous consent to add Senator BURRIS as a cosponsor of the resolution.

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

SENATE RESOLUTION 318—SUPPORTING "LIGHTS ON AFTERSCHOOL", A NATIONAL CELEBRATION OF AFTERSCHOOL PROGRAMS

Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Mr. BAUCUS, Mr. BEGICH, Mrs. BOXER, Mr. CARPER, Mr. CASEY, Mrs. GILLIBRAND, Mr. INOUE, Mr. LAUTENBERG, Mr. LEVIN, Mrs. LINCOLN, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. SANDERS, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 318

Whereas high-quality afterschool programs provide safe, challenging, engaging, and fun learning experiences that help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high-quality afterschool programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high-quality afterschool programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high-quality afterschool programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas "Lights On Afterschool", a national celebration of afterschool programs held on October 22, 2009, highlights the critical importance of high-quality afterschool programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 15,100,000 children in the United States have no place to go after school; and

Whereas many afterschool programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of "Lights On Afterschool", a national celebration of afterschool programs.

SENATE RESOLUTION 319—COMMEMORATING 40 YEARS OF MEMBERSHIP BY WOMEN IN THE NATIONAL FFA ORGANIZATION AND CELEBRATING THE ACHIEVEMENTS AND CONTRIBUTIONS OF FEMALE MEMBERS OF THE NATIONAL FFA ORGANIZATION

Mr. JOHANNIS (for himself, Mrs. LINCOLN, Mr. CHAMBLISS, Mr. LUGAR, Mr.

ROBERTS, Ms. STABENOW, Mr. ISAKSON, Mr. NELSON of Nebraska, Mrs. MURRAY, Mr. KOHL, Mr. BAUCUS, Mr. PRYOR, Ms. KLOBUCHAR, Mr. FEINGOLD, Mr. BARRASSO, Mr. LEAHY, Ms. COLLINS, Mr. GRASSLEY, Mr. CRAPO, Mr. BENNET, and Mrs. SHAHEEN) submitted the following resolution; which was considered and agreed to:

S. RES. 319

Whereas the National FFA Organization is a premier student leadership organization with more than 507,000 members in all 50 States, Puerto Rico, and the Virgin Islands;

Whereas the mission of the National FFA Organization is to make a positive difference in the lives of students by developing their potential for leadership, personal growth, and career success through agricultural education;

Whereas women were first admitted as members of the National FFA Organization in 1969 at the 42nd Annual National FFA Convention;

Whereas, by 2009, 41 percent of all members of the National FFA Organization were women, and more than 50 percent of leadership positions in the National FFA Organization were held by women; and

Whereas female members have made positive contributions to the goals of the National FFA Organization, including proficient agricultural leadership and advocacy, community citizenship, volunteerism, and cooperation: Now, therefore, be it

Resolved, That the Senate congratulates the National FFA Organization for 40 years of membership by women and celebrates the achievements and contributions of female members of the National FFA Organization.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2696. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1776, to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes; which was ordered to lie on the table.

SA 2697. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1776, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2696. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1776, to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes; which was ordered to lie on the table; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Physician Fairness Act of 2009".

SEC. 2. MEDICARE PHYSICIAN FEE SCHEDULE UPDATE FOR 2010 THROUGH 2014.

Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)) is amended by adding at the end the following new paragraph:

"(10) UPDATE FOR 2010 THROUGH 2014.—

"(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), and (9)(B), in lieu of the update to the single conversion factor established in

paragraph (1)(C) that would otherwise apply for each of 2010, 2011, 2012, 2013, and 2014, the update to the single conversion factor shall be 0.5 percent.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2015 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2015 and subsequent years as if subparagraph (A) had never applied.”

SEC. 3. REDUCTION IN TARP FUNDS TO OFFSET THE COSTS OF THE PAYMENT UPDATE FOR MEDICARE PHYSICIANS' SERVICES.

Paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by striking “\$1,259,000,000” and inserting “\$179,259,000,000”.

SA 2697. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1776, to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . HEALTH INSURANCE INDUSTRY ANTITRUST ENFORCEMENT ACT OF 2009.

(a) **SHORT TITLE.**—This section may be cited as the “Health Insurance Industry Antitrust Enforcement Act of 2009”.

(b) **PURPOSE.**—It is the purpose of this section to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

(c) **PROHIBITION OF ANTI-COMPETITIVE ACTIVITIES.**—Notwithstanding any other provision of law, nothing in the Act of March 9, 1945 (15 U.S.C. 1011 et seq., commonly known as the “McCarran-Ferguson Act”), shall be construed to permit health insurance issuers (as defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91) or issuers of medical malpractice insurance to engage in any form of price fixing, bid rigging, or market allocations in connection with the conduct of the business of providing health insurance coverage (as defined in such section) or coverage for medical malpractice claims or actions.

(d) **APPLICATION TO ACTIVITIES OF STATE COMMISSIONS OF INSURANCE AND OTHER STATE INSURANCE REGULATORY BODIES.**—Nothing in this section shall apply to the information gathering and rate setting activities of any State commission of insurance, or any other State regulatory entity with authority to set insurance rates.

NOTICE OF HEARING

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 Senate Committee on Energy and Natural Resources. The hearing will be held on Wednesday, October 28, 2009, at 10:00 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on the role of natural gas in mitigating climate change.

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 may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by e-mail to Rosemarie_Calabro@energy.senate.gov

For further information, please contact Kevin Rennert at (202) 224-7826, or Deborah Estes at (202) 224-5360 or Rosemarie Calabro at (202) 224-5039.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on October 21, at 9:45 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on October 21, 2009, at 10 a.m. in SD-430.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on October 21, 2009, at 9:30 a.m. to conduct a hearing entitled “H1N1 Flu: Monitoring the Nation’s Response.”

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

COMMITTEE ON THE JUDICIARY

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on October 21, 2009, at 2 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Nominations.”

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

COMMITTEE ON VETERANS' AFFAIRS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on October 21, 2009. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

COMMITTEE ON SCIENCE AND SPACE

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Science and Space of the

Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on October 21, 2009, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Kyle Sheahen and Spencer Baldwin, legal interns on my Judiciary Committee staff, be granted the privilege of the floor for the remainder of this session.

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

RELATIVE TO THE DEATH OF CLIFFORD PETER HANSEN, FORMER UNITED STATES SENATOR FOR THE STATE OF WYOMING

Mr. ENZI. Mr. President, it is with a great deal of sadness that Senator BARRASSO and Representative LUMMIS and I inform our colleagues that we have lost one of our good friends and a former Member of this body, Clifford P. Hansen.

Cliff Hansen passed away on Tuesday night at the age of 97. His was, in every sense, a truly remarkable life. He was a man to match his mountains. He came from the shadow of the Tetons. If you have ever been there, you know that when God made the Alps he had a couple left over and he took the biggest ones and he put them in Wyoming, and that is where Jackson Hole is.

Times such as these always draw me to the words of the Bible which remind us that “to everything there is a season, a time for every purpose under heaven.” So it is with all of us. Each role we play, each task we are called to perform is another time for us, another season in our lives.

As has often been said, Cliff Hansen was Wyoming through and through, a favorite son of the West who knew and understood our western way of life better than anyone else. He knew it because he lived it and he lived it each and every day.

Cliff Hansen lived most of his life in the Jackson Hole area—all of his life, except the time he was providing public service. He was born at the base of the Tetons and he lived a life in which he stood as tall and as proud in his support of Wyoming as those magnificent mountains. His parents were homesteaders and from them he learned the importance of working hard for what you believe in and always giving it your best. It was a philosophy that suited him well. A lot of people don't know that as a child he was a stut-terer, but he had a phenomenal teacher who worked with him, put rocks in his mouth. He attributed his success at oratory to her help through those years.

A rancher by profession, Cliff spent the early part of his life working the

land and learning to appreciate what a tremendously important resource it was. For him, the land was a precious gift, a legacy that helped him establish himself as a rancher. As he tended the land, he also was working at the local level to address the issues of the day. But that kind of success wasn't enough for him. Determined to find something else he could do to help make a difference, he soon found his way to run for public office. He was a county commissioner and, as a part of that season, he served as Wyoming's Governor.

There was a lot to be done, so Cliff rolled up his sleeves and got right to the tasks at hand. To help the people of our State, Cliff worked to lower the voting age from 21 to 18. To make life a little easier for our senior citizens, he supported increasing retirement pay for State employees. To help the next generation of our State's leaders, he helped increase funding for our schools and our education system.

At that point, Cliff could have called it a day and returned to the ranch to sit back and enjoy reminiscing about all he had accomplished. Once again, it wasn't enough for Cliff. He still had some good ideas and an interest in getting things done. That great heart of his wouldn't let him quit. So it was back to the campaign trail and an offer he once again made to the people of Wyoming to serve them again and began another season in his life. This one resulted in a run for the Senate and a defeat of a very popular Democrat on the way, Teno Roncalio.

In the Senate, Cliff served on the Veterans' Affairs Committee, the Finance Committee, and the Special Committee on Aging. At each post, amid every opportunity, Cliff always had his eye on Wyoming and how he could best be of service to the people back home. He focused on issues such as reservoir projects, recreation and wilderness areas, and making sure we were good stewards of the Federal Treasury. He kept spending under control.

He also made a major change for Wyoming. In the early days, the States got about 37.5 percent royalty on minerals and he was able to raise that, with the help of a lot of his fellow Senators, working across the aisle, to 50 percent. When he got that passed, it was at the time that Gerald Ford was the President and the Chief of Staff was a Wyoming boy named Dick Cheney. Dick Cheney had to initiate a call to Cliff Hansen and let him know the President had some bad news for him.

At that point Dick Cheney put President Ford on the phone and the President said, I have some bad news for you, Cliff. I am going to have to veto that bill.

Cliff Hansen said, I have some bad news for you. I am going to find the votes to override it, and he did.

It has been a great boon to our State.

While Cliff was serving in the Senate, I was serving as president of the Wyoming Jaycees. Diana and I were in

Washington to meet with him. He invited us to the Senate dining room for breakfast. It was a great thrill for Diana and me to have a chance to meet with a Senator. We will never forget how it was to be in that dining room with this good person who turned out to be a trusted and valued friend. It was also my first encounter with grits. I found they taste as the name suggests.

Although Cliff had every reason to be proud of what he had achieved at every stage of his life, he would always be the first to say that he could never have done it alone. Fortunately, he didn't have to, for when he returned to Jackson Hole after graduating from college he married a very special woman, Martha. I have to tell you, her dad was a little bit skeptical. He said, This guy comes from the valley that is known as the safe harbor for horse thieves. Well, it happened, it stuck, and they started a wonderful love story that would last forever. It is an adage that love is stronger than anything that comes to us in life. Cliff and Martha will be forever great examples of that and their story of life and love that lasted 75 years.

Diana and I always enjoyed seeing them together for they were the epitome of a great marriage. Cliff had a warm, engaging personality, he was full of life, and he had a smile that reflected the genuine happiness and contentment that he found in his life and in his family. Martha, by his side, was a kind and gracious woman. With her support and encouragement, Cliff had a tremendous asset in his life and in his political career. She also helped to keep him grounded. I remember one of the stories he often told of coming back from one of the Washington-type gala events where he had been presented an award as legislator of the year, one of 535 people to receive this award. As he was driving home he was reflecting and saying, Martha, how many truly recognized people are there in this world, she quickly said, One less than you think. It is a lesson that he always kept.

I am pleased with the number of calls and e-mails we have had from former staff members. His staff counsel mentioned the kindness he always had, knowing the people who worked at the doors and the elevators, and at that time there were a lot of them who worked in the elevators. But one time he was waiting outside the Chamber door for him to come for a vote and he was getting a little worried that the vote was going to run out, so he went looking for him and found that he was helping a lady in a wheelchair up some of the steps so she could get into the building. It was just the kind of thing he would do, go out of his way to help out.

When I arrived in the Senate, Cliff and Martha became role models for Diana and me. They blazed a trail together and we learned a good deal from watching how they did it. Diana and I

weren't the only ones to learn from Cliff. One thing that so many of us will always remember about him was his love for teaching the next generation about Wyoming's heritage and our land, our agricultural industry, an aspect so important to our State's economy that it is noted on our State seal.

Cliff was very proud of the training arena that was established at his alma mater, the University of Wyoming, in his name. He went there often to visit the College of Agriculture and to meet with the students. Cliff knew full well that the future of our State could be measured by how well we took care of our State's land and he was determined that those who were to follow would have a sense of great responsibility with which they had been entrusted.

Cliff understood the importance of everything he had been given in life, from the greatest of resources to the smallest of everyday things. I remember hearing a story from his grandson that I can't tell as well as his grandson, but I am going to make an attempt at anyway. He was doing something called straightening nails with his grandson and some of his grandson's friends. For those of you who don't know about straightening a nail, you take a nail that is bent that you pull out of some piece of wood and as you pull it, you bend it. He had a coffee can full of those and he had an empty coffee can, and he would take one of the bent nails, put it on a board and tap it with a hammer and then examine it to see if it was straight. His grandson and the other boys who were there said, Why are you going to all that work? Why don't you just go buy some new nails?

He said, How much is this costing me? The answer was, Nothing.

While he was doing this, this tapping away on these nails, Martha came to the door of their house and said, You have a call, Cliff. You have a call on the telephone here. Well, he kept tapping away on the nails, tapping away on the nails. Pretty quickly she came back and she said, Cliff, it is the President of the United States. So he got up and he went in the house and took the phone call. A few minutes later he was back out there tapping away on the nails, tapping away on the nails. His grandson was excited and wanted to know what that was all about and asked him: What did the President want?

Cliff said, The President wanted me to be the Secretary of Interior; tap, tap, tap; tap, tap, tap. I said, No; tap, tap, tap; tap, tap, tap. He was a man who knew what he wanted to do and what he needed to do and could be totally absorbed in whatever he was doing.

There are a lot of stories like that one. Cliff cherished the simpler days and the simpler ways of life. He also appreciated the benefits that would come from technology and innovation and how they would improve cattle and crop production. Technology and innovation, however, could never replace

the basic ideals of working hard, being of good character, and always keeping your word. Those were things that could never be compromised. He has left us all with a great legacy that will continue to inspire and encourage others to follow the path he leaves behind.

With the passing of Cliff Hansen, the political landscape and everyday life in Jackson Hole, WY, the West, and the United States has changed. Wyoming has been blessed to have enjoyed a great history full of remarkable and colorful leaders in every sense of the word who have helped to settle this Nation, tame the West, and bring the United States to the position of greatness and power it enjoys today. We owe a lot to the great people of our past such as Cliff Hansen. Thanks to them, our Nation and the world is a better place for us all to live.

Now this season of his life has come to an end. The season he was born has led to this season when he has died. Everyone who knew him will carry with them a special memory of his life and how the experience of knowing Cliff changed them forever for the better. He was a great gift in our lives and the lives of people all across the country who may never have known him but enjoyed the benefits of his labors. His great calling was to be a teacher and he taught us all a great deal about life by how he lived his own. So much of my State bears his mark for his having passed by. He will be greatly missed for who and what he was. He will never be forgotten for what he accomplished during his 97 years of life.

Diana and all the Enzis and our delegation send our deepest sympathy, our great appreciation, and our love to Martha and all the family. You will be in our thoughts and prayers.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I join Senator ENZI today on the floor to share with our colleagues the profound sorrow that is felt all across the State of Wyoming today as we mourn the death of a western American icon and a former Member of this body, the Senate.

Cliff Hansen, Senator, Wyoming Governor, died last night, October 20, at home at his ranch in Jackson Hole, WY. He was 97 years old. He was at the time of his death the oldest living former Member of the Senate, a career and a life that spanned nearly a century of American history. But it wasn't the length of time he spent on this Earth that makes his life so unique and so meaningful to all of us who knew him and who respected him. It would be difficult to tell the story of Wyoming without also describing the life and the time of Cliff Hansen. They are intertwined, a pioneer State and its patriarch.

If it is true, as many people say, that Wyoming is what America was, Cliff Hansen is the independent spirit, the rugged cowboy who made her great. My

wife Bobbi and I wish to offer our deepest condolences to the Hansen and the Mead families, to his beloved Martha, especially, his wife, as Senator ENZI said, of over 75 years. Just last month they celebrated their 75th wedding anniversary. She was with him to the end.

Cliff Hansen is a legendary Wyoming figure, but to his family he was a dedicated husband, father, a special grandfather and great-grandfather, and someone who will be terribly missed.

He was born October 16, 1912. Prior to graduating from the University of Wyoming, he worked for his parents on a cattle ranch in Teton County. It was there we can presume that Cliff Hansen learned the manner and the skills that would take him from Wyoming to Washington and back.

In 1962, Hansen was elected Governor of Wyoming. He served for 4 years. He believed he could do more for the people of Wyoming in Washington than he could in Cheyenne. So he then ran and won a seat in the Senate and was re-elected by an overwhelming margin in 1972.

These simple dates hardly tell the story. Cliff Hansen was Wyoming's John Wayne—a proud, commonsense cowboy who spoke to the hearts and the minds of a great State.

As we have the opportunity to reflect more on Governor Hansen's passing, to hear, as well, from his family, there will be much more to say and remember about his extraordinary legacy. But today, on the news of his passing to the Kingdom of Heaven—a phrase he used with great reverence—I want to make sure his friends and his colleagues know that God accepts home a great man today.

To his wife Martha, his son Pete Hansen, his grandsons Matt and Brad and their families, his granddaughter Muffy, the Nation, and Wyoming send you our heartfelt condolences. We hope you and your family are comforted by his strength of character, his convictions, and his grace as a truly great man.

I speak today for thousands—for tens of thousands—of people who knew and who loved Cliff Hansen—all that he stood for, all that he today represents that is good about our Nation, the West, and Cliff's beloved Wyoming.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, on behalf of our entire delegation, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 315, submitted earlier today.

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

The assistant bill clerk read as follows:

A resolution (S. Res. 315) relative to the death of Clifford Peter Hansen, former United States Senator for the State of Wyoming.

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

Mr. ENZI. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 315) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 315

Whereas Cliff Hansen worked as a cattle rancher and was inducted into the National Cowboy Hall of Fame as a "Great Westerner;"

Whereas Cliff Hansen served as governor of the State of Wyoming from 1963–1967;

Whereas Cliff Hansen served the people of Wyoming with distinction in the United States Senate from 1967–1978; and

Whereas Cliff Hansen was the oldest former Senator at the time of his death: Now, therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Cliff Hansen, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Cliff Hansen.

Mr. ENZI. I thank the Chair. I thank my colleague for his outstanding comments.

BOY SCOUTS OF AMERICA DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 112 and the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 112) designating February 8, 2010, as "Boy Scouts of America Day," in celebration of the 100th anniversary of the largest youth scouting organization in the United States.

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

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 112) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 112

Whereas the Boy Scouts of America was incorporated by the Chicago publisher William

Boyce on February 8, 1910, after William Boyce learned of the Scouting movement during a visit to London;

Whereas, on June 21, 1910, a group of 34 national representatives met, developed organization plans, and opened a temporary national headquarters for the Boy Scouts of America in New York;

Whereas the purpose of the Boy Scouts of America is to teach the youth of the United States patriotism, courage, self-reliance, and kindred values;

Whereas, by 1912, Boy Scouts were enrolled in every State;

Whereas, in 1916, Congress granted the Boy Scouts of America a Federal charter;

Whereas each local Boy Scout Council commits each Boy Scout to perform 12 hours of community service yearly, for a total of 30,000,000 community service hours each year;

Whereas, since 1910, more than 111,000,000 people have been members of the Boy Scouts of America;

Whereas Boy Scouts are found in 185 countries around the world;

Whereas the Boy Scouts of America will present the 2 millionth Eagle Scout award in 2009;

Whereas more than 1,000,000 adult volunteer leaders selflessly serve young people in their communities through organizations chartered by the Boy Scouts of America;

Whereas the adult volunteer leaders of the Boy Scouts of America often neither receive nor seek the gratitude of the public; and

Whereas the Boy Scouts of America endeavors to develop United States citizens who are physically, mentally, and emotionally fit, have a high degree of self-reliance demonstrated by such qualities as initiative, courage, and resourcefulness, have personal values based on religious concepts, have the desire and skills to help others, understand the principles of the social, economic, and governmental systems of the United States, take pride in the heritage of the United States and understand the role of the United States in the world, have a keen respect for the basic rights of all people, and are prepared to participate in and give leadership to the society of the United States: Now, therefore, be it

Resolved, That the Senate designates February 8, 2010, as "Boy Scouts of America Day", in celebration of the 100th anniversary of the largest youth scouting organization in the United States.

LIGHTS ON AFTERSCHOOL

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 318 submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 318) supporting "Lights On Afterschool," a national celebration of afterschool programs.

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

Mr. DODD. Mr. President, today Senator ENSIGN and I are submitting a resolution designating October 22, 2009, Lights On Afterschool Day. Lights On Afterschool brings students, parents, educators, lawmakers, and community and business leaders together to celebrate afterschool programs. This year, more than 1 million Americans are ex-

pected to attend about 7,500 events designed to raise awareness and support for these much needed programs.

In America today, 1 in 4 youth, more than 15 million children, go home alone after the school day ends. This includes more than 40,000 kindergartners and almost 4 million middle school students in grades six to eight. On the other hand, only 8.4 million children, or approximately 15 percent of school-aged children, participate in afterschool programs. An additional 18.5 million would participate if a quality program were available in their community.

Lights On Afterschool, a national celebration of afterschool programs, is celebrated every October in communities nationwide to call attention to the importance of afterschool programs for America's children, families and communities. Lights On Afterschool was launched in October 2000 with celebrations in more than 1,200 communities nationwide. The event has grown from 1,200 celebrations in 2001 to more than 7,500 today. This October, 1 million Americans will celebrate Lights On Afterschool.

Quality afterschool programs should be available to children in all communities. These programs support working families and prevent kids from being both victims and perpetrators of violent crime. They also help parents in balancing the work and home-life. Quality afterschool programs help to engage students in their communities, and when students are engaged, they are more successful in their educational endeavors.

In our work on the Senate Afterschool Caucus, Senator ENSIGN and I have been working for more than 5 years to impress upon our colleagues the importance of afterschool programming. It is our hope that they will join us on October 22 to celebrate the importance of afterschool programs in their communities back home.

Mr. DURBIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 318) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 318

Whereas high-quality afterschool programs provide safe, challenging, engaging, and fun learning experiences that help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high-quality afterschool programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high-quality afterschool programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive re-

lationships among children, youth, families, and adults;

Whereas high-quality afterschool programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas "Lights On Afterschool", a national celebration of afterschool programs held on October 22, 2009, highlights the critical importance of high-quality afterschool programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 15,100,000 children in the United States have no place to go after school; and

Whereas many afterschool programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of "Lights On Afterschool", a national celebration of afterschool programs.

COMMEMORATING WOMEN MEMBERSHIP IN THE NATIONAL FFA ORGANIZATION

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate now proceed to consideration of S. Res. 319, submitted earlier today.

The PRESIDING OFFICER (Mr. BEGICH). The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 319) commemorating 40 years of membership of women in the National FFA Organization and celebrating the achievements and contributions of female members of the National FFA organization.

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

Mr. JOHANNIS. Mr. President, I rise today in support of this resolution to commemorate 40 years of membership by women in the National FFA Organization and to celebrate the achievements and contributions of female FFA members.

It was 40 years ago, during the 1969 National FFA Convention, that delegates voted to allow women to join the FFA.

Today, 41 percent of all members of the National FFA Organization are women, and more than 50 percent of leadership positions in the National FFA are held by women.

In my home State of Nebraska, more than 800 females have received their American FFA Degrees, the highest honor that can be awarded to an FFA member.

To be eligible for the American Degree, members must have earned and productively invested \$7,500 through a supervised agricultural experience program where FFA members live out their motto of learning by doing.

American Degree recipients must also make it their mission to demonstrate outstanding leadership abilities and community involvement.

More than 2,400 women in Nebraska have been awarded State FFA Degrees for their accomplishments in their local chapters and agricultural education classes.

Nebraska also boasts more than 260 female State Proficiency winners and 5 female National Proficiency winners. These students represent the best of the best, having achieved the highest level of excellence in their chosen fields.

Ninety women in Nebraska have served as State FFA Officers, with 8 serving as President. Four Nebraska females have served as National FFA Officers. These leaders have invested their time and talents in building influential relationships with members and growing the Organization.

The contributions of female members have helped the National FFA Organization to become a premier student leadership organization, comprised of more than 507,000 members in all 50 states, Puerto Rico, and the Virgin Islands.

The FFA's mission is to make a positive difference in the lives of students by developing their potential for premier leadership, personal growth, and career success through agriculture education.

Today I am proud to offer a resolution to recognize the positive contributions female members have made to achieve FFA's goals of proficient agricultural leadership and advocacy, community citizenship, volunteerism, and cooperation.

I congratulate the National FFA Organization for 40 years of membership by women and for its role in developing tomorrow's leaders.

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 319) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 319

Whereas the National FFA Organization is a premier student leadership organization with more than 507,000 members in all 50 States, Puerto Rico, and the Virgin Islands;

Whereas the mission of the National FFA Organization is to make a positive difference in the lives of students by developing their potential for leadership, personal growth, and career success through agricultural education;

Whereas women were first admitted as members of the National FFA Organization in 1969 at the 42nd Annual National FFA Convention;

Whereas, by 2009, 41 percent of all members of the National FFA Organization were women, and more than 50 percent of leadership positions in the National FFA Organization were held by women; and

Whereas female members have made positive contributions to the goals of the National FFA Organization, including proficient agricultural leadership and advocacy, community citizenship, volunteerism, and cooperation: Now, therefore, be it

Resolved, That the Senate congratulates the National FFA Organization for 40 years of membership by women and celebrates the achievements and contributions of female members of the National FFA Organization.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider Calendar Nos. 132, 475, 476, 479, 485, 486; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; provided further that the President be immediately notified of the Senate's action; further, that the cloture motion with respect to Calendar No. 132 be withdrawn and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

UNITED STATES SENTENCING COMMISSION

William K. Sessions III, of Vermont, to be Chair of the United States Sentencing Commission.

William E. Spriggs, of Virginia, to be an Assistant Secretary of Labor.

Joseph A. Main, of Virginia, to be Assistant Secretary of Labor for Mine Safety and Health.

DEPARTMENT OF ENERGY

Jose Antonio Garcia, of Florida, to be Director of the Office of Minority Economic Impact, Department of Energy, vice Theresa Alvallar-Speake, resigned.

DEPARTMENT OF THE INTERIOR

Marcia K. McNutt, of California, to be Director of the United States Geological Survey.

DEPARTMENT OF ENERGY

Arun Majumdar, of California, to be Director of the Advanced Research Projects Agency—Energy, Department of Energy.

NOMINATION OF WILLIAM K. SESSIONS III

Mr. LEAHY. Mr. President, today, the Senate is taking action long delayed by an anonymous Republican hold. That hold has extended for almost 6 months without explanation. I have spoken repeatedly to the Republican leader, the assistant Republican leader, and the ranking Republican on the Senate Judiciary Committee. No one has given me any explanation for the hold. When the Senate majority leader asked back in early June to proceed to the nomination that was reported without objection by the Senate Judiciary Committee on May 7, the Republican leader objected, saying "we have not had an opportunity to get that cleared." They had had a month;

another 4 months have now passed. In violation of the Honest Leadership and Open Government Act, no Republican Senator has come forward in all this time to identify himself and specify a reason for the hold.

Judge Sessions is an extraordinary public servant. Judge Sessions has twice previously been confirmed unanimously by the Senate to serve on the Sentencing Commission. He has served with distinction for 10 years, and has served as a vice chair of the Sentencing Commission. He is a distinguished U.S. Federal judge who has served for 14 years and now serves as the chief judge for the District of Vermont. He is a member of the Judicial Conference of the United States, made up of the leaders of the Federal judiciary. He has also contributed to his local community as a public defender, an adjunct law professor, and even as a coach of the local Little League team. A lawyer's lawyer and a judge's judge, he has earned the praise of both the prosecution bar and the defense bar.

Judge Sessions is eminently well qualified to serve as the chair of the Sentencing Commission. I must say that in my numerous conversations with Republican Senators and Republican Senate leaders during the last 6 months, no one raised any dispute or criticism or reason for this obstruction and delay.

This is most unfortunate because some of us have worked very hard to move beyond the era when delays in nominations to fill vacancies on the Sentencing Commission got so bad and extended so long that it drew the attention of the Chief Justice of the United States in his annual reports in 1997 and 1998. I have worked with the Republican chairmen and ranking members on the Judiciary Committee and consistently protected their rights and interests. I have treated their recommended nominees with respect and shown them support. I worked to break the impasse in the Republican-led Senate by working across the aisle and with the White House to develop a slate of nominees, Republican, Democratic and independent, that was confirmed as a group. Thereafter, I have worked conscientiously with the lead Republican on the Judiciary Committee to fill vacancies appropriately as they arose.

Most recently, I worked even during the last weeks of the Bush administration to have the Judiciary Committee report and the Senate confirm two nominees recommended and supported by Senate Republicans. William Carr, a recommendation from the ranking Republican on the Judiciary Committee, was confirmed on November 20, 2008, weeks after the Presidential election, and now serves as a vice chair. We also proceeded to confirm to another term Judge Ricardo Hinojosa, who I supported when he was nominated to the Commission by his friend President Bush in January 2003, when he was nominated and confirmed as chair in

2004, and when he was renominated for another term and confirmed in November 2008. Judge Hinojosa has served as acting chair because Republicans have held up the confirmation of Judge Sessions. Apparently, Senate Republicans have chosen to respond to our having proceeded with those confirmations in November 2008 to the Sentencing Commission and to my years of cooperative efforts by resorting to delay and obstruction. They have refused to allow the Senate to consider the nomination of Judge Sessions to serve as chair of the Sentencing Commission for the last several months.

I commend Judge Sessions for his patience, determination and sense of public service. I thank the majority leader for proceeding to file the cloture petition last night that is finally resulting in Senate action on this important nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. 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 in a period of morning business?

The PRESIDING OFFICER. Yes, we are.

Mr. REID. I thank the Chair.

UNEMPLOYMENT COMPENSATION EXTENSION ACT OF 2009—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, we are trying to work something out on an unemployment compensation extension. We are being as fair and reasonable as we can. We have exchanged papers with the minority. We hope they will come back with a reasonable number of amendments on which we can move forward.

In order to move the process along, as we continue to negotiate, I ask unanimous consent to proceed to Calendar No. 174, H.R. 3548, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been filed 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. 174, H.R. 3548, the Unemployment Compensation Extension Act of 2009.

Harry Reid, Patty Murray, Mark Udall, Roland W. Burris, Mark Begich, Byron L. Dorgan, Frank R. Lautenberg, Amy Klobuchar, Bill Nelson, Jack Reed, Carl Levin, Jeff Bingaman, Bernard Sanders, Sherrod Brown, Sheldon Whitehouse, Barbara Boxer, Kirsten E. Gillibrand, Richard Durbin.

Mr. REID. I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

ORDERS FOR THURSDAY, OCTOBER 22, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow at 9:30 a.m., Thursday, October 22; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business for an hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; that following morning business, the Senate resume consideration of the conference report to accompany H.R. 2647, the Department of Defense authorization bill, and

there then be an hour for debate, equally divided and controlled between Senators LEVIN and MCCAIN or their designees, prior to the cloture vote on that conference report.

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

PROGRAM

Mr. REID. Senators should expect the first vote tomorrow to occur at 11:45 a.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the provisions of S. Res. 315, as a mark of further respect to the late former Senator Clifford Peter Hansen of Wyoming.

There being no objection, the Senate, at 7:50 p.m., adjourned until Thursday, October 22, 2009, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, October 21, 2009:

DEPARTMENT OF LABOR

WILLIAM E. SPRIGGS, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR.

JOSEPH A. MAIN, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH.

DEPARTMENT OF ENERGY

JOSE ANTONIO GARCIA, OF FLORIDA, TO BE DIRECTOR OF THE OFFICE OF MINORITY ECONOMIC IMPACT, DEPARTMENT OF ENERGY.

DEPARTMENT OF THE INTERIOR

MARCIA K. MCNUTT, OF CALIFORNIA, TO BE DIRECTOR OF THE UNITED STATES GEOLOGICAL SURVEY.

DEPARTMENT OF ENERGY

ARUN MAJUMDAR, OF CALIFORNIA, TO BE DIRECTOR OF THE ADVANCED RESEARCH PROJECTS AGENCY—ENERGY, DEPARTMENT OF ENERGY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

UNITED STATES SENTENCING COMMISSION

WILLIAM K. SESSIONS III, OF VERMONT, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION.

THE JUDICIARY

ROBERTO A. LANGE, OF SOUTH DAKOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA.