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No. 188

Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

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

Let us pray.

King and judge of the universe, You rule with righteousness and govern with justice. You have been good to us, restoring our strength and directing our footsteps.

Today guide our Senators in their labors. In these difficult days empower them to produce dividends of character and grace. We pray not for tasks fitted to their strength but for strength which fits them for their tasks. In the hard decisions of this day, guide them by Your word and spirit.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER, a Senator from the State of Montana, 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. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 8, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Sen-

ator from the State of Montana, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in executive session to consider the nomination of Richard Cordray to be Director of the Consumer Financial Protection Bureau. At 10:30 a.m., there will be a cloture vote on the Cordray nomination. If cloture is not invoked, the Senate will resume consideration of the motion to proceed to S. 1944, the Middle Class Tax Cut of 2011. As a reminder to all Senators, cloture has been filed on the motion to proceed to S. 1944. Unless an agreement is reached, that will be tomorrow morning.

CORDRAY NOMINATION

Mr. REID. Mr. President, shortly the Senate will vote on the confirmation of Richard Cordray to lead the Consumer Financial Protection Bureau. Again, the Consumer Financial Protection Bureau. I stress "consumer." By now we all know my Republican colleagues will filibuster Mr. Cordray's nomination. They said they will. This is not an

up-or-down vote. In the Republicans' effort to not allow this vote, they are stopping a vote on this very qualified man.

They are not blocking this nomination because of any fault, real or perceived, in this candidate. He has bipartisan support and is eminently qualified. He has a long history of protecting consumers against the unfair practice of financial predators. He currently serves as chief of enforcement at the Bureau.

Before that, Mr. Cordray served as Ohio's attorney general, a very important job in a very heavily populated State. While there, he recovered billions of dollars from pension funds on behalf of retirees, investors, and others. He took action against fraudulent foreclosures and predatory lending. He is qualified, and he is a man of diligence.

The Republicans are blocking his nomination and not allowing a vote because they don't like the Federal agency he would lead, an agency established by law. This is the first time in the Senate's history that a party has blocked a qualified candidate solely because they disagreed with the existence of an agency that has been created by law.

Republicans are doing this to undermine the system of law we have in our country. Democrats fought to pass Wall Street reform last year to protect against the greed of big banks. Well, without a director, the Consumer Financial Protection Bureau doesn't have the tools it needs to get the job done. It is shocking that despite the economic crash in our rearview mirror—it is easy to look back and see what happened because of Wall Street greed—Republicans, in spite of that, would leave consumers without a watchdog to guard against the greed of Wall Street. That is unfortunate.

Would the Chair announce the business of the 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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EXECUTIVE SESSION

NOMINATION OF RICHARD
CORDRAY TO BE DIRECTOR, BU-
REAU OF CONSUMER FINANCIAL
PROTECTION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided and controlled between the two leaders or their designees.

Mr. REID. I ask that a quorum be called and the time be equally divided between the two sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask 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.

Mr. MCCONNELL. This morning the Senate will vote whether the new Consumer Financial Protection Bureau should be able to put a director in place before concerns about its accountability to the American people are addressed. Let me stress that is all today's vote is about. Today's vote is about accountability and transparency. It is a debate about whether we think Americans need more oversight over Washington or less.

Republicans made our position clear more than 7 months ago when 44 of us signed a letter saying we will not support a nominee for this Bureau, no matter who the President is, until three commonsense conditions are met that would bring some transparency and accountability to the CFPB. That letter now has 45 signatories.

The President knew about these concerns months ago and he chose to dismiss them. Now he is suddenly making a push to confirm his nominee because it fits into some picture he wants to paint about who the good guys are and who the bad guys are here in Washington. So, once again, Democrats are using the Senate floor this week to stage a little political theater. They are setting up a vote they know will fail so they can act shocked about it later. This is what passes for leadership at the White House right now.

The President has made his choice about how to deal with this issue, and we have made ours. What we have said

is that until this or any other President addresses these legitimate concerns, we cannot and will not support a nominee. Here is what we said in that letter 7 months ago: First, replace the single Director with a board of directors who would oversee the Bureau. Second, subject the Bureau to the congressional appropriations process. Third, allow other financial regulators to provide a check on CFPB rules so they don't imperil the health of financial institutions and lead to unnecessary bank failures.

Look, everybody supports strong and effective oversight, but that has to include the overseers as well. Unelected bureaucrats must be held accountable to the American people, and that is exactly what our proposal would do. So it is up to the President. Republicans have outlined our concerns and they are well known. We are not going to let the President put another unelected czar in place, unaccountable to the American people. And, frankly, his refusal to work with us only deepens our concerns. The CFPB requires reforms before any nominee can be confirmed. It is time the President takes these concerns seriously.

I look forward to hearing from the President on this issue so we can put in place the kind of oversight and accountability the American people expect in an agency of this size and this scope. Until then, I will vote against this nominee for the CFPB and any others that this or any other President sends until he works to fix the problems, until he brings transparency to this bureaucracy and accountability to the American people.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. 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.

Mr. SHELBY. Mr. President, I rise today in opposition to the motion to invoke cloture on the nomination of Richard Cordray to be the Director of the Bureau of Consumer Financial Protection.

Earlier this year, I and 44 of my colleagues sent a letter to the President expressing our concerns with the unaccountable structure of the Bureau. It is now 7 months later and the President has yet to respond.

The majority has called for a vote they know will fail today. It is evident the White House and the majority have decided to place politics ahead of good policy. They have chosen to fabricate a political issue rather than do what is in the best interests of consumers. Nonetheless, they claim this debate is about consumer protection.

There is no disagreement, however, that consumer protection, as the Act-

ing President pro tempore knows, needs to be enhanced. The only real point of contention is whether the new Bureau of Consumer Financial Protection will be accountable to the American people.

If we believe regulators never fail, then the current structure of the Bureau is just fine. Yet we all know regulators do fail and their failures harm consumers.

Members of the majority, I believe, have repeatedly made this point with their criticism of the Fed's failure to regulate subprime mortgages and the OCC's preemption of State consumer protection laws.

I strongly agree with the majority that our regulators failed to do their jobs in the lead-up to the financial crisis. But the lesson we should learn from the financial crisis is not that we need more unaccountable regulators. Instead, all of our financial regulators need to be held more accountable.

Just as banks should be held accountable for their failures, regulators should also be held accountable for theirs. After all, if regulators know Congress can hold them accountable, they will have a far stronger incentive to do their jobs. That will be good, as we all know, for consumers. That is why, if the Bureau is reformed, the biggest winners will be the American consumers.

Today, however, the majority will show that they are now more concerned with insulating bureaucrats from accountability and rewarding political allies than looking out for consumers. The administration and the majority will try to argue that the Bureau already is accountable. Indeed, they will say it is more accountable than any other financial regulator. But let's look at the facts. The facts tell a different story.

First, it is necessary to appreciate the amount of power placed in the hands of the Director of this Bureau. No bureaucrat will have more power over the daily economic lives of Americans than this Director. The Director, in effect, will decide which Americans can access credit to buy homes, purchase cars, and pay for college. The Director will regulate not only financial companies but also tens of thousands of Main Street businesses. Also, the Director will unilaterally decide how the Bureau spends its up to \$600 million budget.

Despite the vast power vested in the hands of the Director, there are no effective checks on the Director's authority. To truly understand just how unusual the structure of the Bureau is, one need only compare it to other independent agencies.

Unlike the Chairman of the SEC, the CFTC, and the Federal Reserve, the Director of the Bureau does not have to obtain the agreement of other board members or other government officials before acting. Unlike other consumer protection agencies, the Bureau is not subject to the congressional appropriations process. Indeed, other consumer

protection agencies, such as the Federal Trade Commission and the Securities and Exchange Commission, are both subject to appropriations and are governed by five-member boards.

To further ensure against one party domination, the FTC and the SEC can have no more than three members from the same political party. Another important comparison is with the Consumer Product Safety Commission. This agency actually served as the template for Professor Warren when she first advocated for the creation of a consumer protection agency in an article several years ago. How is the Consumer Product Safety Commission structured? It is, first, funded through appropriations, and there is a five-member commission.

Opponents of accountability have sought to justify the structure of this Bureau by pointing to the Office of the Comptroller of the Currency and the Federal Housing Finance Agency. Once again, the facts refute their argument.

First, the Comptroller can be removed at any time by the President for any reason. In contrast, the President can remove the Director of the Bureau only for limited grounds of "inefficiency, neglect of duty or malfeasance." This means the Director of the Bureau cannot be removed even if the Director pursues policies that are harmful to the American people. How is that good for consumers?

As for the Federal Housing Finance Agency, its Director is far less powerful than the Director of the Bureau. The Director of the Federal Housing Finance Agency oversees the regulation of only 14 financial institutions. He does not have sweeping powers over all consumers and tens of thousands of Main Street businesses like the Director of the Bureau would have.

It should be common sense that the more power an agency has, the more accountable it needs to be. Moreover, rather than attempting to point to other regulators to justify the structure of the Bureau, a more responsible approach would be to make all of our financial regulators more accountable. And we should begin right here with the Bureau.

To make the Bureau more accountable, we have proposed three commonsense reforms.

First, the Bureau should be led by a board of directors, as I have said. This is such a commonsense measure that the President and the Democratic-controlled House originally called for the consumer agency to be structured as a commission.

Second, the Bureau's funding should be subject to congressional appropriations.

Currently, the Federal Reserve is required to transfer up to \$600 million to the Bureau each year. These are funds that could otherwise be remitted to the Treasury and used for deficit reduction or other things. Diverting this money to fund an unaccountable Federal agency sets a dangerous precedent of using

the Federal Reserve as an off-budget mechanism for funding programs. It had not happened before.

In addition, funding the Bureau through the Fed removes any check on runaway spending. I believe the fiscally responsible way to fund the Bureau is through the congressional appropriations process just as every other consumer protection agency is funded.

Our third reform proposal is to create an effective safety and soundness check for the prudential bank regulators.

Some have said the Bureau already has a check under the so-called Financial Stability Oversight Council veto. But this veto was designed so it would never actually constrain the Bureau. The council can only overturn a rule in an extremely rare case: The rule must put at risk the safety and soundness of the entire U.S. banking system or the stability of the U.S. financial system.

Under this construct, a rule could cause the failure of multiple banks, but the council still would not have standing to alter the rule. Additionally, the procedure is rigged to prevent the council from acting. It takes an affirmative vote of at least two-thirds of the council's members to set aside one of the Bureau's rules, and the Bureau's Director is a voting member of the council.

In addition, only 3 of the council's 10 members are actually bank prudential regulators. This veto is not a check on the powers of the Bureau. It is a sham that they have today. We need to change that.

Recent history shows that taxpayers are ultimately on the hook for bank failures. For this reason, consumer protection needs to be carefully coordinated with bank regulation to prevent against unnecessary bank failures.

As presently structured, the Bureau can ignore any advice offered by banking regulators, even if it undermines the safety and soundness of banks. Unless this structural flaw is remedied, a real possibility exists that the consumer bureau will one day cause bank failures that end up harming consumers, taxpayers, and our economy.

In light of the reasonableness of the reform proposals we have requested, the question remains: Why are the administration and the majority so insistent that the Bureau be unaccountable?

Clearly, they want to use the Bureau as a political issue. A second reason is that they believe nonbank financial institutions are not currently regulated. But this is false. The Federal Trade Commission, the State attorneys general, and State financial regulators all have authority over nonbanks. A more likely reason for today's vote is that the Bureau will provide funding to key liberal activists, such as ACORN.

Other agencies must return to the Treasury funds what they receive from enforcement actions. This consumer bureau, as now structured, is allowed to dole out money it collects from fines and penalties to liberal consumer

groups. This reveals why the administration and the majority want so desperately for the Bureau to be unaccountable. They want the Bureau to be a permanent funding machine for their political allies.

Finally, we are going to hear that our methods to achieve reform are unprecedented in the history of the Senate. It has been said:

Never before has the consideration of a nominee been conditioned on a change in the law.

This, of course, is ridiculous on its face. It is nonsense. Nominees are held routinely in the Senate by both parties, for any number of reasons, including the desire to make changes in existing law. The only thing different in this particular case is that it is completely transparent. No secret backroom deals. We are right here in the open.

After all the harm caused to consumers by financial regulators, it is time the majority stops using consumer protection as a political football and starts taking actions that actually help consumers. We can take the first step by reforming the Bureau to make it accountable to the very consumers it purports to protect.

Until that time, however, we cannot, we should not, and we will not move forward on the nomination of the Director to lead this massive and unaccountable bureaucracy. I urge my Democratic colleagues to stop obstructing reform and join with us to move forward on real consumer protection.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to be recognized for 5 minutes at the conclusion of Senator JOHNSON's remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSON of South Dakota. Mr. President, 2 months ago the Senate Banking Committee voted along party lines to send to the full Senate the nomination of Richard Cordray to be the first Director of the Consumer Financial Protection Bureau. Due to an unprecedented and irresponsible display of political gamesmanship, Mr. Cordray's nomination and strong protections for American consumers are being held hostage.

Before any candidate was put forth, Senate Republicans pledged to block the nomination, and their objections have nothing to do with Mr. Cordray's qualifications, his politics, or his character. Republican Senators have actually admitted as much, with a public pledge to block any nominee for the new consumer agency until a list of legislative demands, which would greatly weaken the agency, are met. That those demands were debated and rejected by a bipartisan Congress last year is beside the point. The minority

party is distorting the Senate confirmation process, mandated by the Constitution, to rewrite a law against the wishes of the American people.

Why do Senate Republicans remain opposed to consumer protection despite national surveys showing 3-in-4 bipartisan voters support the new agency's creation? Whatever the motivation, it appears to outweigh any concerns about protecting families buying homes, students borrowing for college, and service members or older Americans falling prey to financial scams.

This vocal minority opposed to strong consumer protection and helped by special interests have drummed up misleading claims to hide behind. They claim the CFPB Director will put the economy at risk—ignoring the effects of the foreclosure crisis, which was itself fueled by irresponsible and predatory lending. They claim the agency lacks accountability—ignoring the fact that it is bound by accountability measures comparable to or exceeding that of other independent financial regulators. And they claim restrictions on abusive financial products will hurt lenders—ignoring the damage those products inflicted on consumers tricked into signing unfair contracts filled with hidden fees and penalties.

In reality the CFPB was created as an accountable yet independent regulator in bipartisan negotiations last year. Its mission is to protect consumers—by cracking down on predatory lenders and streamlining disclosures so families can make better informed financial choices. But until it has a confirmed director in place, the CFPB's authority over nonbank financial institutions, like private student lenders and mortgage brokers, will be stifled. Every day Mr. Cordray's confirmation is blocked, vital protections are delayed, millions of Americans—including service members, veterans and older Americans—are left vulnerable, and the Nation's community banks and credit unions remain at a disadvantage to their less-regulated competitors.

The question we consider today should not be whether the minority party can hijack this constitutional process and demand as ransom legislative changes that would hamstring the consumer agency. The question should be whether Mr. Cordray is qualified for the job. And I believe that Mr. Cordray is an outstanding candidate. For years Richard Cordray has worked tirelessly as a public servant. As Ohio's Attorney General he aggressively pursued financial crimes by banks and mortgage firms, and won more than \$2 billion in settlements for the State. And as Ohio's first solicitor, he argued cases before the Supreme Court to protect consumers and enhance the quality of our financial markets.

American families paid a steep price for the financial crisis, battered by layoffs and foreclosures. Yet incredibly, many of the bad actors that contributed to the crisis remain poorly regulated and continue to lobby against

tougher regulation. Congress created the CFPB to protect consumers and clean up the marketplace, but it needs a director. Richard Cordray has proven himself capable for the job, and there is no legitimate reason to block his confirmation.

I urge my colleagues to reconsider their political game playing and do the right thing.

Stop blocking Richard Cordray's nomination and allow him to have an up or down vote.

I yield to my colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I wish to thank the chairman for his leadership on this important issue and so many others before the Banking Committee.

Since September 2008, we have learned many hard lessons about the factors that contributed to the financial crisis. To address systemic risks and to fix the system, we passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. One of the most important reforms we made in that legislation was the creation of the Consumer Financial Protection Bureau, or the CFPB. The CFPB is charged with stopping abusive mortgage originators, stopping abusive credit card companies, and stopping abusive private student loan lenders.

For years we have had organizations whose purpose was to protect the banking system and, indirectly, consumers. We need to provide a balance. Frankly, if we had this balance in place prior to 2008, we might have avoided some of the incredible costs we have seen not only to consumers but to the entire banking system as a result of predatory behavior by many different financial institutions.

Unfortunately, many of my Republican colleagues are trying not to correct deficiencies in the Dodd-Frank act or improve it. They want to gut it. One of the things they want to take out is consumer protection, and they want to do that by denying a nominee to head up this important agency.

It certainly is a prerogative of my colleagues to work on improving any piece of legislation, but effectively to say: We will not let legislation that has passed this body by 60 votes and that has ample precedent in the law to take effect because we won't put a person in charge is, I think, abusing the process.

We have worked on this issue, and we know consumers need these types of protections. We know that daily there are scams targeting the elderly. There are unscrupulous mortgage lenders and abusive payday lenders. Most financial firms are not like this—in fact, these individuals probably represent a very small minority of the financial community, but they are abusive predators, particularly to the most vulnerable people in our society.

There has been a lot of discussion about the 1 percent and the 99 percent. Well, guess what, the 99 percent are

consumers, and the 1 percent are probably those people who are running some of these financial institutions, some of them fairly and scrupulously, but others who are not.

We want to protect consumers in this country—all of us—certainly the 99 percent, but because of Republican opposition of this nominee, we are running into a real problem. If we do not have a head of this organization, then it cannot effectively implement regulations and effectively enforce the laws it has been given the task to oversee and implement.

We have to have rules that apply across the country that get at the shadow banking system, that provide the kinds of protections consumers can rely on, and that, in fact, improve the operation of the marketplace. Again, I think some of the people who regret what happened the most in the 2007, 2008, 2009 time period are financial leaders looking around and saying: Why wasn't anyone checking the behavior of some of the financial companies out there that have ruined my marketplace and ruined my reputation? Well, we have to do that.

The longer Richard Cordray is blocked, the longer such disreputable practices in the financial marketplace can continue. And Richard Cordray is entirely qualified: as former treasurer of the State of Ohio, he knows the financial business and worked closely with banks at the Treasury, as former attorney general of Ohio, he worked to protect consumers, and as an individual, he has the intellect and the character to do an outstanding job. We have to get him in place.

Who suffers if we don't do this? Well, among those who are suffering are military personnel. I had the privilege of commanding a paratrooper company in the 82nd Airborne Division in the 1970s. I was an executive officer, and I handled all the complaints, all the dunning, all the letters that were coming in from my soldiers. It has gotten worse.

Holly Petraeus, who is the head of the Office of Servicemember Affairs at the CFPB, testified before the committee. She talked about Internet lenders who target military personnel—vulnerable soldiers and their families—who are about to deploy or who just came back from Afghanistan. They will give loans of up to 40 percent of a soldier's pay. Of course, the interest rate can be as high as 584 percent APR. We can't stop that until we get somebody such as Richard Cordray in charge of this organization.

She also talked about the dunning calls, 20 times a day, threatening them: We will go to your commander. We will have you court-martialed. We will take away your security clearance. We will ruin your career.

We have to stop that. This is about real people, real consumers. We have to confirm Richard Cordray.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I understand I have 5 minutes.

The PRESIDING OFFICER. There is no order. The Senator may use 5 minutes.

Mr. MENENDEZ. Thank you very much.

Let me first thank Chairman JOHNSON for his leadership in this regard and in so many other major issues before the Banking Committee. He has really exercised a lot of our oversight obligations in making sure we implement Wall Street reform in a way that protects all of us as taxpayers in the country but creates a system that can still let us economically flourish, and this is one of those.

For too long too many in Washington protected Wall Street from common-sense regulations and let consumers fend for themselves. For too long Republican economic policy, when it should have protected the 99 percent of American consumers from the reckless financial games that led us to the brink of economic disaster in 2008, protected the 1 percent on Wall Street instead.

Banks played Russian roulette with the future and economic security of middle-class families, and no one—no one—was watching. Backed up by too-big-to-fail government guarantees, they wreaked havoc on our economy and on the jobs and retirement savings of families who played by the rules.

We have lived through the unfortunate results of lax oversight, and now it is time to work together to correct it. It is time to stop the political games and govern. It is time to act. It is time to work together to make sure middle-class families get the protection they deserve and the watchdog they need.

This is really about whose side a person is on. Cordray and consumer protection are being blocked simply because Republicans want to protect Wall Street. Wall Street already has a legion of lobbyists protecting its interests. We need someone who can protect Main Street's interests, and that is what Richard Cordray would do as the Director of the Consumer Financial Protection Bureau.

Richard Cordray is an unquestionably well-qualified nominee, and no one is disputing that fact—no one. I have not heard anyone dispute his qualifications for the job. We know the Consumer Financial Protection Bureau would be off to a good start with Richard Cordray at the helm, despite efforts by special interests to derail the process. It will be a strong but fair agency under Richard Cordray—to protect financial consumers who are tired of being tricked by the fine print, the “gotcha” paragraphs that no one but a bank lawyer would understand.

Despite hysterical claims from Wall Street, the Bureau actually won widespread praise from both consumers and the industry for its first major initiative when it created a new and greatly simplified Know Before You Owe mort-

gage loan disclosure form so that consumers understand what kind of mortgage they are getting into before they take it. Had we had that type of language early on, maybe we wouldn't have had part of the crisis in which consumers were led to bad mortgage products—products that ultimately had skyrocketing interest rates—when they qualified for a conventional mortgage. Maybe we wouldn't be in the great predicament we have been in since 2008.

Under Wall Street reform, Richard Cordray will be there to prevent those families from being ripped off again. Fixing our broken system was not easy, and it is still not over. We are still fighting to keep the ground we have gained against special interests.

The longer this nomination is delayed, the more consumers will suffer. Without a Director, the Consumer Financial Protection Bureau cannot carry out some of its most vital functions, including regulating payday lenders, pawn shops, private student loan companies, those that make unscrupulous and predatory loans on our military families—we heard Senator REED, who has great experience in this, talk about that—giving them an unfair advantage at the same time as they do that over community banks and credit unions that are regulated, that are good and that play by the rules.

Now is a time to work together to make that happen. I ask that my colleagues stop playing games. Let us go to a final up-or-down vote on Mr. Cordray.

Republicans have continued to couple Mr. Cordray's nomination to weakening the Consumer Financial Protection Bureau, which is unprecedented. Never in Senate history has a nominee been opposed in the Senate because of opposition to the whole agency for which he or she has been nominated.

I say to my Republican colleagues, let's stop playing games with the protections American consumers need. Work with us to do the job we were elected to do and confirm this nominee. Work with us to protect consumers.

We have come a long way toward a middle ground in creating this agency with checks and balances to begin with. The time has come for Republicans to join us in governing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, there has been a lot of wild rhetoric, quite frankly, hyperbole, exaggeration. I wanted to try to bring this discussion and this debate back to reality. To do that, I wanted to remind folks that conservatives objecting to this nomination have, from the very beginning, laid out three very narrow, specific, concrete reforms we are seeking. So this notion that we are against consumer protection, we are trying to gut CFPB, is silly. Let's get back to reality. Let's get back to what we have

said from the very beginning: We want these three important reforms.

First of all, we think it is very important for the single Director, a new czar quite frankly, a credit czar, to be replaced with a board to oversee this Bureau. That is how other comparable agencies operate. The best example—the best comparison—is the SEC. I think that is a critical check on the Bureau's authority to have a board that can discuss and come up with a consensus, not a single agency.

Secondly, related to that, there should be safety and soundness checks for the prudential financial regulators who oversee the safety and soundness of financial institutions. One of the core reasons we had the 2008 financial crisis is we had political agendas run amok with regard to financial institutions with no safety and soundness checks.

We are putting that same problem on steroids in this new all-powerful bureaucracy. Again, point No. 1, very specific, very concrete, very commonsense reform that we have proposed from the beginning is a safety and soundness check.

Third, and perhaps most important, the Bureau should be subject to the congressional appropriations process so there is some oversight and accountability from the American people and their representatives. That is the norm. That sort of check and balance, that oversight and accountability, is absolutely the norm. It is way outside the norm to have no oversight and accountability because, as it stands now, this new superbureaucracy has an unlimited check that it gets from the Federal Reserve—never has to get an appropriation, never has to answer a single question from the people or their representatives.

Again, the CFPB, as it sounds now, draws its budget directly from the revenue of the Federal Reserve. By the way, this revenue would otherwise be deposited into the Treasury paying down the debt. The CFPB is not just about mega institutions, mega banks—more hyperbole that has been thrown on the floor—but anyone, any business, for instance, that offers four or more payment installments and an installment plan.

Sure, that includes Citibank. It also includes your dentist, your vet, your local electronics store. CFPB right now is so unlimited in their authority that they are able to limit or prohibit the terms of any such product or service, has power over marketing of any such product or service in its jurisdiction with, again, the Federal Reserve as its basically unlimited piggy bank.

I think these concerns we have are pretty darn fundamental and have a lot of common sense in them. Again, we have three very specific, concrete reforms we want advanced. We are not trying to gut the CFPB. Those reforms would not gut it—not against consumer protection. Those reforms would still have a sound, strong consumer protection agency in place.

I think the American people deserve a more honest debate than, quite frankly, they are getting in a lot of this. This notion that if we are against ObamaCare, we are against all improvement of the health care system is silly. I think Americans get that as their health insurance premiums go up significantly now, by every accounting, by every independent source, well beyond what they would have gone up otherwise.

Being against that is not being against health care reform. We heard even earlier, if we are against the stimulus plan, we are against economic recovery. That is silly. I think Americans know that now that we are still stuck at very high unemployment. How is that recovery working out for everyone?

I was against the stimulus because I was for economic recovery, and it is the same thing here. We need to advance the interests of the American people, certainly including consumers. But we do not need an all-powerful, new czar in Washington who can hurt everyone, including consumers.

So we continue to advance three very specific, concrete, commonsense reforms. That is all we want. That does not gut CFPB. That is not against consumer protection. It is against unbridled, unprecedented authority. The American people, agency after agency, issue after issue, have seen the effects of that sort of unbridled, virtually unlimited Federal Government authority in the last 2 years. They do not like it.

Mr. RUBIO. Earlier this week in Kansas, President Obama tried to score political points by chiding Senate Republicans for refusing to vote on the confirmation of Richard Cordray to be Director of the so-called Consumer Financial Protection Bureau—CFPB—saying we refuse to let him do his job. And the President asked, Why? I am happy to answer his question, again.

Earlier this year, I joined 44 other Senators in recommending to the President three necessary reforms for the CFPB in order to improve accountability in its operations. Specifically, we asked that a board of directors be established to oversee it, that the agency be subjected to the regular congressional appropriations process, and for the establishment of a safety and soundness check for the prudential regulators.

We made clear to the President that without these reforms we would not vote to confirm any nominee to run the CFPB, regardless of political affiliation or qualifications. The President chose to ignore our suggestions. Although the President frequently pays lip service to accountability in the regulatory process, when push came to shove, he made this serious issue just another talking point.

President Obama is now trying to pressure my colleagues to vote to confirm Mr. Cordray by traveling around the country giving speeches. I want to reiterate that I will not vote to con-

firm any director for this rogue bureaucracy until appropriate checks and balances are put into place. President Obama promised that “transparency and accountability will be a hallmark of my administration”, making his refusal to make CFPB more transparent especially disappointing.

Without reform, CFPB’s director would serve with unprecedented and unconstitutional amounts of power. The director would have the power to decide what rules are issued in the name of consumer protection, how funds are spent, and how its enforcement authority will be used. In short, it empowers a single, unelected person with seemingly endless and unchecked authority. This bureaucracy holds the sweeping ability to limit choices when it comes to commonly-used financial products such as home equity loans, credit cards, and student loans. Simply put, a designation from the CFPB director saying these products are “abusive” could restrict the availability of credit to consumers and increase the cost of goods or services for all Americans.

This year alone, over 70,000 pages of new regulations have been added to the books from agencies such as the Environmental Protection Agency and the National Labor Relations Board, oftentimes without any compelling justification for their existence. The last thing job creators in America need is more uncertainty from a powerful government agency such as the CFPB that will receive a blank check for a half billion dollar budget with virtually no input from Congress.

President Obama has urged the American people to “help hold [him] accountable”. I stand with my Republican colleagues in an effort to do just that. The truth is we need transparency in government that provides greater confidence that regulations are designed to protect consumers from unfair practices, without destroying jobs. Until basic transparency requests are made, I will not support allowing the CFPB to operate with unaccountable leadership.

Mr. CRAPO. Mr. President, both sides agree that everyone benefits from a marketplace free of fraud and other deceptive and exploitative practices. The disagreement is over the best way to structure our Federal regulatory agencies to accomplish this goal and provide accountability.

One of the lessons of the financial crisis is that we need a supervisory program that looks and considers how safety and soundness and consumer protection work together and reinforce better and safer services to banking customers. Far too often, supervision either looked at consumer issues in isolation—promoting access to credit and home ownership—or it looked at safety and soundness in isolation, such as ensuring that customer information was legally accurate but not asking whether it was understandable to bank customers.

We should have strengthened the link and coordination between prudential supervision and consumer protections rather than severing it. Instead Congress institutionalized this separation by creating a Consumer Financial Protection Bureau and blurred the role and accountability of the prudential regulators and the new Bureau.

Mortgage underwriting is a good example of an issue that was found lacking before the financial crisis and has the potential to be subject to an even more bureaucratic regulatory system going forward. I say potential because it is unclear to me where the authority of the Bureau stops and where the authority of the prudential regulators overlaps on several important issues that will likely cause confusion and potentially inconsistent regulatory approaches. Already we are seeing conflicts among regulators with different regulators adopting different consumer protection rules and duplication in examinations.

From my perspective, the new Bureau is a massive, expensive government bureaucracy that is immunized against meaningful oversight by either Congress or the President, and dramatically extends the Federal Government’s control over the economy.

According to analysis from Andrew Pincus, a partner in the law firm Mayer Brown LLP:

The Bureau’s structure has a number of features that, when taken together, concentrate an amount of unchecked authority in a single individual—the Director—that is unprecedented for a federal agency that regulates private entities and individuals:

First, the Bureau will be headed by a single Director with complete, unilateral authority to make all regulatory and enforcement decisions and to hire and fire all personnel, including his or her own deputy.

Second, the Bureau’s Director does not serve at the pleasure of the President. Rather, during his or her five-year term, the Director may be removed only for inefficiency, neglect of duty, or malfeasance in office. That standard eliminates the President’s power to remove the Director based on a policy disagreement: once nominated and confirmed, the Director cannot be overruled by the President.

Third, the Bureau is exempt from the congressional appropriations process. It is funded instead by a transfer of money from the Federal Reserve in an amount determined solely by the Director, subject only to a cap that already exceeds \$550 million, will increase 10% for the next fiscal year, and is subject to automatic inflation adjustments thereafter.

While I appreciate the willingness of Richard Cordray to serve and answer questions, I can’t support the consideration of any nominee to be the Director of the Bureau until the agency is reformed to make it more accountable and transparent.

First, we would establish a board of directors to oversee the Bureau. This would allow for the consideration of multiple viewpoints in decisionmaking and would reduce the potential for the politicization of regulations. A board of directors structure is consistent with the organization of the Federal Reserve

Board, National Credit Union Administration, FDIC, SEC, CFTC, and Federal Trade Commission.

Second, we would subject the Bureau to the congressional appropriations process to ensure that it doesn't engage in wasteful or unnecessary spending. This also gives Congress the ability to ensure that the Bureau is acting in accordance with our legislative intent. The SEC, CFTC, and the Federal Trade Commission have long been subject to the appropriations process for the same reasons.

Finally, we would establish a safety and soundness check. This would strengthen the link and coordination between prudential supervision and consumer protections.

Given the enormous impact the Bureau will have on the economy, it is important for Congress to revisit its structure and authorities to make it more accountable and transparent.

Mrs. MURRAY. Mr. President, I come to the floor to speak about the nomination of Richard Cordray to lead the Consumer Financial Protection Bureau and to urge my colleagues to join me in voting in support of his confirmation.

In July of last year, I was proud to join many of my colleagues in the Senate to pass comprehensive Wall Street reform legislation that is already working to protect middle-class families, hold Wall Street accountable, and put in place policies to make sure taxpayers will never again be left holding the bag for the big banks' mistakes. I supported this legislation because for far too long the financial rules of the road had not favored the American people. They were tilted toward big banks, credit card companies, and Wall Street, and they were twisted and abused to make sure no matter what happened, the financial industry would come out ahead.

When the economy was roaring, the big banks made enormous sums of money and handed out huge bonuses to their employees. But when the products they created brought down the banks and pulled Main Street down with them, it was the taxpayers who had to foot the bill to prevent absolute calamity. Wall Street had a pretty good system going for a while: Heads they won, tails the taxpayers lost. To correct this, we fought to pass Wall Street Reform last year over Republican objections, and we took a huge step in the right direction. We strengthened the rules. We increased the oversight. And critically, we created the first-ever agency dedicated to protecting middle-class families, seniors, and small business owners from the financial fraud and scams that have devastated so many.

The mission of this new Consumer Financial Protection Bureau is clear: to make sure that consumers come first—that the financial industry can no longer pull fast-ones on their customers—and, fundamentally, that the markets for consumer financial products and services actually work for all

Americans. The CFPB's job is to help consumers understand the financial products that are being marketed to them every day because we know the big banks win when the American people don't understand the fine print. And it is to make sure that the financial firms are playing by the rules and to stand up for the American people and enforce those rules if consumers are being lied to, scammed, or cheated.

Over the last year the CFPB has been staffing up and ramping up and has already started working to protect consumers. But without a confirmed Director, they are simply unable to do everything possible to stand up for middle-class families. Their hands are tied. Without a confirmed Director, the CFPB doesn't have the full authority to protect consumers who use non-bank financial institutions such as payday lenders, credit-reporting agencies, and debt collectors, which are services many working families depend on, as well as so many of our Nation's veterans and servicemembers. This isn't right. We created the CFPB to protect all families and consumers, and we need to confirm a Director to give them the tools they need to do that.

I was proud to support President Obama's appointment of Elizabeth Warren to help set up the new Bureau. I think she did a fantastic job, and I am deeply disappointed that Republicans were so opposed to her work standing up for middle-class families against the big banks that they said they would block any attempt to name her as full-time Director. I thought the way Elizabeth Warren was treated by Senate Republicans was truly shameful. But she hasn't given up, and she is still fighting for the middle-class families and consumers she has always been such a passionate advocate for.

I am very glad that President Obama nominated another strong advocate for the middle-class to fill this role. Richard Cordray has been serving as the Chief of Enforcement at the CFPB, so he understands the mission and the need to fight for the rules that protect consumers. He previously served as attorney general and State treasurer in Ohio, where he amassed a strong record of standing up for seniors, investors, business owners, and consumers. He has received support from Democrats and Republicans, and he is the right man for the job.

But the Republicans who have come out in opposition to this nomination don't seem to be opposing Richard Cordray. They seem to be opposed to the very idea that anyone should be in a position to stand up for consumers and families in the financial products market. They want to keep this position open because they are worried that this agency is going to have too much power.

Well, the Consumer Financial Protection Bureau was designed to have power. It was created to put that power in the hands of middle-class families and consumers and to take some away

from the big banks and credit card companies that had it all before.

So once again we have a simple choice before us in the Senate: Do you stand up for middle-class families who deserve to be protected from scams and financial gimmicks or do you stand up for the big banks and Wall Street firms that are scared to death that a powerful consumer advocate will cut into their fat profits and big bonuses? I know where the American people stand. I stand with them. And I truly hope that Republicans have a change of heart and stand with us to confirm this highly capable and effective nominee so the CFPB can do the job the American people expect and deserve.

Mrs. BOXER. Mr. President, I wish to express my strong support for the President's nomination of Richard Cordray to be the first Director of the Consumer Financial Protection Bureau, CFPB. Mr. Cordray is an exceptionally well-qualified nominee who deserves an up-or-down vote in the Senate.

The opposition to this nomination has nothing to do with Mr. Cordray's credentials and is yet another attempt by Republicans to undermine the CFPB and stop it from cracking down on unscrupulous and fraudulent practices by big banks, credit card companies, payday lenders, and other financial firms.

The CFPB was established as part of the Dodd-Frank financial reform legislation that overhauled our banking system. Before the financial crisis, no single agency coordinated Federal consumer protection. Banks and financial companies could choose their own regulator, which enabled them to avoid regulations with real teeth. The failure of Federal agencies to coordinate and the lack of any effective consumer watchdog agency allowed financial firms to pursue deceitful lending practices that hurt American families and caused the worst recession since the Great Depression.

The CFPB was created to solve this problem and to make sure that financial markets work for all Americans, not just big business. The CFPB has already begun reviewing many areas of consumer protection law, including mortgage disclosure forms. It will enforce new rules for credit cards, require mortgage servicers to better assist homeowners in avoiding foreclosure, and enforce new rules on bank overdraft fees.

President Obama appointed Elizabeth Warren, a respected law professor and dedicated consumer advocate, to set up the CFPB. Elizabeth Warren was selected for her long history of independent, unflinching consumer advocacy, and under her leadership the CFPB had a running start. But Republicans adamantly opposed her as CFPB director, before she had even been nominated. They knew she would crack down on abusive practices in the banking and credit card industries. And they know that by law, the CFPB cannot exercise its full authority without

a confirmed Director. That is why 44 Republican Senators signed a letter promising to oppose any nominee, of any party, until their demands to cut back the agency's power and independence are met.

Mr. Cordray would be an outstanding leader of the CFPB. He currently leads the CFPB's Enforcement Division. He has built his career around protecting the public interest, reflecting his commitment to consumers and his dedication to fairness. After having been a State Representative, Solicitor General and Treasurer in the State of Ohio, Mr. Cordray was elected Attorney General of Ohio in 2008. In this role, he prosecuted fraudulent foreclosures and predatory lending, and recovered more than \$2 billion for Ohio's retirees, investors, and business owners.

Mr. Cordray's nomination has broad, bipartisan support. Attorneys General from 37 States, representing both political parties, signed a letter in support of this nomination, calling him "both brilliant and balanced," with a "superior knowledge of the financial services marketplace." Sixty-one mayors from around the country, led by Mayor Villaraigosa of Los Angeles, also wrote to support his confirmation. The California Reinvestment Coalition, Center for Responsible Lending, Consumers Union, Main Street Alliance, NAACP, National Association of Consumer Advocates, AFL-CIO, AFCSME, International Brotherhood of Teamsters, SEIU, UAW, and UFCW have all expressed support for Mr. Cordray, and for confirming a director so that the CFPB can operate as intended.

It is stunning that Republicans continue to block any effort to rein in the type of reckless and abusive behavior that caused the worst economic crisis since the Great Depression.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, it never ceases to amaze me to hear my colleagues whose first loyalty is to Wall Street banks, who continue to make excuses for being against putting a consumer cop on the beat. This is an office that will be a few-hundred-million-dollar office, this consumer protection—this consumer cop on the beat.

But this consumer cop on the beat has to look at trillions of dollars in mortgages, has to protect consumers when there are \$30 billion in overdraft fees alone that banks are charging, when many times those overdraft fees are because consumers simply cannot figure out the fine print and do not understand the terms of the agreement.

In the end, again, people on this floor and their special interest friends in the Congress, the friends of the Wall Street banks, the friends of these interest groups that continue to fleece the American people—if we had had Rich Cordray or Elizabeth Warren, for that matter, the consumer cop on the beat, would we have had those kinds of fore-

closures in places such as Cleveland and Dayton? Would we have had these fly-by-night mortgage brokers from Ameriquest and New Century and others moving in and taking advantage of people? I am not sure we would have.

But my Republican colleagues, my colleagues who always do the bidding—not all of them, but many of them always do the bidding of these special interest groups that have inflicted far too much damage on this economy—I hear all this, that if we would just make some changes in the agency. I talked to the Senate Historian because I have heard these arguments: If we just change this agency, I would vote for it. First of all, I talked to the Senate Historian, who said: Never in the history of the Senate has one political party tried to block the nomination of a Presidential appointee based on wanting to change the agency. It is nothing about the qualifications of Rich Cordray. I know Rich Cordray better than anybody in this institution. He is from my State. He was our attorney general. He was the State treasurer. He was county treasurer. He was a State legislator. I have known Rich for over 20 years. I know he is qualified. Many of my colleagues on both sides say he is qualified.

But they say: We want to change the agency. We worked with Republicans to change this agency as it went through the process in Dodd-Frank. They kept shifting the goalposts. In order to accommodate Republican concerns, we made the CFPB a bureau at the Federal Reserve. Many of us thought it should be totally independent. We were willing to make that concession in order to get Republican support.

They then, after we did that, asked for regular GAO audits of the books. They got them. The GAO said the CFPB passed with flying colors. They said: We do not like Elizabeth Warren, give us someone else. Elizabeth Warren withdrew. She was a great consumer activist, would have been very good at this. We are replacing her—the President is—with Richard Cordray from Ohio. He will do this job well.

Then, after he is appointed, they say—and Richard Cordray has support from banks and credit unions and consumer groups. That is still not good enough. They asked the President not to recess appoint a Director. The President agreed to that. They are moving the goalposts. Now they are saying they will not approve anyone to serve as the Director of the consumer bureau unless we change the Bureau.

In other words, to protect their Wall Street friends, they are saying: We are not going to allow a Director to be in place unless we weaken this agency. As Senator REED from Rhode Island said, would we not appoint a Director of the Food and Drug Administration in the future until we rolled back all food safety laws? Are we not going to protect the Consumer Products Bureau in the government, in the Department of

Commerce, until we roll back child toy safety laws? That makes no sense.

This was voted with more than 60 votes—61 or 62, if I recall—a supermajority in this Congress 2 years ago. We allowed all kinds of amendments. We accepted many changes that Republicans wanted. But in the end, it is a choice: Are we for consumers or are we for Wall Street? We know who it is. I am not asking my colleagues to vote for him. I am asking my colleagues to let us have an up-or-down vote. Let us vote on it. Do not filibuster. Do not block the vote.

Understand, this is a vote coming up that is to break a filibuster, to break a Republican filibuster, where Republican Senators almost always are flacking for Wall Street. They do that. It never ceases to amaze me.

So all we ask is an up-or-down vote. Vote yes for cloture so we can have an up-or-down vote for Attorney General Cordray.

I yield the floor and ask for a "yes" vote.

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

Mr. SHELBY. I yield back my time.

CLOTURE MOTION

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

The legislative clerk read as follows.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection:

Harry Reid, Joseph I. Lieberman, Jeff Bingaman, Patty Murray, Patrick J. Leahy, Kent Conrad, Sheldon Whitehouse, Jack Reed, Benjamin L. Cardin, Barbara Boxer, Al Franken, Max Baucus, Richard J. Durbin, Robert Menendez, Jon Tester, Sherrod Brown, Tom Harkin, Tim Johnson.

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

The question is, Is it the sense of the Senate that debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection, for a term of 5 years, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Ms. SNOWE (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 223 Ex.]

YEAS—53

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (MA)	Landrieu	Schumer
Brown (OH)	Lautenberg	Shaheen
Cantwell	Leahy	Stabenow
Cardin	Levin	Tester
Carper	Lieberman	Udall (CO)
Casey	Manchin	Udall (NM)
Conrad	McCaskill	Warner
Coons	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murray	

NAYS—45

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Moran
Blunt	Hatch	Murkowski
Boozman	Heller	Paul
Burr	Hoeben	Portman
Chambliss	Hutchison	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Sessions
Collins	Johnson (WI)	Shelby
Corker	Kirk	Thune
Cornyn	Kyl	Toomey
Crapo	Lee	Vitter
DeMint	Lugar	Wicker

ANSWERED "PRESENT"—1

Snowe

NOT VOTING—1

Kerry

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45, and one Senator responded "present." Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

VOTE EXPLANATION

Mr. KERRY. Mr. President, I was necessarily absent for the cloture vote on the nomination of Mr. Richard Cordray to be Director of the Consumer Financial Protection Bureau. If I were able to attend today's session, I would have supported cloture on this nomination.

LEGISLATIVE SESSION

MIDDLE CLASS TAX CUT ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order, the Senate will resume legislative session and the motion to proceed to S. 1944, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 1944) to create jobs by providing payroll tax relief for middle-class families and businesses, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. LEE. I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEE. Mr. President, I stand today to urge my colleagues to support efforts to bring forward a balanced

budget amendment, one that can be passed out of both Houses of Congress and submitted to the States for ratification.

Article V of the Constitution gives us the power to change the Constitution from time to time, to modify our laws, that 224-year-old document that has fostered the development of the greatest civilization the world has ever known.

We have done this 27 times. We have done it at times in order to protect and preserve the Nation our ancestors fought so valiantly to create and later again to defend. We have to modify our government, the manner in which we do business, in order to preserve that system, in order to make it strong, in order to ensure that it will continue to be strong for future generations.

We made it stronger when, for example, we added the Bill of Rights shortly after the ratification of the Constitution. We made it stronger again when, for example, we added the so-called Civil War amendments, amendments XIII, XIV, and XV, ending slavery and the badges and incidents thereof. We made it stronger when we made clear that women must always be given the right to vote. We have made it stronger a number of times. And the time to make it stronger has come yet again.

It is time to modify the Constitution to limit—to restrict—Congress's current power granted by article I, section 8, clause 2 of the Constitution to borrow money on credit of the United States. The reason we need to do this is because this power has been so severely abused over such a prolonged period of time that it is causing devastating consequences for our economy and for our ability to fund the operations of the government.

We have now accumulated over \$15 trillion in debt as a country. That works out to about \$50,000 for every man, woman, and child in America. It works out, arguably, to about \$120,000 to \$150,000 for every taxpayer in America. This is lot of money. It also represents between 90 and 100 percent of our gross domestic product annually, depending on whose statistics you follow. This is troubling, given that there is an abundant amount of research indicating that once a country's sovereign debt-to-GDP ratio crosses the significant 90-percent threshold—which we have now done—economic growth tends to slow, tends to slow to a point that an economy as large as ours can expect to lose as many as 1 million jobs a year. We can't afford to lose jobs, especially when we know one of the major causes is our national debt. It is time we change the way we do business. It is time to change the manner in which Congress acquires new debt.

This is no longer an issue that is either Republican or Democrat, that is either liberal or conservative. It is simply American. I remind my colleagues, whether you are concerned on the one hand about preserving America's leadership, its ability to fund its national

defense program or, on the other hand, if you are most concerned about funding our entitlement programs, you should want a balanced budget amendment because this is what we need to do, this is what we have to do in order to protect our ability to fund both of those things and everything else we do, you see, because by the end of this decade, according to the White House's own numbers, we will be paying close to \$1 trillion every year to pay the interest on our national debt. Just the interest alone. We are currently spending a little over \$200 billion a year on interest—still a lot of money but about \$800 billion lower than what we are likely to be spending by the end of this decade.

Where will that additional \$800 billion every single year come from? This isn't a discretionary sum. This is money we have to pay. It is the first thing we have to pay. Where will that \$800 billion difference be made up? At that point, we can't expect simply to raise taxes to make up that difference. I am not aware of any tax increase plan that could bring in that much additional revenue every year, without stagnating our economy to the point that we might, within 1 year or 2 years, bring in less revenue rather than more—certainly not \$800 billion more. Nor am I aware of any plan whereby we could simply borrow an additional \$800 billion to pay that interest, because doing so, of course, would cause our interest rates to skyrocket, grow out of control, and our interest payments would be even more significant at that point, thus further impairing our ability to fund everything from defense to entitlements. So at that point, the only option on the table would be dramatic, severe, abrupt, even Draconian cuts to everything from defense to entitlements and everything in between. We don't want this. There is a better way. And the better way forward consists of a severe permanent structural spending reform that can be achieved only through a balanced budget amendment.

Let me explain what I mean by that. And, more importantly, let me explain what I don't mean by that.

We have to be aware of things that masquerade as balanced budget amendments, things that will actually do the job instead of purporting to do the job, distracting the public's attention away from the need to do this while in effect doing nothing. We need to be aware of what I sometimes call the Trojan horse balanced budget amendment proposal.

There are a few hallmarks of what a real, effective balanced budget amendment would accomplish. First and foremost, it has to apply to all spending in requiring Congress to provide a supermajority vote for any borrowing authority. There are some who have suggested we should have a balanced budget amendment that exempts certain categories of entitlement spending. But, of course, as we all know, it is entitlement spending that continues to

consume a larger and larger share of our national budget each and every year. It is entitlement spending that is anticipated to have shortfalls for sums that will have to be expended for Americans alive today. It could range anywhere from \$50- to \$60- to \$110 trillion in unfunded entitlement liabilities. So simply exempting entire categories of entitlements is one of these hallmarks of a Trojan horse balanced budget amendment. We can't do that. We need it to apply to all Federal outlays, all Federal spending.

Second, an effective balanced budget amendment must cap spending at the average historic level of Federal revenue. Over the last 40 years, our average take, our average income as a percentage of GDP, has been about 18 to 18.5 percent of our gross domestic product. We need to make sure we are not spending more than that; that Congress can't, without a supermajority vote, spend more than 18 percent of GDP in any given year. Otherwise, we run the risk that Congress will find a way through tricky accounting schemes to circumvent the restrictions to make sure it is not spending more than it takes in.

Third, the supermajority requirement must apply to the folks in both Houses of Congress every time Congress wants to spend more than it takes in. Any balanced budget amendment proposal that allows for a simple majority to bring about an exception to these spending limitations is one that Congress can and will use to circumvent the amendment entirely. Let me explain what I mean.

We have had in the past certain statutory legislative limitations on Congress's spending and borrowing power. Some of these have been known as the Graham-Rudman-Hollings legislation, and also the pay-go rules. But because Congress makes those laws and because they haven't been reduced to a constitutional amendment, just as Congress giveth, Congress taketh away, and Congress has seen fit to exempt itself of those rules. A balanced budget amendment, even while enshrined in our Constitution, becomes no more effective than those statutory or internal rules unless every time Congress wants to get around those limitations Congress is required to cast a supermajority vote to justify that excess.

Finally, an effective balanced budget amendment must require that Congress cast a supermajority vote anytime we raise the debt limit. This will give us an additional guarantee that tricky accounting mechanisms will not be used to circumvent some of these most important restrictions. Without these restrictions, Congress will continue to spend out of control, because Members of Congress tend to be rewarded when they spend and they tend to be criticized when they cut, and political pressures are such that I fear this spending will continue out of control in perpetuity until that moment in which we

reach our natural mathematical borrowing limit—not our statutory debt limit, our natural mathematical borrowing limit. It is at that point when the most abrupt, the most painful, the most Draconian cuts will have to be made. We can do this in a way that makes sense. We can do this in a way that is sensitive to the needs of the most vulnerable Americans, those who have become the most dependent upon our entitlement State, most dependent for their day-to-day existence on these very programs. Those programs will have to be cut abruptly and in a most painful manner unless we take the necessary steps right now and start moving onto a smooth glidepath toward a balanced budget amendment.

We may not be able to balance our budget overnight, but we can do it over the course of a few years. That is exactly what this would allow us to do.

I have worked closely with a number of my Republican colleagues in supporting S.J. Res. 10, a balanced budget amendment proposal that has the support of all 47 Republicans. One of my close allies in this endeavor has been my friend and colleague, the junior Senator from Kentucky. I would like to ask him to share his perspective on why this is necessary.

So I ask Senator PAUL why does he think this is so important for us to have this amendment right now.

Mr. PAUL. I think Congress has failed. We have not passed a budget in 2 years, much less a balanced budget. We cannot even pass a budget under the normal procedures, and we are showing no signs of being able to balance our own budget.

They say the American public, when we ask them are they for a balanced budget, 70 to 75 percent of the people are for it—Republicans, Democrats, and Independents. Congress currently has about a 10-percent approval rating. My thought is maybe our approval rating is so low because we are not listening to what the people want. The people want us to balance our budget. They want us to do the responsible thing. But they also do not want to say: Oh, Social Security, we are going to put that off to the side. They want the Social Security fund to be sound too.

What are we doing right now? We are reducing the funding to Social Security. We are doing exactly the things we should not be doing. So it is important, as my colleague said, that the balanced budget amendment include all spending, and we need to balance our budget.

Mr. LEE. If the Congress is consisting of a Senate and House, and the Members of the Senate and House are elected representatives of the people who stand for reelection at regular intervals, and if the American voting public overwhelmingly supports a balanced budget amendment, why haven't we then passed it and given the States an opportunity to ratify such an amendment?

Mr. PAUL. The big driving force here is the entitlements. If we look at the revenue coming into the government, it is all being spent on entitlements and interest. Forty percent of every dollar is borrowed, but that means we have to borrow all the money for national defense, for our roads, all the rest of government. Forty percent of every dollar, \$40,000 a second, is being borrowed. Why don't we come to an agreement?

I have been asking many people on the other side that, and they say we will not fix entitlements until we have a \$1 trillion tax increase. If that is the starting point, we are never going to fix entitlements because many of us think raising taxes is a mistake, in the middle of a recession, and we think more money left in the private sector would be better spent for jobs.

We have the balanced budget debate as part of this debate on how to reduce spending on the entitlement programs because they consume 60 percent of the budget. But there is this unwillingness up here. I think people would like us to find solutions. When I go home to my State, it doesn't matter whether they are a Republican or Democrat or Independent; they want us to fix the entitlement programs. They don't want it to be dependent on increasing taxes on everyone also.

Mr. LEE. What is my colleague's sense as to how the various State legislatures are likely to respond to a constitutional amendment proposed by both Houses of Congress? Does he think they would likely ratify such an amendment by the necessary three-fourths margin?

Mr. PAUL. In the last year, I spoke before my State legislature to a joint session of the House and Senate, and there was overwhelming support for a balanced budget amendment. I think there is actually a movement out there to do it if we do not do it. There is so much feeling among the public that this enormous debt is hurting us.

When I go home and talk to people, I say: Look, the people the debt hurts the worst are those on fixed incomes, senior citizens, and those in the working class. Those are the people who are being hurt by this debt because it causes rising prices. As we print the new money, those people are hurt every time they go buy gas at the pump, every time they go to the grocery store. The rising prices are hurting senior citizens and the working class. The only way we are going to fix it is to have rules that must be obeyed.

Mr. LEE. So they are paying for Washington's fiscal irresponsibility in the form of job losses and in the form of increased prices for goods and services and in the form of inflation.

It is likewise my experience with my State legislature that they seem to be very supportive of it. In fact, I have a document here signed by the legislative leaders of my State: by Governor Gary Herbert, by Utah house of representatives speaker Rebecca

Lockhart, and by Utah State senate president Michael Waddoups. It concludes essentially as follows:

We urge the United States Senate and House of Representatives to pass a balanced budget amendment and send it to the states for ratification. Additionally, we urge Congress to make Utah's current resolution part of the CONGRESSIONAL RECORD.

They also proceed to explain why they feel so strongly about this. They say:

Not only for our own sake, but for future generations as well, the states must now combine in an unwavering resolve with convincing action to put the nation's financial house in order. Passage of your own state's resolution urging the support for a balanced budget amendment can help make this happen. Please join with Utah to call upon Congress to immediately pass a balanced budget amendment. We respectfully encourage you to urge your congressional delegation to act in your behalf.

They are calling not only on Congress but also their fellow State legislators throughout the country to urge this same action from Congress. In the same breath, they also adopt it, and they supported wholeheartedly the specific balanced budget amendment proposal that is found in S.J. Res. 10.

I thank them for doing that. I think they reflect the views of so many of our State legislatures which balance their budgets every single year. Most of them do. It is not news when they do it. It is not news because it is what is expected. It is expected because that is what they do.

I look forward to the day and age when it is no longer news when Congress balances its budget.

I would like to ask Senator PAUL another question. Why is it that so many are fond of saying, as our President has recently said, "We don't need a balanced budget amendment; what we need is for Congress to just do its job"? Why isn't that enough to carry the day?

Mr. PAUL. The problem is, in the past we have had rules—as the Senator mentioned, Gramm-Rudman-Hollings, pay as you go. I think pay as you go, which was passed in the late 1990s, was broken 700 times. There doesn't seem to be the spine or will power here to say no. Everybody wants something from government, but they do not realize that by getting things from government we do not pay for has ramifications.

Admiral Mullens said last year that the biggest threat to our national security right now is our debt. Erskine Bowles, head of the Debt Commission, said the most predictable crisis in our history is going to be a debt crisis.

For those on the other side who will oppose a balanced budget, they will need to explain to the American people when chaotic situations come and we are having trouble paying for those things that come from government, when the value of the money is destroyed and when prices are rising dramatically, they will have to explain to the American people why they thought

it was not necessary to balance the budget.

I have seen no willpower to attack entitlements. There are simple ways. We could gradually raise the age of the entitlement eligibility and means test the benefits. We could fix Social Security tomorrow. We could fix Medicare tomorrow. But the other side is unwilling to talk about entitlement reform unless—they believe they are owed some obligation of raising taxes by \$1 trillion. That would be a disaster for the economy, and it is beyond me why the other side will not say let's fix Social Security.

What would it take to fix Social Security? What would it take to fix Medicare? I think we could fix all of these problems, but I do not think the dialog is there. I have been trying to ask questions to the other side for months now, and we are not getting anywhere.

Mr. LEE. I think most Members of Congress would acknowledge that their constituents want the Federal budget balanced. Why is it not enough for us just to tell Members of Congress: Please balance it. We don't want to have to restrict your authority. We don't want to have to take the keys away from the irresponsible driver. We just want you to be responsible. Why doesn't that work?

Mr. PAUL. I think because so much of government spending is considered to be mandatory, so it just keeps enlarging and expanding. Also, because people have great big hearts and they want to help everyone, but they do not realize the ramifications of accumulating such a massive debt. As we accumulate this debt there are ramifications. There are higher prices and the threat of an economic collapse.

Greece is going under. Italy is behind them. Portugal, Spain—they are struggling under this burden of debt. They say when a country's debt equals its economy, when it is about 100 percent of its gross domestic product, it is losing 1 million jobs a year.

Our debt is stealing American jobs, it is making us weaker as a country, making us vulnerable, making our national security vulnerable. But we have to do something. There is no evidence in this body we can even pass a budget, much less a balanced budget.

I think everything about this body shows a failure to be fiscally responsible and we need stronger rules.

Mr. LEE. Perhaps it is inherent in the institution itself, in the forces at play, that have made Congress uniquely vulnerable to this kind of massive deficit spending. Whatever the reason, we know Congress is not willing, is not able, or at least in recent years has not been inclined except in rare, unusual circumstances to balance its own budget.

That being the case, we cannot assume that Congress will all of a sudden start doing its job, as those who have used this argument have insisted. Part of Congress's job, as Congress has come to perceive it, is to engage in deficit

spending. One of Congress's powers, as Members of Congress who read the Constitution will point out, is to borrow money on the credit of the United States. So it is not enough to simply tell Congress to do its job because it has regarded this kind of massive deficit as consistent with that mandate, consistent with that injunction.

Meanwhile, Congress is continuing to occupy a larger and larger share of the American economy. We have to remember that for the first 150 years or so of our Republic's existence, we were spending between 1 percent and 4 percent of gross domestic product at the Federal national level, with only two brief exceptions—once during the Civil War and once during and then the immediate aftermath of World War I. But that all started to change in the 1930s when we broke into double digits for the first time ever during peacetime. We have never really gone back.

Now the Federal Government is spending about 25 percent of GDP annually. Roughly a quarter out of every dollar that moves through the American economy every year is taken out of the real economy by Washington. It is absorbed within the Federal morass that is our government. That is a problem. That needs to change.

I fear, I suspect, I firmly believe that it will not change until we take this power away, until we at least impose severe restrictions on Congress's borrowing power because it has become part of Congress's nature to engage in this kind of out-of-control deficit spending.

I would like to ask Senator PAUL another question. How does he think it would impact the lives of Americans, of Kentuckians, on a day-to-day basis, if we were to pass an amendment such as this and have it ratified by the States?

Mr. PAUL. People maintain that they are for jobs, for getting the economy growing again. If we were to pass a balanced budget amendment and send it to the States this year, it would create more jobs and create a better psychology than we have had in this country in decades. I think we would see a rise in the stock market like we have never seen before if we said to Wall Street and said to investors worldwide: We are going to balance our budget; we are not going to spend more than we take in.

I think we would see an economic recovery begin as we have never seen in this country. I think we would see millions of jobs created. That is why we have to do this. That is what the American people want.

What amazes me about this debate is we are going to have this debate and have this vote and the vast majority of the other side said they will not vote for a balanced budget amendment.

I say take that home. Tell your people at home that you are opposed to balancing the budget, and let's run on that. Let's see who wins the elections in the future because our country's future depends on balancing our budget

and controlling the debt. I hope we do not wake up when it is too late.

Mr. LEE. I could not agree more with that assessment. It is important for us to remind our colleagues of that because according to a recent CNN poll, the American people overwhelmingly support this by a margin of about 75 percent. Those who oppose it, those who are Members of this body, those who are Members of our sister body—the House of Representatives—who choose not to support it, will cast their “no” vote at their own political peril because the American people are standing and they are demanding more. They understand that, in the words of Benjamin Franklin: “He’ll cheat without scruple who can without fear.”

When Congress is free to spend more than it takes in every single year without political consequence, bad things happen. When Congress starts to manipulate more and more of the economy, that is something the American people understand is hurtful rather than helpful to them, to the people on the ground, to the person who is unemployed and looking for a job, to the person who is underemployed or underpaid for the work he does, to the single mother who is just worried about taking care of her children, to the grandparents who are worried about the future of their grandchildren, worried about the fact that for the first time in American history, Americans fear their posterity will enjoy a lower standard of living than what they have enjoyed.

All this is due to the fact that Congress has no real boundaries to its authority and recognizes no real limits on its ability to spend our hard-earned money. This has real consequences. We can forestall those negative consequences right now if we will act to restrict, on a permanent and structural basis, Congress’s ability to engage in deficit spending.

Accept no imitations, beware of the Trojan horse balanced budget amendment, the one that can be circumvented easily by a simple majority vote. Beware of the balanced budget amendment that limits, as a percentage of GDP, Congress’s ability to spend money. Look out for these principles. If we get this balanced budget amendment passed, submit it to the States for ratification. They will ratify it, and we will find our best days, as Americans, are yet ahead of us.

I urge my colleagues to cast a vote in favor of S.J. Res. 10.

I thank the Chair.

I yield the floor.

THE PRESIDING OFFICER (Mr. BROWN of Ohio). The Senior Senator from Iowa.

HEALTH CARE LITIGATION

Mr. GRASSLEY. Mr. President, in a few minutes, the Supreme Court will be addressing four issues in connection with the constitutionality of the Obama health care law. Previously, I spoke about the unconstitutionality of the individual mandate. Today, I wish to discuss the second issue of four: how

much of the law must be struck down if the Court finds the individual mandate to be unconstitutional. This legal question is called severability.

When a court rules a law is unconstitutional, it can strike down only those parts it considers unconstitutional. It can strike down the parts that are intertwined with the unconstitutional provision or it can strike down the whole law. Its action will depend upon whether the remainder of the law can function as Congress intended when it passed it.

There are rules governing severability. Normally, when only parts of a law are held to be unconstitutional, only those parts of the law are struck down by the Court. But when a statute’s unconstitutional provisions are severed, the whole law falls when Congress would not have passed the constitutional provisions without the unconstitutional ones being in it as well.

It is not enough that some of the remaining provisions are constitutional. The Supreme Court has asked whether the remaining provisions “would function in a manner consistent with . . . the original legislative bargain.”

The lower courts have reached four different conclusions concerning the health care reform law; first, that the individual mandate can be severed from the rest of the bill; second, that the individual mandate can be severed but only if the law’s related provisions that require mandatory issue and community ratings are also severed; third, the opposite position, that the mandate and the related provisions are not severable; and, finally, that the mandate is not severable and that the whole law must fall.

One of my Judiciary Committee colleagues has stated, for the Democrats, “worst-case scenario, the mandate falls.” But even the Obama administration does not take that view. The administration argues that if the mandate falls, the guaranteed issue and community rating provisions must also be struck down. The President’s administration says health insurance markets will not function if all Americans are not forced to buy health insurance and insurance companies must, nonetheless, insure everyone who seeks coverage at prices that do not reflect their health risk.

If the mandate falls, keeping any of this law would violate the original legislative bargain. I would like to remind my colleagues of that original legislative bargain. The health care law passed because the majority party—in its own partisan way—was going to pass this bill by any means necessary. The individual mandate was very critical to the ability to pass this law and to particularly pass it only by partisan considerations.

We considered an amendment in the Finance Committee that would have granted exemptions from the individual mandate to everybody who asked for that exemption. My good friend, the chairman—and that is Sen-

ator BAUCUS, as we all know—correctly stated: “The system won’t work if this amendment passes.” He further called it “an amendment which guts and kills health reform.” He commented that “if we are serious about making sure that the Americans have health insurance, we all have to participate. . . .” So the bill’s sponsors knew the whole operation of the law depended upon this very important provision that the Court is now considering on the individual mandate and whether that issue was constitutional.

Let me repeat that. The people promoting this legislation that passed on a partisan vote knew the whole operation of the law depended upon the compulsion of the individual mandate. The legislative bargain also showed this law would not have passed if a single comma had been changed. Congress could not have enacted any part of this law without the individual mandate or any other provision. That situation comes about from the fact that the bill passed the Senate by one vote and individual Senators were able to extract specific provisions that benefited their State in return for agreeing to provide their deciding vote for the bill. I think we all know the outrage that came from the grassroots of America over some of those very special provisions. We also know the American people were disgusted by these deals. But without those arrangements and deals, none of the law would have passed.

Those deals were one of the reasons why the Democrats lost their 60-vote majority in the last election. So when the other body could pass a bill only by accepting the Senate bill, they blocked any amendments that would have changed so much as a comma. Had anything changed, the new 59-vote Senate majority would have prevented passage. The bill was offered on a take-it-or-leave-it basis, all or nothing. If the individual mandate is struck down, then the whole law must fall. Although it is not conclusive, it is certainly relevant that the law does not contain a severability clause. This is one more indication Congress thought the law was a unified whole.

It is simply not reasonable to argue that the law should survive without the mandate. The most important political accomplishment of the law is the additional coverage, not the lower costs we were promised. Without the mandate, coverage under the law evaporates.

Does anyone believe that without the coverage in the law, Congress could have passed the massive Medicaid expansion? Does anyone believe that without the coverage in the law, Congress could have passed the Draconian cuts in Medicare? Does anyone believe that without the coverage in the law, Congress could have passed hundreds of billions of dollars in new taxes? Of course not. It is simply not a legitimate argument that the rest of the bill could have ever stood on its own without the individual mandate enabling additional coverage.

I am pleased the Supreme Court has granted oral arguments devoted to the severability question all by itself. In the past, the Supreme Court has issued very activist severability rulings in which it rewrote a statute in a way Congress never would have passed it.

For instance, it completely rewrote the campaign finance laws in the 1976 Buckley v. Valeo decision in a way that produced an unworkable system that no Member of Congress would have ever voted for. In the Booker case, the Supreme Court rewrote the sentencing laws in a way that produced a very unworkable system that no Member of Congress would have voted for. This time, the Supreme Court should not use the severability doctrine to rewrite the health care law into something Congress never would have passed in the first place. It should strike down the entirety of the law in keeping with the law on this subject. Such a ruling would give us the chance to do what we did not do before: work in a truly bipartisan way to address these issues.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

LAS VEGAS HELICOPTER CRASH

Mr. REID. Mr. President, I am saddened to have learned this morning that five people were killed late yesterday in the terrible helicopter crash just a few miles outside Las Vegas. My sympathy is with the families of those who died, including pilot Landon Nield and four passengers. My thoughts are with them as the recovery efforts continue this morning and as they lay their lost loved ones to rest.

Reports indicate the aircraft was on a tour of Hoover Dam. It crashed into a remote and rocky terrain in the River Mountains between Lake Mead and Henderson, NV, a few miles from Las Vegas.

I have taken those helicopter tours. It is an exciting trip. People don't realize this, but we are just a few miles from the Grand Canyon there in Las Vegas. It takes just a short time to travel to that beautiful canyon to see where millions of people go every year to see the Grand Canyon. Hundreds of thousands of tourists come from Las Vegas to see it.

I am truly grateful for the efforts of the National Park Service rangers, the metropolitan police department, the search-and-rescue team, and the Henderson fire departments that responded rapidly to the scene of the accident.

The Federal Aviation Administration and the National Transportation Safety Board are investigating this accident as we speak. I will continue to monitor the investigation as well as the recovery efforts that are in progress.

Hundreds of thousands of tourists, I repeat, enjoy these helicopter tours each year. I am sorry innocent people lost their lives in such a rare tragedy. Nevada puts great stock in protecting the safety of its tourists, whether fly-

ing over the Grand Canyon or walking down the Las Vegas strip. I hope the inquiry into the cause of this crash will help us better protect helicopter pilots and passengers in the future.

Again, my heart goes out to the families as they mourn this awful tragedy.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. 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. GRASSLEY. If the Democrats aren't going to take their time, I would like to take 5 or 6 minutes on another subject, and I ask unanimous consent to do so.

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

BROKEN ACCOUNTING SYSTEM

Mr. GRASSLEY. Mr. President, I come to the floor today to commend Secretary of Defense Leon Panetta for personally focusing top-level attention to what has been a festering problem, and I think it is fair for me to say a festering problem for decades. I am talking about the Defense Department's broken accounting system and lack of financial accountability.

Secretary Panetta has grabbed the bull by the horns and told the military services to get on the stick and move out smartly. He wants them to fix the problem now, not later. Secretary Panetta's bold initiative is laid out in a Department-wide memorandum dated October 11 this year. In this document, he calls for an all-hands-on-deck priority effort to accelerate plans to create a modern, fully integrated finance and accounting system. Such a system, if it ever comes to be, would be designed to generate reliable, accurate, and complete financial information. Such a system should be capable of producing credible financial statements that can earn clean opinions from independent auditors. If that happens, the Department will achieve what is called full audit readiness. But now I want to warn Secretary Panetta about what has happened to so many well-intentioned Secretaries of Defense. That could be a big "if."

Under the Chief Financial Officers Act of 1990, all government agencies were supposed to reach full audit readiness 15 years ago. As I understand it, the Defense Department is now the only delinquent agency. After the passage of so much time, how is it, then, that the Pentagon cannot provide an accurate accounting of all the money it spends? Doing it is a constitutional responsibility. Not doing it is unacceptable. Why are the military services dragging their feet as they are? What is the problem? Are all of the petty fiefdoms entrenched in Pentagon bureaucracy causing the problem? Is it

because they do not want to surrender control of the money to a centralized financial authority?

This is a festering problem Secretary Panetta has tackled. As a former chairman of the House Budget Committee and Director of the Office of Management and Budget, he has the necessary knowledge and the necessary experience to get this job done.

The magic date for achieving full audit readiness at Defense was set in concrete 2 years ago. Unfortunately, this goal has a long and elusive history, and that long and elusive history is best characterized by relentless slippage. It is a rolling target date, and most experts believe the 2017 deadline is unattainable.

I am sure our tax-paying public doesn't understand why the Federal Government wouldn't have the best accounting system in the world, but they don't, particularly in the Defense Department.

Under Secretary Panetta's leadership, I hope all the slippage comes to a screeching halt and all the bureaucratic roadblocks are torn down. He has definitely turned up the heat and turned up the pressure. He has drawn a line in the sand. He wants to see results and see results now. He is calling for a revised plan for achieving audit readiness. It is due on his desk December 13. So Army, Navy, Air Force, Marines, Coast Guard, and everybody else—well, the Coast Guard is not involved but everybody else—get on the stick because that is next week. He has set a near-term goal. He wants the Department to produce partial financial statements by 2014.

As a first step, Secretary Panetta has called for the production of statements of budgetary resources by 2014. A statement of budgetary resources is just one component of a financial statement, but it represents a big important chunk of the whole. If credible statements of budgetary resources can be produced 3 years ahead of schedule, then maybe the full audit readiness by 2017 is, indeed, possible.

I also understand that Secretary Panetta's near-term goal is being incorporated in legislation working its way through Congress right now. That should help to move the ball further down the field.

Secretary Panetta's decision to set a preliminary goal of 2014 will be a good gauge—a good test—of what is and is not possible. Can the Defense Department achieve full audit readiness by 2017? We won't have to wait 6 years to find that out under the process Secretary Panetta is instituting. If problems surface early on, we in Congress can help the Department take corrective action to keep this effort on track and moving in the right direction.

A willingness and a commitment on the part of the Secretary of Defense to take on this problem goes way beyond the production of credible financial statements required by the Chief Financial Officers Act of the late 1970s. It

goes right to the heart of a much larger constitutional issue; that is, whether the Department of Defense is going to be held accountable.

The Department must be able to provide a full and accurate accounting of all the money it spends. Under article I, section 9 of the Constitution, such an accounting must be published from time to time. The taxpayers expect and deserve nothing less than that. Today, DOD can't do that. The status quo is unacceptable.

While I began conducting oversight of the Defense Department financial management issues more than 20 years ago, I did not come to fully appreciate the true understanding of the root cause issue until 3 years ago.

After receiving a series of anonymous letters alleging misconduct and mismanagement within the inspector general's audit office, I initiated an in-depth oversight review of audit reporting. Early on in the review, there was a startling revelation: One all-important, central element was adversely affecting every facet of the inspector general's audit effort, and that was the Department's broken accounting system. This dysfunctional system is driving the audit freight train. The success or failure of an audit turns on the quality of the financial data available for audit by competent examiners. The record clearly shows the quality of financial data presented for audit by the Department should be rated poor—or maybe I ought to say even worse than poor. This is what I call the “no audit trail” scenario. It is frequently encountered by auditors trying to examine Department of Defense books of account. That is the exact problem Secretary Panetta is attempting to address.

All my audit oversight work tells me that fixing the accounting machinery is the first step to audit readiness. Once a modern, fully integrated system is up and running, it should be a simple matter of punching the right computer buttons and credible financial statements will roll off of the printer. Doing routine oversight audits should be a piece of cake. Today's labor-intensive and time-consuming audit trail reconstruction work which auditors now endure in the absence of reliable accounting records will be a thing of the past. Most importantly, effective internal controls will be in place to protect the taxpayers' money against fraud, theft, and waste.

What I am saying to my colleagues is this: Secretary Panetta is on the right track. He is trying to take us to a place where we need to go and go soon. I want to help him lead us there, so I am here today to encourage and support this courageous effort to clean up the books. I admire and respect his personal commitment to such a noble cause.

I am also here to reinforce the words of encouragement contained in a letter that my friend from Oklahoma, Dr. COBURN, and I penned to Secretary Pa-

netta on November 17. We, being Senator COBURN and I, want to work with him to achieve this most worthy goal. And in the process of these remarks to the Senate, I hope other Members of the Senate, particularly those who are on the Armed Services Committee, will also give Secretary Panetta encouraging words of support and thanks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time until 2:30 p.m. be equally divided between the two leaders or their designees for debate on the Reid motion to proceed to Calendar No. 251, S. 1944; that at 2:30 p.m., the Senate vote on the motion to proceed to S. 1944; that upon disposition of the Reid motion to proceed, it be in order for the Republican leader or his designee to move to proceed to Calendar No. 244, S. 1931; that there be 2 minutes of debate equally divided between the two leaders or their designees prior to the vote; that both motions to proceed be subject to a 60-vote threshold; finally, that the cloture motion relative to the motion to proceed to S. 1944 be vitiated.

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

BALANCED BUDGET AMENDMENT

Mr. DURBIN. Mr. President, a little earlier today the junior Senator from Utah, Mr. LEE, came to the floor to discuss the balanced budget amendment. Under the budget agreement agreed to in Congress in August, both the House and Senate were required to vote on a constitutional amendment to balance the budget before the end of this calendar year. The House has already taken the vote. The measure failed. The Senate still has a responsibility to take it up, which we will do in the closing hours of the session this calendar year.

There are at least two proposals before us for a constitutional amendment, and my subcommittee, the Subcommittee on the Constitution, Civil Rights and Human Rights of the Committee on the Judiciary, held a hearing last week asking questions about these approaches to the Constitution.

The leading approach on the Republican side comes from both Senators HATCH and MCCONNELL. I am not certain which they will offer or whether the language might change at the last minute, but it would enshrine in our Constitution a disciplinary mechanism to reduce the budget deficit. This has been brought before the Senate and the House before many times. This particular proposed constitutional amendment would:

Require that in each fiscal year Federal outlays shall not exceed receipts unless two-thirds of each House votes to waive.

It caps outlays at 18 percent of gross domestic product each year unless two-thirds of each House votes to waive.

It requires a two-thirds vote in each House for any tax or revenue-raising measure.

It requires a three-fifths vote in each House for raising the debt limit.

It allows for waiver of the amendment in times of declared war or serious military conflict.

It prohibits courts from ordering any increase in revenue to enforce the amendment.

It directs Congress to enforce the amendment through appropriate legislation.

It takes effect 5 years after ratification.

This is far more extreme than the clean House balanced budget amendment, which failed to pass in that Chamber on November 18.

The testimony before our subcommittee from experts in the field said that this amendment, proposed by Senators HATCH and MCCONNELL, will require Draconian cuts in Social Security, Medicare, Medicaid, our military retirement system, and many programs important to working families.

It will make Republican fiscal policies the constitutional law of the land, giving protection to those in higher income categories from any tax increase forever, without an extraordinary vote in either House.

It would delegate the task of resolving budget disputes to our court system.

It would make recessions worse by requiring cuts in countercyclical safety-net programs such as food stamps and unemployment just at the time when those expenditures are most needed.

It would increase the likelihood of debt limit standoffs each year.

It would lead to increased burdens on our States.

During the course of the hearings, several people came forward to testify. I recommend to my colleagues that they carefully read these testimonies, which are available on the Senate Judiciary Committee website.

The first was Robert Greenstein, president of the Center on Budget and Policy Priorities. Mr. Greenstein, who is well recognized and respected on Capitol Hill, spoke about the countercyclical aspect and said that if you cut spending in the midst of a recession, you will not have the resources you need to provide unemployment benefits, food stamps, and the things that save families when they are out of work or making very little money.

I ask unanimous consent that Mr. Greenstein's statement be printed in the RECORD.

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

TESTIMONY OF ROBERT GREENSTEIN, BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS HEARING ENTITLED, “A BALANCED BUDGET AMENDMENT: THE PERILS OF CONSTITUTIONALIZING THE BUDGET DEBATE,” NOVEMBER 30, 2011

Thank you for the invitation to testify today. I am Robert Greenstein, president of

the Center on Budget and Policy Priorities, a policy institute that focuses both on fiscal policy and on policies affecting low- and moderate-income Americans. We, like most others who analyze fiscal policy developments and trends, believe that the nation's fiscal policy is on an unsustainable course. As part of our work, we have been analyzing proposed changes in budget procedures for more than 20 years. We have conducted extensive analyses of proposals to write a balanced-budget requirement into the Constitution, among other proposals.

The purpose of changing our fiscal policy course is to strengthen our economy over the long term and to prevent the serious economic damage that would likely occur if the debt explodes in future decades as a share of the economy. But we need to choose our fiscal policy instruments carefully. We want to avoid "destroying the village in order to save it."

The goal of a constitutional balanced budget amendment is to address our long-term fiscal imbalance. Unfortunately, a constitutional balanced budget amendment would be a highly ill-advised way to try to do that and likely would cause serious economic damage. It would require a balanced budget every year regardless of the state of the economy, unless a supermajority of both houses overrode that requirement. This is an unwise stricture that large numbers of mainstream economists have long counseled against, because it would require the largest budget cuts or tax increases precisely when the economy is weakest. It holds substantial risk of tipping faltering economies into recessions and making recessions longer and deeper. The additional job losses would likely be very large.

When the economy weakens, revenue growth drops and revenues may even contract. And as unemployment rises, expenditures for programs like unemployment insurance—and to a lesser degree, food stamps and Medicaid—increase. These revenue declines and expenditure increases are temporary; they largely disappear as the economy recovers. But they are critical for helping to keep struggling economies from falling into a recession and for moderating the depth and length of recessions that do occur.

When the economy weakens, consumers and businesses spend less, which in turn causes further job loss. The drop in tax collections and increases in unemployment and other benefits that now occur automatically when the economy weakens cushions the blow, by keeping purchases of goods and services from falling more. That is why economists use the term "automatic stabilizers" to describe the automatic declines in revenues and automatic increases in UI and other benefits that occur when the economy turns down; these actions help stabilize the economy.

A constitutional balanced budget amendment, however, effectively suspends the automatic stabilizers. It requires that federal expenditures be cut or taxes increased to offset the effects of the automatic stabilizers and prevent a deficit from occurring—the opposite course from what sound economic policy calls for.

Over the years, leading economists have warned of the adverse effects of a constitutional balanced budget amendment. In Congressional testimony in 1992, Robert Reischauer—then director of the Congressional Budget Office and one of the nation's most respected experts on fiscal policy—explained: "[I]f it worked [a constitutional balanced budget amendment] would undermine the stabilizing role of the federal government." Reischauer noted that the automatic stabilizing that occurs when the economy is weak "temporarily lowers revenues and in-

creases spending on unemployment insurance and welfare programs. This automatic stabilizing occurs quickly and is self-limiting—it goes away as the economy revives—but it temporarily increases the deficit. It is an important factor that dampens the amplitude of our economic cycles." Under the constitutional amendment, he explained, these stabilizers would no longer operate automatically.

Similarly, when a constitutional balanced budget amendment was under consideration in 1997, more than 1,000 economists including 11 Nobel laureates issued a joint statement that said, "We condemn the proposed 'balanced-budget' amendment to the federal Constitution. It is unsound and unnecessary. The proposed amendment mandates perverse actions in the face of recessions. In economic downturns, tax revenues fall and some outlays, such as unemployment benefits, rise. These so-called 'built-in stabilizers' limit declines of after-tax income and purchasing power. To keep the budget balanced every year would aggravate recessions." This summer, five Nobel laureates in economics issued a new statement opposing a constitutional balanced budget amendment for this reason.

Earlier this year, the current CBO director, Douglas Elmendorf, sounded a similar warning when asked about a constitutional balanced budget amendment at a Senate Budget Committee hearing. Elmendorf observed:

"Amending the Constitution to require this sort of balance raises risks . . . [t]he fact that taxes fall when the economy weakens and spending and benefit programs increase when the economy weakens, in an automatic way, under existing law, is an important stabilizing force for the aggregate economy. The fact that state governments need to work . . . against these effects in their own budgets—need to take action to raise taxes or cut spending in recessions—undoes the automatic stabilizers, essentially, at the state level. Taking those away at the federal level risks making the economy less stable, risks exacerbating the swings in business cycles."

Finally, a month ago, Macroeconomic Advisers (MA) analyzed the economic impacts of a constitutional balanced budget amendment. One of the nation's preeminent private economic forecasting firms, Macroeconomic Advisers provides analysis to major corporations and government entities, such as the President's Council of Economic Advisors under Presidents of both parties, including Presidents Reagan and George W. Bush.

MA concluded that if a constitutional balanced budget amendment had already been ratified and were now being enforced for fiscal year 2012, "the effect on the economy would be catastrophic." If the 2012 budget were balanced through spending cuts, MA found, those cuts would total about \$1.5 trillion in 2012 alone—and would throw about 15 million more people out of work, double the unemployment rate from 9 percent to approximately 18 percent, and cause the economy to shrink by about 17 percent instead of growing by an expected 2 percent.

Even if a BBA were implemented when the budget was already in balance, MA concluded, it would still put "new and powerful uncertainties in play. The economy's 'automatic stabilizers' would be eviscerated [and] discretionary counter-cyclical fiscal policy would be unconstitutional Recessions would be deeper and longer."

MA also warned that "The pall of uncertainty cast over the economy if it appeared a BBA could be ratified and enforced in the middle of recession or when the deficit was still large would have a chilling effect on near-term economic growth." MA concluded

that a BBA would have detrimental effects on economic growth in both good times and bad.

Proponents of a constitutional amendment often respond to these admonitions by noting that the proposed constitutional amendment would allow the balanced-budget requirement to be waived by a vote of three-fifths of the House and the Senate, so the BBA would be set to the side in recessions. But this response is too facile, and the three-fifths waiver provision does not solve the problem. It is difficult to secure three-fifths votes for anything; consider the paralysis that marks much of the work of the Senate. Moreover, it may take months after a downturn begins before sufficient data are available to convince three-fifths of the members of both houses of Congress that a recession is underway. Furthermore, it is all too likely that even after the evidence for a downturn is clear, a minority in the House or Senate would hold a wavier vote hostage to demands for concessions on other matters (such as new, permanent tax cuts). By the time that a recession were recognized to be underway and three-fifths votes were secured in both chambers, if such support could be obtained at all, extensive economic damage could have been done and hundreds of thousands or millions of additional jobs unnecessarily lost.

The bottom line is that the automatic stabilizers need to continue to be able to work automatically to protect American businesses and workers. The balanced budget amendment precludes that.

Nor is a recession the only concern. Consider the savings and loan crisis of the 1980s, or the financial meltdown of the fall of 2008. A constitutional balanced budget amendment would have hindered swift federal action to rescue the savings and loan industry or to rapidly put the Troubled Assets Relief Program in place. In both cases, history indicates that federal action helped save the economy from what otherwise likely would have been far more dire problems.

Moreover, the federal government provides deposit insurance for accounts of up to \$250,000; this insurance—and the confidence it engenders among depositors—is critical to the sound functioning of our financial system so that we avoid panics involving a run on financial institutions, as occurred in the early 1930s. A constitutional prohibition of any deficit spending (unless and until a supermajority of both houses of Congress voted to authorize it) could seriously weaken the guarantee that federal deposit insurance provides. That is a risk we should not take.

These are illustrations of why fiscal policy should not be written into the Constitution.

A parallel problem is that the proposed constitutional amendment would make it even harder than it already is to raise the debt limit, by requiring a three-fifths vote of both the House and Senate to raise the limit. This is playing with fire. It would heighten the risk of a federal government default. A default would raise our interest costs and could damage the U.S. economy for years to come.

MISTAKEN ANALOGIES TO STATES AND FAMILIES

Proponents of a constitutional amendment sometimes argue that states and families must balance their budgets every year and the federal government should do so, too. But statements that the constitutional amendment would align federal budgeting practices with those of states and families are mistaken.

While states must balance their operating budgets, they can borrow to finance their capital budgets—to finance roads, schools, and other projects. Most states do so. States also can build reserves during good times

and draw on them in bad times without counting the drawdown from reserves as new spending that unbalances a budget.

Families follow similar practices. They borrow—they take out mortgages to buy a home or student loans to send a child to college. They also draw down savings when times are tight, with the result that their expenditures in those periods exceed their current incomes.

But the proposed constitutional amendment would bar such practices at the federal level. The total federal budget—including capital investments—would have to be balanced every year, with no borrowing allowed for infrastructure or other investments that can boost future economic growth. And if the federal government ran a surplus one year, it could not draw it down the next year to help balance the budget.

I would also note that the fact that states must balance their operating budgets even in recessions makes it all the more important from the standpoint of economic policy that the federal government not be subject to the same stricture. American Enterprise Institute analyst Norman Ornstein addressed this matter in an article earlier this year, where he wrote: “Few ideas are more seductive on the surface and more destructive in reality than a balanced budget amendment. Here is why: Nearly all our states have balanced budget requirements. That means when the economy slows, states are forced to raise taxes or slash spending at just the wrong time, providing a fiscal drag when what is needed is countercyclical policy to stimulate the economy. In fact, the fiscal drag from the states in 2009–2010 was barely countered by the federal stimulus plan. That meant the federal stimulus provided was nowhere near what was needed but far better than doing nothing. Now imagine that scenario with a federal drag instead.”

S.J. RES. 10 AND S.J. RES. 23 RAISE ADDITIONAL ISSUES

The foregoing concerns apply to all versions of the balanced budget amendment that have been introduced. Some versions of the balanced budget amendment, such as S.J. Res. 10 and S.J. Res. 23, which are identical, raise additional concerns, because they would write into the Constitution new barriers to raising any revenues—including closing wasteful tax loopholes—to help balance the budget and also would prohibit federal expenditures in any year from exceeding a figure such as 18 percent of the Gross Domestic Product in the previous calendar year. These constitutional requirements could be overridden only by supermajority votes in both the House and the Senate.

This requirement for a supermajority to raise taxes would be extremely unwise. It would protect what President Reagan’s former chief economic advisor, Harvard economist Martin Feldstein, has called the biggest area of wasteful government spending in the federal budget—what economists call “tax expenditures” and Alan Greenspan has called “tax entitlements.”

In 2010, tax expenditures amounted to \$1.1 trillion, more than the cost of Medicare and Medicaid combined (which was \$719 billion), Social Security (\$701 billion), defense (\$689 billion, including expenditures in Iraq and Afghanistan), or non-defense discretionary spending (\$658 billion, including expenditures from the Recovery Act). Many of these tax expenditures are fully the equivalent of government spending. Let me use child care as an example.

If you are low- or moderate-income, you may get a federal subsidy to help cover your child care costs, and the subsidy is provided through a spending program. If you are higher on the income scale, you still get a gov-

ernment subsidy that reduces your child care costs, but it is delivered through the tax code, as a tax credit. (Moreover, if you are a low- or moderate-income parent with child care costs, you likely will miss out because the spending programs that provide child care subsidies are not open ended and can only serve as many people as their capped funding allows. By contrast, if you are a higher income household—and there is no limit on how high your income can be—your child care subsidy is guaranteed, because the tax subsidy that you get operates as an open-ended entitlement.) It is difficult to justify making the tax-code subsidy sacrosanct and the program subsidy a deficit-reduction target merely because one is delivered through a “spending” program and the other is delivered through the code.

And as the child care example illustrates, sharply distinguishing between subsidies delivered through the tax code and those delivered through programs on the spending side of the budget also has a “reverse Robin Hood” aspect. Low- and moderate-income households receive most of their government assistance through spending programs; affluent households receive most of their federal subsidies through tax expenditures. Effectively barring reductions in tax expenditures from contributing to deficit reduction is a prescription for placing the greatest burden of deficit reduction on those who can least afford to bear it.

The problems do not stop there. If it requires a supermajority to raise any revenue, another likely outcome is a proliferation of tax loopholes. New loopholes—including loopholes that Congress did not intend but that high-priced tax lawyers and accountants have found ways to create—could become untouchable once they appeared, because it would require a supermajority of the House and Senate to raise any revenue. It would become more difficult to close tax loopholes that opened up, since (under S.J. Res. 10 and S.J. Res. 23) special-interest lobbyists could block such action simply by securing the votes of one-third plus one member in one chamber.

Finally, as noted, S.J. Res. 10 and S.J. Res. 23 would bar federal spending from exceeding 18 percent of GDP in the prior calendar year, which translates into a limit of about 16.6 percent of the current fiscal year’s GDP. To hit that level would require cuts of a truly draconian nature. Consider the austere budget that the House of Representatives passed on April 15, sometimes referred to as the Ryan budget. Under that budget, Medicare would be converted to a voucher system under which, the Congressional Budget Office has said, beneficiaries’ out-of-pocket health-care costs would nearly triple by 2030 (relative to what those costs would be that year under the current Medicare program). CBO also has written that under the Ryan budget, federal Medicaid funding in 2030 would be 49 percent lower than it would be if the Affordable Care Act’s Medicaid expansion were repealed but Medicaid otherwise was unchanged. And funding for non-security discretionary programs would be cut more than one-third below its real 2010 level. Yet CBO says that under this budget, total federal spending would be 20¼ percent of GDP in 2030, so it would breach the allowable limit under S.J. Res. 10 and S.J. Res. 23 by four percentage points of GDP. This illustrates the draconian nature of the proposed 16.6 percent-of-current-GDP requirement.

Another way to look at this stricture is to examine federal expenditures under Ronald Reagan. Under President Reagan, who secured deep budget cuts at the start of his term, federal expenditures averaged 22 percent of GDP. And that was at a time before any members of the baby boom generation

had retired and when health care expenditures throughout the U.S. health care system (including the private sector) were one-third lower as a share of GDP than they are today. It also was before the September 11 terrorist attacks led policymakers to create a new category of homeland security spending, and before the wars in Iraq and Afghanistan led to increases in veterans’ health-care costs that will endure for a number of decades.

ESTIMATING THE EFFECTS OF SPENDING CAP IN S.J. RES. 10 AND S.J. RES. 23

To provide a more precise and detailed analysis of the impact that the spending cap in S.J. Res. 10 and S.J. Res. 23 would have, we recently conducted an analysis of its effects, using the latest Congressional Budget Office ten-year budget projections. We considered the impact if the balanced budget requirement would take effect in fiscal year 2018, as would occur if Congress approved it now and the requisite number of states ratified it by September 30, 2013. Here are the results.

—Congress would have to cut all programs (except interest on the debt) by an average of 24.9 percent in 2018. It would have to cut programs by \$1.1 trillion in 2018 alone, and by \$6.1 trillion through 2021.

—If all programs were cut by the same percentage, Social Security would be cut \$265 billion in 2018 alone and \$1.7 trillion through 2021; Medicare would be cut \$168 billion in 2018 and \$1.1 trillion through 2021; and Medicaid and the Children’s Health Insurance Program (CHIP) would be cut \$115 billion in 2018 and \$724 billion through 2021.

—Veterans disability payments, compensation, and other such benefits would be cut \$19 billion in 2018 and \$122 billion through 2021.

—Defense spending would be cut \$141 billion in 2018 and \$879 billion through 2021, on top of the reductions made to comply with the discretionary spending caps that the Budget Control Act establishes and the reductions made under the sequestration order that is expected to be issued in January 2013, pursuant to that act.

Congress would not, of course, have to cut all programs by the same percentage and likely would not do so. But if Congress chose to spare certain programs, others would have to be cut even more deeply. For example, if Social Security were spared, the average cut to all other programs would rise by more than one third, from 24.9 percent in 2018 to 34.2 percent. Similarly, if the defense budget were increased by placing it at 4 percent of GDP (exclusive of war costs) and maintaining it at that level, as presidential candidate Mitt Romney has proposed, then all other programs—including Social Security—would have to be cut an average of 38.2 percent in 2018 under S.J. Res. 10 and S.J. Res. 23.

Even if the so-called “plain vanilla” version of the BBA is pursued, rather than S.J. Res. 10 and S.J. Res. 23, the required level of budget cuts would be massive, assuming taxes are not raised to help balance the budget. Congress would have to cut everything an average of 17.3 percent in 2018, an average of 23.8 percent if Social Security were protected, and an average of 29.4 percent if the defense budget were set at 4 percent of GDP and Social Security were not protected.

CONCLUSION

Policymakers need to begin to change our fiscal trajectory. As various recent commissions have indicated, we need to stabilize the debt as a share of GDP in the coming decade and to keep it stable after that (allowing for some fluctuation over the business cycle). But establishing a balanced budget amendment in the Constitution would be exceedingly unwise. It would likely exact a heavy toll on the economy and on American businesses and workers in the years and decades

ahead. It is not the course that the nation should follow.

Mr. DURBIN. Mr. President, another testimony that I thought was extremely compelling came from Alan Morrison. Alan Morrison is an accomplished attorney and has argued many cases before the U.S. Supreme Court. He is the Lerner Family Associate Dean for Public Interest & Public Service Law at George Washington University Law School.

Professor Morrison really asked us to think through what we are doing. In fact, he asked us the most important question: If you put an amendment to the Constitution that requires a balanced budget, who will enforce it? Who will make it work? Who will decide if you have lived up to its terms? He concluded, based on his background in constitutional law and arguing before the Supreme Court, not the President. The President is not in that position to do it. The President, of course, with his budget, has his own favorites when it comes to spending and revenue.

Professor Morrison said this case ultimately has to find its way to our court system. But he made it clear that any constitutional balanced budget amendment must expressly give to the Federal courts the standing to decide the question. He raised a question that without that expressed language, he really was doubtful that the courts would take it up. They might view it as just a political question to be resolved by Congress itself.

Now, Senator LEE, who spoke on the floor earlier, has a version of the balanced budget amendment that expressly gives standing to Members of Congress, if I am not mistaken. But the point made by Professor Morrison is that any balanced budget amendment has to expressly give to our Federal court system the power of judicial review. In other words, who is going to call the fouls, the balls, the strikes, and the outs? It is going to have to be the court system when it comes to whether the balanced budget amendment is being complied with.

That is the first question but certainly not the last question.

Professor Morrison then went on to say: Now, put this in the real world. In the real world, where Congress has passed a budget, appropriations bills, and now someone is arguing that what Congress did does not comply with the new provision of the Constitution requiring a balanced budget—arguing that, in fact, Congress is overspending the amount it is allowed to spend, for example—then, of course, that case has to find its way from the Capitol Building to the President, who signed the bill, and then over to the court system.

Keep in mind, while we are in doubt about the outcome on appropriations bills and the budget, there is a serious question about how we will continue to fund our government, whether we can continue to make important payments to military retirees, Social Security recipients, Medicare recipients. All of

it is in doubt while there is a question raised as to whether the budget passed by the Congress is unconstitutional.

This is the thicket we are being led into by those who very glibly say: All we need to do is mandate in the Constitution a balanced budget, and it will just flow naturally from that mandate.

Well, listen to what Professor Morrison said:

The federal courts will (rightly) be extremely reluctant to wade into these budget battles and thus will want to be sure that there is likely to be a violation before agreeing to decide the merits. But budgets are inherently uncertain in their impact, depending on such factors as whether revenue targets are met, whether the demand for entitlements is higher or lower than anticipated, whether discretionary spending is fully realized, and whether an existing war winds down or a new one starts, each with great uncertainties accompanying them. Thus, it will be far from clear on October 1st of a given fiscal year whether a duly enacted budget will or will not be in balance, assuming that the question is reasonably close, as it is likely to be in at least some years. Unless Congress makes it clear, either in the [constitutional] amendment or perhaps by subsequent legislation, that the courts should resolve all doubts in favor of finding claims ripe, the courts are likely to be very reluctant to reach the merits even for those persons who are expressly given standing in the amendment.

Then, of course, is the question of a remedy. What if Congress passes a budget and appropriations bills, the President signs them, and they are challenged in court, and the court says: Yes, in fact, Congress has overspent beyond the requirements of the Constitution. What is next? What remedy would the courts order? What can the court do?

Can they order the recipients (of salaries, social security benefits, Medicare payments, payments under Government contracts etc) to "pay back" [a certain percentage]? Or can it order Congress to rectify the balance in the next year's budget, which would almost certainly trigger a new lawsuit? To be sure, the courts will not dismiss as moot claims that are capable of repetition, yet evade review because the duration of the violation is so limited that the courts cannot decide its legality before it has ceased.

Professor Morrison asks us to get beyond the bumper stickers and to think twice before we amend our Constitution.

In the 220 years since the enactment of the Bill of Rights, we have amended this Constitution precious few times. We have done it for compelling national reasons. We have done it to extend the right to vote to women. We have done it to make it clear that African Americans treated as slaves will be treated as citizens in the United States. We have done it to deal with questions of Presidential disability and succession. These are things which were compelling, major, national issues which could be resolved in a clear, definitive way by our Congress, working with the States for ratification.

Now comes the flavor of the day. In the midst of the deficit crisis debate,

there are those who are arguing that we should not accept our responsibility in the Senate and the House to balance the budget. No, we should just put in the Constitution that we are required to do it. And then they go further. If we are going to address it, they say, we are going to draw certain lines that future Congresses, forever, as long as this constitutional amendment applies, will be bound by—to make it more difficult to raise taxes on anyone in the United States; to make it imperative, if not mandatory, that cuts be made in programs such as Social Security and Medicare. These are questions that should be decided by Congress and the President on a timely basis.

I have been involved in the past 2 years with a lot of debate about our national budget deficit, both on the Bowles-Simpson Commission and with the voluntary effort by six Democratic and Republican Senators. It is not easy. It is very hard. But it can be done if the political will is there.

I think we need to summon the courage, the political courage and the will to do it. But we should reject—summarily reject these efforts to amend our Constitution. They are not well thought out. The Constitution is too important a document, a historical guidepost for our Nation, and an inspiration for nations around the world to put in a fatally flawed constitutional balanced budget amendment in the heat of the moment.

This is a significant vote. Those of us—and that includes every single Member of the Senate—who have sworn to uphold and defend the Constitution need to take that document very, very seriously. Those who want to amend it in quick fashion, changing their amendment language by the day, should be dismissed. If they do not show the reverence for this document that it deserves, if they do not take the time to make certain their proposals are consistent with the sanctity and importance of this document, they should not be taken seriously.

I do not believe any of my colleagues can go home having voted for that amendment and expect wild applause from audiences across America. They will understand that this was just a political reaction to a very important issue. Let's not amend the Constitution with a balanced budget amendment.

(Mrs. HAGAN assumed the chair.)

Mr. DURBIN. Madam President, I would like to make one additional brief statement. I see the Senator from Ohio in the Chamber.

The holiday season is upon us, and a lot of us are thinking about our families, and we are thinking about being with them as quickly as we can. It is a time of year that has a special significance for so many of us. But what was made clear by President Obama yesterday—and my colleagues should take note—we are not going home for

Christmas, Hanukkah, or any holiday season until we have done our job for the people of this country.

Millions of people in Illinois and across America are counting on Congress to extend the payroll tax cut. What does it mean in my State? With an average income of \$50,000 a year, it is worth more than \$1,000 a year to those families. It is worth about \$125 to \$150 a month to have a payroll tax cut—money that working families, struggling from paycheck to paycheck, desperately need to fill the gas tank, to pay the utility bills, to provide clothing for their kids, to make sure they can stay in their home. These are the basics.

No Member of Congress is going to be allowed to go home and ignore the imposition of such a new payroll tax on America. President Obama met with the Democratic leaders of the Senate yesterday, and he said point-blank—he has told the First Lady, Michelle, and his girls that, if necessary, they can have their Christmas vacation in Hawaii, which they go to each year, by themselves, and he will wait here until this job is done. I hope that does not happen for the sake of his family or for the sake of any family of any Member of Congress, but in order to avoid that, we have to do the right and responsible thing.

This afternoon, there will be a vote on the payroll tax cut offered by Senator CASEY of Pennsylvania. It is a payroll tax cut that would help millions of America's working families have more to spend and help the economy to recover. And he pays for it. He does not add to the deficit. He pays for it by imposing a surtax—listen closely—on the second million dollars earned by a person in a year, not the first million. You do not pay a penny on the first million you earn. On the second million, you will pay a surtax, and I think it is 2 percent, maybe less.

The Republicans have said: Absolutely unacceptable. We will not allow you to impose this onerous tax on these people.

People who are already making \$20,000 a week, we cannot ask them to pay 2 percent more on the next dollar they make? I do not think it is unreasonable. And if it leads to a payroll tax cut that helps families across this country, if the economy continues to recover even at a faster pace, if we see more business activity and business life and more people working, do you know what is going to happen? Those same wealthy people will prosper again, as they always do. It is in their best interests for this economy to get well. For our Republican friends to fold their arms and say: We are just not going to let you touch the wealthiest people in America, is an irresponsible position.

Senator CASEY has led this effort. It is the second effort we have made. We had one last week. The Republicans offered their alternative last week. It had 20 votes on the floor of the Sen-

ate—20 out of 47 Republican Senators. Twenty voted for it. They want to bring it up again today. They will probably get more than 20 votes this time, but it is pretty clear that the Republican Senators are halfhearted in their support of this Republican alternative.

One Republican Senator from Maine had the courage to step across the aisle last week and join us. We salute Senator COLLINS for doing that. We hope others will do it today.

We can bring this challenge to a close the right way by extending the payroll tax cut, paying for it with a tax on the wealthiest people in America. We can do our job and go home and be with our families. If Republicans will not come to the table to work with us on a reasonable compromise, I am afraid the American people will know very clearly who is to blame for continuing a tax on working families across America.

The facts are that we want working Americans to have a good year, get through a difficult time, and the economy to recover.

We should be doing this on a bipartisan basis. The President said: Roll out your Christmas trees and blankets here in the Senate because you are going to stay here, even through the holidays if necessary. We are not going to go home to celebrate until we can celebrate with American families who are counting on us across America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Madam President, I go home every weekend, back to northeast Ohio where I live in a town called Avon in Lorain County. I want to go home at Christmas. I want to be with my 3-year-old grandson and my three daughters and son. But I also think our obligation, as Senator DURBIN said, the assistant majority leader, is to stay here and get our work done. And "get our work done" means extend the payroll tax cut and extend unemployment benefits.

If we do not do that, frankly, we are ruining the holiday season for tens of thousands and dozens of tens of thousands, if you will, of Ohioans and Illinoisans and North Carolinians. If we do not do that, we do not deserve to be able to go home and be with our families. I am not trying to be a martyr, but I think it is shameful a group of people, in order to protect the highest income taxpayers in this country—those making over \$1 million a year—continue to block an extension, a continuation, if you will, of this tax cut for working families.

In my State the average tax cut that we will vote for today, and continue until it happens is about \$100, \$110, \$120 per family per month. It is absolutely unconscionable not to do that.

Senator DURBIN also talked about the constitutional amendment to balance the budget. I want to recount something I heard earlier today on the Senate floor. Two of my conservative colleagues—one from Kentucky, one from

Utah—spoke about the importance of a balanced budget amendment. I supported a balance budget amendment in the past when I was in the House of Representatives. In here I have actually voted—it was part of an effort to get us to a balanced budget in reality in the 1990s. When President Bush took office we had the largest budget surplus. We balanced the budget and then some. We had the largest budget surplus in American history.

I was part of that. I was proud of that. We accomplished what we set out to do. We accomplished what we said we would, and we accomplished something very important for our country. It was then in the first years of the last decade—in 2001, 2002, and 2003—that we went to war, two wars, Afghanistan and Iraq, and we did not pay for them.

President Bush, in those days, pushed through two tax cuts—one in 2001, one in 2003—that went overwhelmingly to the wealthiest Americans, without paying for it, without offsets, cuts, or other taxes. Then President Bush also pushed through—at a very close, middle-of-the-night vote in the House of Representatives, by, I believe, one vote or two votes—a Medicare privatization bill that basically was a bailout for the drug companies and the insurance companies and did not pay for that. That is why we got to this situation, unfortunately, where we have had this terrible budget problem.

What I wanted to address is what the solution of a couple of my colleagues seems to be. To their minds, there seems to be sort of a moral equivalent of, on the one hand, asking millionaires, people making a million dollars and up, to pay their fair share and making Medicare beneficiaries and Social Security beneficiaries take big cuts.

So I heard my two colleagues basically say this: that if the Democrats were serious about moving toward a balanced budget—and, again, 15 years ago we did it. We absolutely did it with President Clinton, got to a balanced budget, got to a surplus.

They said if the Democrats are serious about that, they will raise the retirement age for Social Security, and they will raise the eligibility age of Medicare. Let me tell you why that is a bad thing. I was in Youngstown not too long ago at a townhall meeting. A 63-year-old woman stood up and said—62, 63 years old.

She said: I just need to stay healthy and stay alive until I am 65 so I have health insurance. I need to be able to stay alive for another couple of years so I can get on Medicare and have health insurance.

Imagine living your life that way, when you are thinking: I just have to stay alive until I am 65. Then I will have good government Medicare health insurance. So some people here say: Well, tough luck. We are going to have to raise the eligibility age of Medicare to 66, 67, 68, whatever my very conservative colleagues are proposing—from

Utah and Kentucky—raise the eligibility age for Medicare as if that is going to make them better.

When you think about it—I want 62-year-olds—one reason we passed the health care reform, I want 62-year-olds to have health insurance. One, it is good for them. Second, it is way better for the country, including taxpayers, that they get health care before they get sicker and sicker and end up in the emergency room or end up with cobbled-together health care that is much more expensive, let alone what it does to this lady and her family.

Second, they proposed to raise the eligibility age for Social Security. Now, it is easy for people around here to dress like this who, for all intents and purposes, talk for a living—work hard at what we do but talk for a living and work in offices and, you know, do not do heavy lifting and are not exposed to the elements and all of that. It is easy for us to say: Let's raise the Social Security age to 70 because, God willing, we will still be here if the voters vote us in and we can keep doing this. Most of us are pretty healthy and do not work around asbestos and are not doing heavy lifting, are not working in the snow, in the rain, in the heat.

Well, when I think about raising the retirement age to 70, here is who I think about. I think about construction workers. I think about women who cut hair. I think about a waitress who works at a diner. I think about someone who works at a factory in Brunswick, OH. I think about people who walk the floors in retail. We are going to tell them that—we who dress like this, we who have jobs like this are going to tell those constituents—and there are millions in my State and tens and tens and tens of millions around the country, working-class citizens of this country who simply cannot work until they are 70.

If you are cutting hair, if you are changing sheets in a hotel, cleaning out bathrooms in a hotel, if you are working as a carpenter or a laborer or sheet metal worker, if you are working as an auto worker, a steel worker or nonunion in a tool-and-die or machine shop, you probably cannot work until you are 70. Your body probably will not be able to function in the workplace, with the physical and mental demands now to work in the workplace until 70. Yet people here think it is OK to do that.

The people here, I would add, can retire if they have 20 or 25 years in the House and Senate. They can retire at 60 or 62 or whatever and get a full pension. That is why I have introduced legislation—not opposed to their balanced budget amendment. I think it has all kinds of mechanisms in it that lock in low tax rates for the richest people in this country. I will not get into that. Senator DURBIN talked about that.

But I have introduced the legislation that simply says if we raise the retire-

ment age to 70, then Members of Congress cannot retire with a pension until 70. Why should Members of Congress be able to get a pension at 62 or 58 if they served enough years, but a Social Security beneficiary should not until a decade or so later?

So it is important, as we talk about balancing the budget, as we talk about our fiscal situation, not to make a moral equivalence between the richest people, the richest 1 percent in this country paying their fair share in taxes, making that a moral equivalence to Social Security and Medicare beneficiaries having to endure significant cuts.

Some people around here call Medicare and Social Security entitlements. They can be dismissive: We have to fix entitlements. Well, talk to a 72-year-old in Dayton or a 68-year-old in Zanesville or an 81-year-old woman in Xenia or Springfield, OH, and they will tell you oftentimes this is not really an entitlement, this is an investment. They paid into Social Security. They paid into Medicare. They want to make sure the government fulfills the covenant that we made over the last 75 years in the case of Social Security, 45 years in the case of Medicare, the covenant that we made between our government and the citizens of this country. That is the importance of that. We need to think twice.

That is why my legislation was introduced, in part, that Congressmen and Congresswomen cannot receive a pension before the same retirement age as Social Security beneficiaries. We need to think twice before we are going to tell a carpenter or a barber or a retail worker or a steel worker that we are going to raise the retirement age and make them work until 70 so they can receive Social Security benefits.

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

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

Mr. COBURN. I ask unanimous consent that I be allowed to speak as in morning business.

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

MAKING TOUGH CHOICES

Mr. COBURN. I am coming to the floor now because we will not have an opportunity to debate on the payroll tax cuts because the vote is going to be at 2:30 and that time is taken.

I think it is important for the American public to look at what is happening in Washington right now. There is not a disagreement in Washington about whether we want people to continue to receive this tax cut. The disagreement is, should it come out of Social Security? Should we continue to undermine Social Security or should we do it a different way? That is No. 1.

No. 2 is, if we are going to borrow \$117 billion against our children knowing that we have significant waste, fraud, abuse, and duplication in the Federal Government of in excess of \$350 billion a year, should we not eliminate some of that, pay for this rather than borrow the money?

So we have the posturing between the two parties based on the election that is coming to create a predicate that some people only care for the rich and some people only care for those who are less fortunate, which is all smoke and mirrors. There is unanimity that we want this to continue. So what the American people are not hearing is the real debate.

The real debate is, should we eliminate some of the waste, some of the stupidity, some of the duplication in the Federal Government and actually do that to be able to pay for this so that as we do this thing that we all want to do—in other words, keep this \$1,000 to \$2,000 per family in the economy now—that we do not do that by crippling the children of the very people who are in the economy.

You know it is a zero-sum game. Somebody is going to pay the bill sometime. If it is us who refuse to do the hard work of ferreting out waste, duplication, fraud, then our service will have been in vain because what we are really doing is transferring to our children the responsibility for us today. Actually, it is going to come doublefold because the way this bill is lined out is we are going to borrow the money in the market to pay for this continued decrease in Social Security taxes.

We have already stolen \$2.6 trillion from Social Security. Congresses have the last 20 years. When we borrow that money and put it back in, there is no reduction in what is owed, so our kids are actually going to get to pay for it twice. They are going to pay for it now with the new debt that we are taking, and the fact that new payment was not recognized as a reduction, they are going to get to pay it again.

So it is going to cost our children a quarter of a trillion dollars. There is a lack of honesty in talking plainly with the American people. They know we are in trouble. The question is, Will we be honest with them, treat them as adults in terms of how we go about solving the problem? We hear the mess. The press takes advantage of that. There is not a lot of difference between the Senator from Ohio who just spoke, in terms of what we want to do in terms of protecting seniors. But the politics surrounding it and the game playing poorly serves our country.

So for all the press that is watching, we are going to get this done. I know it is the game Blood Sport that is happening right now, with the press saying: Will they or will they not? It is going to happen. We are going to fix unemployment so that we have a continuation of that. The real question is, Will we fix the real things that the

country needs fixed or are we just going to kick the can down the road?

What we are doing is kicking the can down the road because we won't make the tough choices to pay for it. We won't pay for the unemployment benefits. The first 26 weeks is what is earned; that is what people contributed to. We are up to 99 weeks, and that comes directly from the American taxpayer—it actually comes from the future American taxpayer.

Some real questions ought to be asked. What is the game being played in Washington by both sides—trying to get advantage in the next election? As our country drowns in debt, we continue to further mortgage our children's future, and we continue to treat the American people like children rather than the adults they are. Everybody knows we are all going to have to sacrifice. Does that mean we are going to abandon the social safety net? No, it doesn't. Does that mean a 62-year-old who is trying to get on Social Security is not going to get there? No; they are. Those are the tactics of fear that something will not be there. As a fiscal conservative or a constitutional conservative, I want us to fulfill our obligation to the promises we have made and to our oath, which is to uphold the Constitution. Thomas Jefferson said you should never borrow money which you have not laid a tax to pay for. He is a Founder—one of the Founders of our country. We would do well to go back and revisit the wise and prudent advice of our Founders. You don't see that or hear that much anymore in the U.S. Congress.

These are big problems our country is facing. I am 63—soon to be 64—years old. We have never faced anything close to what we are facing today. How we react and how we respond is going to make all the difference in the world—not only for our short-term future but also for our long-term future.

I hope the American people who are listening right now understand that we are going to do what is necessary to help get the economic process of our country running again in a better and viable way. I hope you will dismiss the partisan rhetoric and the class warfare rhetoric that is all too commonplace today. If we will focus on what the problem is rather than the next election, we will have a great deal more success in coming together and forging solutions the American people can be proud of and we will actually move our country ahead.

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

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

CORDRAY NOMINATION

Mr. BEGICH. Madam President, first, I want to comment on the Cordray ap-

pointment that was attempted a little bit ago, and then I want to bring up some more good news on the economic front.

First, I was somewhat disappointed in the vote of 54 to 45, garnering only 1 Republican from the other side—only 1—and on such an important agency that ensures the protection of consumers in a variety of areas. It seems illogical to me that we would not find compromise in a vote to appoint someone to run an agency that this body, in a 60-vote margin, approved to help protect consumers, particularly considering what has happened over the last several years and the glaring problems and challenges consumers have had to endure with the financial institutions of this country as well as from other entrepreneurs, such as pawnshops and payroll check cashers. All of these institutions would have firm regulations and provide the consumer an opportunity to respond, or those who get abused by those programs.

I am a little disappointed. I wasn't intending to come and speak on that issue, but I wanted to have my voice on the floor that I was disappointed that an appointment could not happen, which I believe is raw politics. It has nothing to do with the individual's ability to make this agency run properly. They didn't want to appoint him because they didn't like the agency—the 45 or so who didn't vote for it. And I think it all boils down to one very simple thing: Consumers are now, once again, left without someone running an agency that will help protect them against these people who prey on individuals in the financial arena.

THE ECONOMY

Again, Madam President, I am somewhat disappointed, but let me get to the real reason I came to the floor. I came down yesterday and had a lot to say about the economy and where we are and the headlines that were reported yesterday. And in less than 48 hours—27 hours—there are more good news headlines.

These are some of the headlines I talked about yesterday: "Jobless Rate Dips to Lowest Level in More Than 2 Years." New York Times. CNN: "Dow Closes With the Largest Gain Since March 2009." "Private Sector Jobs Soar. Payroll Forecasts Rise." That is Reuters. The Wall Street Journal: "Online Sales Reached Record \$1.25 Billion on Cyber Monday."

On top of that, we had record sales for Thanksgiving weekend—Black Friday they call it, and Small Business Saturday. Again, an incredible impact for our economy.

What this tells me—even though we get a lot of criticism from the other side and others who complain maybe we are not doing our job and are frustrated that Washington isn't working as well as it could—and I agree there are a lot of areas where we are not able to move forward, such as the appointment I mentioned a few minutes ago—is there are good examples of policies

we have worked through over the last 3 years during this great recession. We have fought kind of a lonely war to get these policies in place.

Once again, more good news, and let me read off a couple. This week's Time magazine has a whole article entitled "How America Started Selling Cars Again." Why is this important? Because this is a manufacturing base for our country. It employs people not only in jobs in the automobile industry but it trickles all the way through the economy of the country. It doesn't matter if they are at a port, for example.

I remember meeting recently with the folks from the Detroit Port Authority talking about ships and the movement of product from the automobile industry across this country, but also manufacturing and other activities throughout the country that support the automobile industry. It is moving forward. It is growing.

We took a dramatic step and got a lot of criticism for it. As a matter of fact, no one wants to even mention the words, because everyone is so nervous about it. Some call it an auto bailout. And, yes, we did do that. That result is a healthy, strong, profitable industry that is bringing jobs to America and creating jobs in America. As a matter of fact, there was an article in the Wall Street Journal not long ago talking about how we are importing jobs from Japan and China back to the United States, to the automobile industry, because it is successful.

And, oh, by the way, they are paying back all those loans they got from the Federal Government with interest. So the taxpayers are getting their money back in full. The net result is, because we helped at the right time, we have ensured we are still a player in the automobile industry not only in this country but in the world market. So for those who want to continue to complain and to demonize that action, the net result is we are bringing jobs back to the United States in this industry.

The Cash for Clunkers Program was another piece of legislation that barely passed. Again, many of us on this side of the aisle took that lonely road because we thought it was the right thing to help move this economy forward. Again, the net result is this industry is profiting more in the last several years. They are producing more jobs not only in their industry directly but indirectly. And the naysayers on the other side rarely bring this up anymore, because in less than 3 years—really, less than 2 years—this industry has turned itself around because of American ingenuity and with the help and support from the U.S. Government, and that help and support is being paid back with interest in the good old American way.

So from my perspective, once again, this is a great story, and I commend Time magazine for talking about the future.

Let me also talk about another one. This is from CNBC. I pulled this off because I like looking at all the business magazines and Web sites every morning. I glance through quickly to see what is happening, what the markets are doing, what the industry is doing, who is investing, what are the new businesses, and what is happening out there. Here is this one: "U.S. Mortgage Applications Jumped Last Week."

This is the industry that fell apart in the beginning of the great recession—the housing industry. A lot of people say that was the main reason the economy collapsed. It was a significant portion of it, no question about it. But let me read this.

The Mortgage Bankers Association said its seasonally adjusted index of mortgage application activity, which includes both refinancing and home purchase demand, spiked 12.8 percent in the week December 2. The MBA's seasonally adjusted index of refinancing applications also jumped, gaining 15.3 percent, while the gauge of loan requests for home purchases rose 8.3 percent.

By loan requests, these are people who are now saying, I want to think about buying a home. I want to purchase today. I want to start examining what is out there.

Here is what the Mortgage Bankers Association's vice president of research and economics said. These are his words:

Applications increased significantly as mortgage rates dropped to their lowest levels in about 2 months.

Actually, overall, it is the lowest level in decades. But we now measure things by an eighth of a point. So when you are at 4.125 or 4.25, we are now measuring which is lower overall, but it is lower for the last several decades. Incredible.

Let me read another one. This is from Politico, but it is reporting on the Bloomberg Global Poll—which they started doing in 2009 to sort of see where foreign investors will put their money. Where will they invest? Where will they take the dollars they have accumulated or will gather through investors and shareholders and so forth? Where are they going to put their money?

More than . . . 41 percent, said they expect the U.S. will have one of the strongest performing economies in the world in the coming year—the highest percentage the country has seen since the Bloomberg Global Poll began in October 2009.

Here is another one. Today, again MSNBC. "Jobless claims drop to 9-month low."

. . . jobless claims dropped 23,000 to adjusted 381,000—

That is actually below the magical threshold of 400,000, which people watch. The question is, Will it be consistently under 400,000? We have received more of these under 400,000 recently than in the last 3 years. That is a good signal that the economy is moving.

I know some will say it is not enough. Well, when I came here, half a

million people were losing their jobs every single month. So we have now had 21 consecutive months of job growth in the private sector. That is a great statement for us as an economy, this 21 consecutive months of job growth. It is an indication our economy is moving.

Do we want it to move faster? Of course we do. That is what America is about. We want to see things happen right now—today. But this has been called a great recession. Yet we are pulling ourselves out of it. It takes time and it takes good policy. And, yes, it takes some opportunity and taking a little risk, and we did some of that here. We made some decisions that were tough and were not necessarily very popular at times.

I remember many of the calls I received on some of these issues. But what is the end result? That is what we have to measure by. Leadership is not about waiting for a poll to tell us what is right or wrong or waiting for someone to say, here is the right move because your constituency will vote for you if you do this thing this way. It is about leadership. Sometimes the leadership role is tough. It means getting a few trucks running over you a little bit, leaving some tire tracks on your back, but the end result is what we look for.

Today, where we are, we have job growth—not as significant as we want but job growth. Where were we? Half a million jobs a month disappearing.

Let me cite another one. This is a big issue people are concerned about. As a former mayor, managing a city, you are always looking at the revenues because the revenues tell you how your local economy or, if it is State revenue, how your State is doing. If you remember, at the end of 2008, 2009, and beginning of 2010, there was incredible concern about local governments collapsing under the debt and deficit spending and unable to manage.

As a matter of fact, the markets were concerned about municipal and State debt and what that might mean. Oddly enough—and I wish I had brought that article—it hasn't panned out as people thought. Local governments, State governments are doing better than people anticipated. It is still a tough road, no question about it. We still have firefighters, police officers, and teachers who have been laid off. We tried to pass a bill here to help that out, but that didn't happen because too many on the other side opposed it.

But for State and local governments, here is the latest State revenue report by the Nelson A. Rockefeller Institute of Government, University at Albany, NY: "Overall Tax Revenues Show Strong Growth in Second Quarter." The article speaks to State tax revenues growing by 10.8 percent in the second quarter of 2011.

As a matter of fact, the year ending June 2011—which is the end of a lot of fiscal years for State and local governments—the period corresponding to 46

States—almost all of the States' fiscal years—total State collections increased by \$58 billion in that year, or 8.4 percent, from the previous year, the strongest annual gain since 2005.

What does that mean? That means local economies, State governments, are starting to recover. It is still a rough road but starting to recover. Good signs. That means there is more economic activity within their communities. It means businesses are replanting and redesigning their opportunities in those communities. People are buying homes, as I mentioned, which means they are paying property taxes, which means those local governments can hire police and fire and paramedics and teachers.

Again, I could probably come here every day and give this kind of good news. Because what we all hear—today, the market is down. I forget what it is—70, 80 points, maybe 100 today—but the headlines will be: market crashes or market dips significantly.

Here is the reality. Since March of 2009, the market is up, even with today's activity, 81 percent. That means my son's 529 account is better today than it was 3 years ago. That is good because that means my wife and I can afford to make sure he can go to college someday. But it also means retirement accounts have more resources in them today than they did 2½ or 3 years ago. It means public pension programs and investment retirement programs that invest in these kinds of markets also are doing better. But, again, the headline will be that the sky is falling because that is what people like to do. They like to prey on fear rather than opportunity.

I think a lot of us on this side believed in the opportunity, in the future of this great country 3 years ago when we sat here and made some tough decisions over the first 18 months in my term. Tough decisions. But we believed in what was possible. We believed that this economy would turn around with a little help from the people who live here, work here, and see the future.

We also knew we had to do a little bit. We had to do something extraordinary to create the opportunities for the future of this great country. As I mentioned, private sector jobs increased, the automobile industry better than ever before, home sales doing better than they were 2½ years ago, the market is up by 80 percent—all good news. But we don't hear a lot of those as the front-page, above-the-fold, big, bold headlines because they are not sexy. They are not controversial. But that is what is happening. If a lot of us around here had more belief in the potential, it would be incredible what could happen.

Let me end on this note; that is, we are in the middle of the debate on continuing tax relief for the folks who are working every day, the people I just talked about who are buying homes, buying cars, paying taxes. We are saying to them: We want to make sure you

continue to receive the dollars in your pocket.

In my State, that is \$300 million—just in my State, \$300 million with the payroll tax deduction that they get to keep for 400,000 Alaskans instead of the IRS taking it. I don't know about you, but I think that is a good thing.

I know some will say: We have no proof this works. Well, I just gave proof. I will give proof every day if necessary. Yes, we can't say this certain industry came back because of this one little item. But I will tell you, if we put \$300 million in my State into the hands of 400,000, Alaskans, a little over \$1,000 per person, the net result is they are going to spend that money in the economy. They are going to buy that car, that washing machine, or go on that vacation. They are going to spend that money in this economy. Yes, there is no fancy report that said this business succeeded because we gave them this special tax break—which we shouldn't do. We gave to the people of this country an incredible opportunity to take their money and put it to work.

Mr. President, 160 million families will benefit—160 million families will benefit by this action today. People making \$50,000 or less will put back about \$1,000 into their pockets again—not in the IRS's pocket but into the consumers' pockets that they will spend.

Again, I will hear from the other side how bad it is, that there is no proof, that this may not work. It is working. They can deny it all they want, but I will continue to lay all the facts down. It is not me producing this out of some government document. It is mostly some very conservative publications reporting on the good news.

I hope the folks on the other side—and I know we picked up a Republican from when we had this before. This is a modified, compromised version that didn't pass last week to say: OK, we are trying to compromise. But we are keeping it simple and trying to do it in a way that ensures that middle-class Americans, and Alaskans whom I represent, put more money in their pockets, people who are working every day, making a difference in the economy—not people who are just on the top end of the cycle. I know that is the great debate, and we differ and I differ with several people on the other side.

I do believe people who make \$1 million or more should pay a little bit more. I don't have any heartburn over that. It is 235,000 people we are talking about versus 160 million. That is who I want to put my investment in because I know those people, who are individuals, families, and a significant portion of small businesspeople who will continue to build this economy.

As a matter of fact, the best growth period and growth pattern right now is small business. They are the ones that are the backbone of this economy. Those are the ones that we need to help. That is what this bill does. I hope we find the magical success.

I wish we would have 50 majority votes like the rest of this world operates under. For some reason, this place has to have special rules and make it complicated and hard for anything to get done. But maybe there will be some people who join and want to support the American people and support giving them tax relief and making sure their lives are better, especially at this time of year with Christmas around the corner. I would love to give them a good Christmas gift. I think all of us would. Let's do it. Let's do it today. Let's do it for the American people. Let's do it for my constituency in Alaska, for your constituency, Mr. President, and all the rest in this room.

Mr. President, if there is one thing I look for, if it makes a difference for Alaska, if it is about Alaska, I am there. This is not only about Alaska, it is about this country. It is about the middle class. Not only am I there, I am double there, and I hope we find opportunity in this Chamber to do the right thing.

Mr. President, I ask unanimous consent that any time spent during a quorum call between now and 2:30 p.m. be equally divided.

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

The Senator from Nevada.

Mr. HELLER. Mr. President, today the Senate will consider my legislation again to extend the temporary payroll tax cut.

This week, the Senate has been given another opportunity to do the right thing and provide much needed relief to the American worker.

It shouldn't be news to anyone that Americans are desperate for solutions. Millions of Americans are unemployed, underemployed, or have simply given up looking for a job.

In between looking for a job or higher paying employment, Americans are busy trying to figure out how to handle high health care costs, looming bankruptcy, and the threat of foreclosure.

As a Senator from Nevada, I understand how difficult it is, perhaps more than any of my other colleagues. My State has the unfortunate distinction of leading the Nation in unemployment, in bankruptcies, and in foreclosures. I hear from my constituents every day on these issues. Nevadans—Democrats, Independents, and Republicans—are looking to Congress for answers, and they are frustrated that they are not getting them.

Even with the economic difficulty Americans across the country are experiencing, Congress appears to be prepared to stage a partisan standoff rather than extending a payroll tax cut for hard-working Americans. I cannot allow this to happen. Americans deserve solutions.

The plan I have introduced to extend the payroll tax cut is a workable solution that will provide relief for Americans responsibly. In fact, the solution I am proposing today borrows a cost-cut-

ting idea from the bipartisan Simpson-Bowles Commission that can actually pass Congress and be signed into law.

My proposal allows American taxpayers to hold on to more of their hard-earned wages while not punishing the Nation's job creators as the majority proposes. Under my plan, American taxpayers will not see a tax increase. In fact, my plan prevents a tax increase on those already receiving a payroll tax credit. Today, Congress can do the right thing by allowing employers to continue to invest in their businesses so they can plan for the future and, of course, hire more workers.

I understand that Democrats would prefer to pay for the payroll extension by raising taxes on employers. But treating tax dollars responsibly is absolutely necessary if we are going to see long-term economic growth in this country. In this case, we can extend the payroll tax cut and still pay for it.

I also understand that not all Republicans support my plan. To be honest, I disagree with some of my colleagues who claim a payroll tax holiday is not necessary. I believe that we should allow more Americans to hold on to their hard-earned wages. For those who are already struggling to live within their means, this payroll tax cut will continue some much needed relief.

Today, I am asking my Republican and Democratic colleagues to come together and join me to help continue the payroll tax holiday without raising taxes on businesses in America. This will help preserve long-term job growth in the future.

My proposal is a workable solution containing provisions endorsed by both the majority and my colleagues in the House of Representatives. This is the only version of the payroll tax cut that has the potential to pass Congress and to be signed into law.

My proposal pays for the payroll tax cut by reducing government spending where it is no longer needed and requires the richest Americans to pay higher premiums for Medicare. This will allow us to strengthen and preserve Medicare for those Americans who rely on the program the most.

This is the same approach endorsed by Democrats who say the richest Americans should do more. Americans want solutions. They do not want more partisan bickering.

This week Congress has another opportunity to do the right thing to help hard-working Americans extend the payroll tax cut holiday.

I make calls back to my home State every week. In those calls, I ask Nevadans if they think their children will have access to a better, brighter future than their own. For the first time in history, a majority of Americans and a majority of Nevadans believe their children will have less opportunity. By continuing down this path of partisanship, Congress is robbing the American people of the dream for their children. This needs to stop.

We in this body need to seriously consider the high stakes of the political games that continue to unfold on this Senate floor. American workers need solutions and they need relief right now. Congress should come together today, put partisanship aside, and pass meaningful legislation that will benefit all Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CASEY. Mr. President, I rise this afternoon to speak about an issue we will be voting on today and we have been discussing and debating now for a number of days. We are into our second week of debate about a cut in the payroll tax. Just by way of review—and so many Americans have been following this debate—here is where it basically stands between what we did last year and what we are trying to do this year.

Last year, as part of a larger tax bill, we reduced the payroll tax for employees across the country from 6.2 percent to 4.2. So that 2-percent reduction meant millions of American families were able to have about \$1,000 in their pocket of take-home pay they wouldn't have had otherwise absent that action in the tax bill. What we are trying to do this year—and I should start with what I tried to do last week, and we got 51 votes for this—is to say we should not only continue or extend that cut in the payroll tax but we should expand it. So instead of saying it should go from 6.2 to 4.2, we take it down to 3.1. In essence, what we tried to do last week was cut in half the payroll taxes that relate to employees. We wanted to add to that cutting in half the payroll tax for small businesses, and they would benefit disproportionately. Thirdly, we wanted to add to that a tax credit so that if an employer hired or increased wages for employees, if an employer expands their payroll in one of several ways, they can get a tax credit equal to an elimination of the payroll tax. So instead of the usual 6.2, you would be down to zero. So the combination of those three would mean we would be helping employees by cutting their payroll tax in half, helping employers by cutting their payroll contribution in half, and then have this third element as well for employers who actually hired people or added to their wage base.

Unfortunately, in the Senate, because we needed 60 votes and got 51, we knew at that point we couldn't get enough support from the other side of

the aisle. So what I did, in working with our leadership and working with folks in the Senate, was to refashion the legislation so that we made it smaller. We reduced the cost of the overall proposal by some \$80 billion. We also concentrate on just the element we worked on together last year, which was the employee side.

Here is where we are in this debate about cutting the employee payroll taxes. It is down to this question: Should we cut it to 4.2, as we did last year, or should we cut it further and reduce it in half? I believe we should, and I think most Americans believe that.

Here is what it means to folks out there. Instead of saying we will continue what we did last year—which would be about \$1,000 per worker, in essence, per family, on average—if we cut it in half, we can get that number up to \$1,500. So it is not just putting money in people's pockets and continuing to do that for another year, but it is more money. It would go from roughly \$1,000 to approximately \$1,500.

That is where we are. Unfortunately, we are not yet sure we can get the support we need to do that.

Here is what it means to Americans. It means more money in their pockets, more take-home pay, but it also means that if we don't, at a minimum, extend the payroll tax cut from last year—here is what it means on two issues: GDP—gross domestic product—and jobs. According to Mark Zandi of Moody's—someone we have quoted often on both sides of the aisle and relied on his expertise—not extending the payroll tax at least to the 4.2 level would reduce 2012 growth of real GDP in a State such as Pennsylvania, by way of example, by 0.52 percentage points. That means we are talking about gross domestic product or gross State product, in a sense, in a State such as Pennsylvania, cutting it in half instead of allowing it to grow. So this has a real adverse consequence for Pennsylvania and for the country if we don't do what we did last year.

Of course, if we did more than we did last year, as I think we should and I think most people do, we could not only not fall behind, but we could move forward dramatically.

Here is another way to look at it: Jobs. According to Mark Zandi, not extending the payroll tax cut will cost Pennsylvania 19,700 payroll jobs in the calendar year 2012. For context, in the State of Pennsylvania last year, the payroll tax job creation number—or payroll jobs added last year—was 54,500. So we created last year in a State such as Pennsylvania almost 55,000 jobs. But if we don't extend the payroll tax cut this year, we are talking about losing as many as almost 20,000 jobs. This is a substantial factor in the discussion about our economy. It would have a substantially adverse impact if we don't keep the payroll tax cut in place.

As I said before, we should do more than we did last year. We should cut it

in half. It would give people across the country peace of mind in two time periods: The next couple weeks when they are going out and shopping and enjoying the holidays. We want people to spend as much as they feel they can, and if they know they are going to get \$1,000 to \$1,500, they can spend more in this upcoming holiday season. But it is especially important for 2012. Why should taxpayers have to live with a tax increase because Washington just didn't get along and the same old political games were played in Washington instead of saying let's come together in a bipartisan way and extend and expand the payroll tax cut from last year.

We have lots to do in the next couple days and weeks. But maybe the most important thing we can do in the next few days is to make sure we cut the payroll tax again. Because this is about whether we are going to give people peace of mind as we head into a new year and whether we are going to put more money in their pockets in order to jump-start the economy, to give the economy the jolt we got at the end of last year. Last year, we came together and passed a tax bill and we had average job growth from February, March, and April 2011—those 3 months—average private sector job growth of just about 240,000 jobs. We need another 3-month period similar to that. In fact, we need another 6 or 7 or 8 months similar to that. But the only way to get there is to put in place this payroll tax cut.

I hope when we vote later today, we will get at least 60 votes for this effort to make sure we are giving Americans peace of mind and more money in their pockets.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent to speak despite the expiration of the majority's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BLUMENTHAL. Thank you, Mr. President.

Mr. President, I begin by thanking my colleagues, many of whom served in the last Congress. I thank them for extending the payroll tax cut at that time, providing a payroll tax cut from 6.2 percent to 4.2 percent. I thank them on behalf of myself. I was not a Member of this body at that time. I thank them on behalf of the American people. They are due that thanks and appreciation for that vision and courage in extending that measure in cutting the

payroll tax so as to lessen the recession. We have only to listen to the virtually unanimous opinion of economists to the effect that we saved the Nation, this body saved the Nation from a deeper recession.

Now I ask my colleagues to undertake a similar mission, to accomplish the same goal, to once again save the Nation from a deeper recession. The recovery of this Nation's economy has been fragile and slow. Many economists—notably, Mark Zandi, who has been quoted by my distinguished colleague from Pennsylvania—say that a failure to extend it will mean a new recession. We are talking about average Americans, ordinary people who are hurting and struggling. They are hurting economically and struggling to find jobs. They are struggling to stay in their homes and keep their families together at a time of year when joy and satisfaction ought to be the quality of their lives. They deserve this measure of peace of mind, as my colleague from Pennsylvania, BOB CASEY, has referred to it. But all of us—the entire Nation—deserve the economic security, which is a matter of national security.

Rescuing this country from continuing debt and deficit means returning to full employment. Twenty-five percent of our deficit can be eliminated by going back to lower rates of unemployment.

Economic recovery is a means to countering and curtailing what the former Chairman of the Joint Chiefs of Staff called a national crisis and a security threat.

Economic recovery depends on consumer demand. As I go around the State of Connecticut, businesspeople tell me what they need most is consumer demand. Their confidence and certainty about the future of the economy, their willingness to invest, depends on consumer demand. That kind of factor, that need is what ought to motivate all of my colleagues—every Member of this body—to vote for this measure, not only extending that payroll tax cut but also reducing it by 3.1 percent.

We are talking about anywhere from \$1,400 to \$1,500 or more in the pockets of people around the country, people around the State of Connecticut. The average middle-class family in Connecticut earns \$83,797 per year and would save \$1,676 in taxes under the current payroll tax cut. Let me give you those numbers again. The average middle-class family in Connecticut earns \$83,797 per year—back in their pockets \$1,676 in taxes under the current payroll tax cut as proposed in this measure.

We are talking here about a compromise. Our side of the aisle has modified this bill to make it about one-third smaller in size and cost. This legislation will no longer give employers a tax break. We have pulled back on the magnitude of this measure. But it will still affect 160 million workers who will receive nearly \$1,500 in additional take-home pay.

This bill will be paid for by measures that were coming from the deficit reduction proposals contained in a number of the supercommittee's ideas. It is paid for by fees charged by Fannie Mae and Freddie and by a proposal suggested by my colleague, the Republican leader. The cost-saving reform suggested by him would make millionaires ineligible for unemployment compensation and food stamps.

This legislation also levies a surcharge, a temporary 10-year surcharge, on the highest earners in American society, who can well afford it when their own interests would be extraordinarily well served by the consumer demand and economic recovery that would be generated.

I know many of my colleagues, including the Presiding Officer, are concerned about the effect on Social Security, and so am I. The Social Security trust fund is a trust, a sacred trust that we are honor bound to protect. And I would not vote for this measure if I thought it created a threat, a real threat, to the viability of that fund. But I believe the assurance we have received from the chief actuary of that fund—and it is contained in a letter to Secretary Geithner and to Jacob Lew, it was printed in the CONGRESSIONAL RECORD yesterday by Senator CASEY, and it assures that the effect would be negligible. In fact, it says the trust funds would be "unaffected." It uses that word, and I will quote directly from the letter.

We estimate that the projected level of the OASI and DI Trust Funds would be unaffected by enactment of this provision.

That letter comes from the chief actuary of the trust fund, and I am prepared to rely on that assurance and to say that I believe this kind of measure is the responsible thing to do at this point in our economic history to make sure our recovery is continuing.

The effects of failing to do so: The economists differ whether the rate of growth will suffer by .5 percent, which is Mark Zandi; or .66 percent, Goldman Sachs; or 1 percent, RBC Capital Markets; or 1.5 percent, Michael Pond. Whatever the specific percentage, we know it will be grave and serious in the damage to our economy if we fail to extend and enlarge the tax cut.

So I urge my colleagues to heed the voices they are hearing back home, as I am hearing from ordinary citizens, middle-class families.

We are talking about a middle-class family measure that will benefit people like Marilyn in Bloomfield, who writes to me:

I believe these cuts need to remain in effect in order to avoid deepening the recession we are in. I urge you to support the President's jobs plan and pass as much of it as you can in upcoming legislative sessions, for the benefit of struggling families.

She writes and she says "to urge you to vote in favor of extending the payroll tax cut for workers beyond Dec 31. . . ."

Listen to people like Ginny. They are in every one of our States. Ginny, who is from Southport, CT, writes:

I know you will do the right thing when the payroll tax cut and increasing the taxes of only the 2nd million and above of wealthy Americans comes up for a vote. I have faith in you.

With the economy still struggling to recover and millions of Americans struggling to put food on the table this holiday season, we cannot afford to raise taxes on working Americans.

Those voices from middle-class families are reaching this body every day. We have heard them before. This body heeded them last year in enacting this tax cut. I thank every Member who voted for it. It was a bipartisan vote. I hope this one will be as well. I will be proud to join Members from both sides of the aisle, and I hope this measure will have support—overwhelming support—from both sides of the aisle in showing the American people we can come together, bridge our differences, and compromise.

This measure reflects a compromise on both sides. I hope it will be passed later in the day.

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. 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.

Mr. WHITEHOUSE. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to the motion to proceed to S. 1944, which is subject to a 60-affirmative-vote threshold.

Mr. WHITEHOUSE. Mr. President, 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.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—50

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Blumenthal	Johnson (SD)	Rockefeller
Boxer	Klobuchar	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Collins	McCaskill	Warner
Conrad	Menendez	Webb
Coons	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feinstein	Murray	

NAYS—48

Alexander	Graham	McConnell
Ayotte	Grassley	Moran
Barrasso	Hatch	Murkowski
Blunt	Heller	Paul
Boozman	Hoeven	Portman
Brown (MA)	Hutchison	Risch
Burr	Inhofe	Roberts
Chambliss	Isakson	Rubio
Coats	Johanns	Sanders
Coburn	Johnson (WI)	Sessions
Cochran	Kirk	Shelby
Corker	Kyl	Snowe
Cornyn	Lee	Thune
Crapo	Lugar	Toomey
DeMint	Manchin	Vitter
Enzi	McCain	Wicker

NOT VOTING—2

Kerry Kohl

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

The Republican leader.

TEMPORARY TAX HOLIDAY AND GOVERNMENT REDUCTION ACT—MOTION TO PROCEED

Mr. MCCONNELL. Madam President, I move to proceed to S. 1931.

The PRESIDING OFFICER. Under the previous order, the motion is now pending.

The majority leader.

Mr. REID. Madam President, this will be the last vote of this week. We will have a couple of votes on Monday night. I will announce later as much of the schedule as I am able to do. Right now, I can't do that, but I will before the day is out.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided.

The Senator from Pennsylvania.

Mr. CASEY. Madam President, what is about to happen is we are going to be taking a vote on a measure that got 20 votes last week—this same vote. I don't know what the vote will be today, obviously, but this is an exercise in futility to vote on this again.

What we should do is cut the payroll tax in half for American workers. That is what we have been trying to do. I hope we can continue to work together, but we should move beyond this measure that got 20 votes last week and cut the payroll tax in half for 160 million American workers. We should do that and give people the peace of mind and dollars in their pockets they would not have otherwise.

I urge a "no" vote on this motion, and I hope we can continue to work together to support the American worker.

The PRESIDING OFFICER. Who yields time?

Time is yielded back.

Under the previous order, the question is on agreeing to the motion to proceed to S. 1931, which is subject to a 60-affirmative-vote threshold.

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

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

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

The result was announced—yeas 22, nays 76, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—22

Ayotte	Heller	Portman
Barrasso	Hoeven	Risch
Brown (MA)	Hutchison	Rubio
Cochran	Lugar	Snowe
Collins	McCain	Vitter
Crapo	McConnell	Wicker
Enzi	Murkowski	
Grassley	Paul	

NAYS—76

Akaka	Franken	Moran
Alexander	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Hatch	Reed
Blumenthal	Inhofe	Reid
Blunt	Inouye	Roberts
Boozman	Isakson	Rockefeller
Boxer	Johanns	Sanders
Brown (OH)	Johnson (SD)	Schumer
Burr	Johnson (WI)	Sessions
Cantwell	Kirk	Shaheen
Cardin	Klobuchar	Shelby
Carper	Kyl	Stabenow
Casey	Landrieu	Tester
Chambliss	Lautenberg	Thune
Coats	Leahy	Toomey
Coburn	Lee	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	Lieberman	Warner
Corker	Manchin	Webb
Cornyn	McCaskill	Whitehouse
DeMint	Menendez	Wyden
Durbin	Merkley	
Feinstein	Mikulski	

NOT VOTING—2

Kerry Kohl

The PRESIDING OFFICER. On this vote, the yeas are 22 and the nays are 76. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the votes on the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931. If I were able to attend today's session, I would have supported the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and opposed the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931.●

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent we proceed now to a period for morning business, with Senators allowed to speak for up to 10 minutes each until 6 o'clock this evening.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

(The remarks of Mr. SANDERS pertaining to the introduction of S.J. Res. 33 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Florida.

MEDICARE

Mr. NELSON of Florida. I wish to thank the Senator from Tennessee for his graciousness to make a very few brief remarks.

I wish to call to the attention of the Senate that there are some good things that are happening in Medicare. In the health care bill—which was a very complicated piece of legislation—there are a lot of good things. There were some things that are implemented over time, that if mistakes had been made, we can correct those mistakes as they are starting to be implemented.

I wish to point out some of the salutary things that are happening under the new health care reform bill with regard to Medicaid. It was just this week that the agency that runs Medicare, the Centers for Medicare and Medicaid Services, CMS, announced that more seniors and people with disabilities on Medicare are seeing significantly lower costs for important health care because of this new law.

For example, what we are seeing for the first time is that millions of Americans on Medicare are now getting free physical exams as part of their preventive medicine. Because of the doughnut hole, which is that complicated black hole senior citizens would fall into when they were getting assistance for their prescription drugs, well, lo and behold, that doughnut hole is being filled by the Federal Government assisting them in paying for those drugs. Therefore, they are getting a lot more of their drugs without having to pay for them.

For example, Nationwide has over 2.5 million people on Medicare who have saved more than \$1.5 billion on their prescriptions. If we boil that down to my State of Florida, we have 172,000 Medicare recipients who save \$96 million, which is an average for the senior citizen in Florida of \$563 per person per year.

In the case of physical exams, we have over 24 million people in the country who now have taken advantage of having one of these free physical exams in order to help with the preventive health care aspects that the bill was aimed at. In my State, where there are a lot of senior citizens, close to 2 million senior citizens have taken advantage of those physical exams.

Remember how we were discussing the doom and gloom of Medicare Advantage? What has happened to Medicare Advantage? We had to change it because Medicare Advantage before, under the previous law, had a 14-percent bump over and above Medicare fee-for-service. The Federal Government was going to go broke if we did

not do something about that. Where was that money going? It was going to the insurance company because Medicare Advantage is a fancy term for Medicare given through an insurance company and HMO.

What has happened? If we look all across the country at Medicare Advantage, enrollments are up and the premiums senior citizens pay are down. Look at the State of Florida in this last year. Enrollment was up by 6 percent, premiums decreased by about 10 percent. What is happening now in 2012? Enrollments are up almost 20 percent and the premiums are going down by a whopping 26 percent. That means more seniors are going to have access to higher quality care while paying less, and it is a win-win-win. It is clearly a win for the country that we are leveling out all of the excess bumps. It is clearly a win to the senior citizen and, in the process, the insurance companies are giving better quality care.

I wanted to bring this to the attention of the Senate, and I do thank my colleague from Tennessee for his generosity in allowing me to make these comments prior to his.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

MARKETPLACE FAIRNESS ACT

Mr. ALEXANDER. Madam President, we hear a lot about tax breaks and tax loopholes around the Senate. I wish to talk about a tax loophole, a big one, that is on its way out. It is a \$23 billion tax loophole. It is not a loophole in the tax code of Washington, DC. It is a loophole in virtually every State in the country. It is a loophole that prefers some taxpayers over other taxpayers. It subsidizes some businesses over other businesses. Because of that loophole, it causes tax rates in States to be higher, and it causes States to have less money to fund the universities or the State parks or the schools or the other expenses that are legitimate in the operation of a State.

I say it is a tax loophole that is on its way out because after 10 years, Senator ENZI of Wyoming and Senator DURBIN of Illinois have produced a piece of legislation that is rare in Washington, DC. It is only 10 pages long. It is very simple. It is a States rights piece of legislation that gives each State the right to decide for itself how to collect its State sales tax from everybody who owes it, whether that person buys a pair of cowboy boots in Nashville or whether that person buys a pair of cowboy boots online.

Senator ENZI and Senator DURBIN introduced the Marketplace Fairness Act 4 weeks ago. It has five Republican sponsors and five Democratic sponsors. I am one of those sponsors. This is the bill that solves the problem of the online sales tax loophole, the one I described a little earlier. I mentioned cowboy boots. Let me describe what I am talking about in practical terms.

I called the owner of the Nashville Boot Company a couple weeks ago. His name is Frank Harwell. He sold boots online, and he sells them to people who walk into his store in west Nashville. When he started the company, almost all of his boots were sold online. Here is what he says is happening to him today: People come into the store in Nashville and they try on cowboy boots. They find a pair they like and then they go home and buy the cowboy boots online in order to save the State sales tax.

They owe the sales tax. Many people don't know they owe it. They owe the sales tax as much as if they had bought the boots at the cowboy boot store in Nashville. They don't pay it. Why is that? Under the State law, when Frank Harwell sells a pair of cowboy boots in his store in Nashville, he collects the sales tax and sends it to the State.

But under the law, the Supreme Court said 20 years ago, the State of Tennessee or the State of Missouri or the State of Washington could not require an out-of-State seller to collect the same sales tax. They had a reason for doing so, and it was a good reason. They said it was so complicated to do that it put a burden on interstate commerce. But at the same time, the Supreme Court invited the Congress to fix the problem. By fixing the problem, that means the Congress could act in order to create a fair way for States to require retailers that are out-of-State to collect the same sales tax retailers on Main Street collect.

Over that 20 years, the online sales tax loophole got to be a big loophole. It subsidizes some businesses at the expense of others and, as I said earlier, prefers some taxpayers at the expense of others.

Last week, the Hudson Institute, a generally conservative organization, released a new report that explains how the subsidizing of out-of-State sellers works and how the Federal Government—those of us in Washington—are keeping States from closing this loophole. Hudson concludes that this online sales tax loophole is distorting the marketplace, and I urge my colleagues to take a serious look at the Hudson Institute report.

Governors and legislators are up in arms because they are being deprived of the right to enforce their own sales tax law. This is a little different loophole—actually, a little worse one. Usually, loopholes are written into the law. Those are the kind we are trying to change in our tax reform proposals in Washington. This is a tax that is already owed. This is a tax that is already owed that Governors and legislators want to collect. It is used to pay for the things States need to pay for or reduce a tax. In the State of Tennessee, which has a very high sales tax, if the State was allowed to collect sales tax from out-of-State retailers the same way it does from Main Street retailers, then we might postpone the day of a State income tax, which are probably

three of the most hated words in the tax vocabulary in Tennessee.

I said, when Senator ENZI and Senator DURBIN introduced their bill, that I believed they had solved the problem and that if I were an out-of-State retailer or an online retailer, I would begin to make plans to collect sales tax the same way Main Street collectors collect it today, and many have. For example, Amazon—which had opposed for a long time this kind of legislation because, in their view, it was too complicated for them to figure out what the tax might be—changed their mind, and said the Enzi-Durbin bill is a good bill and Amazon now supports it. That is not all. Mississippi Gov. Haley Barbour, a strong conservative Republican Governor and former chairman of the Republican Governors Association, wrote a letter on November 29 which I wish to quote:

In the early days of the Internet, the complexities of collecting State sales taxes across thousands of State and local sales tax jurisdictions were major obstacles. The technology simply didn't exist to expect startups to comply with the various tax compliance rules in every part of the country. But today, e-commerce has grown, and there is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses who reside on the Main Streets across Mississippi and the country.

Governor Barbour continues:

The time to level the playing field is now, as there are no effective barriers to complying with state sales tax laws.

Here is what Governor Barbour is saying: Twenty years ago we didn't have the kind of software and information we do today. If I want to know what the weather is in Maryville, TN, where I live, I put in "weather" and my ZIP Code, 37886. Under this new bill and under the technology that exists today, States will be required to give out-of-State retailers or online retailers the software that will permit them to do the same thing. If I order a pair of cowboy boots, they can put in my name, the cost of the boots, and the ZIP Code, and the software will compute the tax and even find a way to send it on to the State. It will be just as easy, or maybe even easier, for the out-of-State retailers to collect the sales tax that is owed as it will be for a cowboy boots store selling it out of the front door in Nashville.

The National Governors Association sent a letter last week saying that the Enzi-Durbin bill represents a common-sense approach that will allow States to collect taxes they are owed, help businesses comply with different State tax laws, and provide fair competition between retailers that will benefit consumers.

Last week, the Judiciary Committee in the House of Representatives held an oversight hearing to discuss all three bills that have been introduced to address this issue and there was a lot of good discussion. I wish to share a few things that were said and I hope we can have a similar hearing in the Senate soon.

MIKE PENCE of Indiana, one of the leading conservatives in Congress and a fellow who knows a tax when he sees one, said:

I don't think Congress should be in the business of picking winners and losers. Inaction by Congress today results in a system that does pick winners and losers.

Congressman PENCE also talked about something I want to make sure my colleagues understand. The Enzi-Durbin bill is not talking about taxing the Internet. It is not talking about creating a new tax. As far as the Internet access tax goes, the Senate debated that a few years ago. I was in the middle of that debate and I was in the middle of the solution that imposed a moratorium on the Internet access tax. That law is still there. We are not talking about an Internet access tax. Neither are we talking about a new tax. We are talking about the plain old State sales tax that already exists. It is very hard to imagine how anyone can say collecting a tax that is already owed is a new tax.

Governor Barbour and Congressman PENCE are correct; 20 years ago the technology didn't exist. Today it does. About the only ones complaining are the taxpayers and businesses that enjoy being subsidized by other taxpayers and other businesses, and that, in our opinion, is not correct tax policy.

As Republicans, I believe our party should oppose government policies that prefer some taxpayers over others or some businesses over others. As Republicans, I believe we should support States rights, and our bill does that by giving the State the right to make the decision about how to collect its own taxes: Do you want to collect taxes from everybody who owes the tax, or do you not want to? Do you want to prefer some out-of-State businesses over in-State businesses, or do you not want to? Do you want to collect the tax, reduce tax rates, or spend the money on services? That is up to the States.

These sentiments are also shared by the late William F. Buckley and Al Cardenas, chairman of the American Conservative Union. Ten years ago William Buckley, who many people see as the father of the modern conservative movement, wrote in the National Review:

The mattress maker in Connecticut is willing to compete with the company in Massachusetts, but doesn't like it if out-of-State businesses are, in practical terms, subsidized; that's what the non-tax amounts to. Local concerns are complaining about traffic in mattresses and books and records and computer equipment which, ordered through the Internet come in, so to speak, duty free.

That is William F. Buckley.

Then Al Cardenas, the chairman of the American Conservative Union, a distinguished man from Florida, and the head of an outfit that is arguably as strong and influential as any conservative organization in Washington, said in his recent essay:

There is no more glaring example of misguided government power than when taxes or

regulations affect two similar businesses completely differently.

As I have said many times before, I believe the Enzi-Durbin legislation solves the problem. I believe it is going to happen. I hope that out-of-State sellers and online sellers will move ahead to work with States to make voluntary agreements as, for example, Amazon has in Tennessee, and begin to allow States to enforce their tax policy properly.

Our bill is a remarkable feat in Washington, DC. I have mentioned it before and I wish to emphasize it again. It is only 10 pages long. It is only about allowing States to make a decision about whether they want to close a tax loophole. It is about stopping the subsidization of some taxpayers over others. It is about stopping the subsidization of some businesses over others. I am glad others are starting to share this view, and as more Senators learn about the Marketplace Fairness Act and look at the options it gives each State, I hope and I believe we will have more cosponsors.

Ten years ago the bills introduced weren't adequate to solve the problem. Fortunately, today, Senator ENZI and Senator DURBIN have solved the problem. I agree, Democratic Senators agree, the chairman of the American Conservative Union agrees, a former chairman of the Republican Governors Association agrees, Congressman MIKE PENCE agrees: It is a matter of marketplace fairness.

I ask unanimous consent to have printed in the RECORD the letter to which I referred from Mississippi Governor Barbour, a letter from the National Governors Association, and the National Journal article published last week regarding the House Judiciary Committee hearing on this subject.

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

STATE OF MISSISSIPPI,
OFFICE OF THE GOVERNOR,
Jackson, MS, November 29, 2011.

Hon. MIKE ENZI,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

Hon. LAMAR ALEXANDER,
Senate, Dirksen Senate Office Building, Wash-
ington, DC.

DEAR SENATOR ENZI AND SENATOR ALEXANDER: I am writing to congratulate you on the introduction of the Marketplace Fairness Act and offer my support for its timely passage.

Fifteen years ago, when e-commerce was still a nascent industry, it made sense to exempt startups like Amazon.com from collecting and remitting sales taxes in states where they had no facilities. As chairman of the Republican Party, I was there when discussions surrounding the Internet commerce tax moratorium took place, and this was only to last until e-commerce had truly taken root. I supported this effort then, because I believed this budding industry needed every opportunity to thrive and grow. Looking back, I think it's clear we made the right call as America is home to the largest and most dynamic e-commerce companies in the world.

In the early days of the Internet, the complexities of collecting sales taxes across

thousands of state and local tax jurisdictions were major obstacles. The technology simply didn't exist to expect startups to comply with the various tax compliance rules in every part of the country. But today, e-commerce has grown, and there is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses who reside on the Main Streets across Mississippi and the country. The time to level the playing field is now, as there are no effective barriers to complying with states' tax laws.

As Governor of Mississippi, I value the important role that our Main Street retailers play in our communities. Failure to level the playing field threatens to, and in fact has, run many of them out of business, taking with them jobs and the sizable contribution they make to not just our community culture, but to the Organizations who have long benefited from their charitable involvement.

States should not be deprived of their right to establish and collect taxes as they see fit. I've stood for lower taxes and smaller government my entire career in public life, but I've also stood for the authority of states to devise their own tax laws without being overridden by the federal government for no existing purpose.

Finally, government shouldn't be picking winners and losers. In this area, at least, the Marketplace Fairness Act will end that practice, and that's something conservatives should be proud to support.

I again applaud you for addressing this important issue and I look forward to working with you to end the special treatment for online retailers and give everyone the opportunity to compete fairly.

Sincerely,

HALEY BARBOUR,
Governor.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, November 28, 2011.

Hon. RICHARD DURBIN,
U.S. Senate, Washington, DC.

Hon. TIM JOHNSON,
U.S. Senate, Washington, DC.

Hon. MICHAEL ENZI,
U.S. Senate, Washington, DC.

Hon. LAMAR ALEXANDER,
U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN, SENATOR ENZI, SENATOR JOHNSON AND SENATOR ALEXANDER: The National Governors Association applauds your efforts to level the playing field between Main Street retailers and online sellers by introducing S. 1832, the "Marketplace Fairness Act."

As you know, years ago the Supreme Court opinion in Quill Corp. v. North Dakota stated that Congress has the authority to require out-of-state sellers to collect sales taxes. At present, states are unable to collect more than \$22 billion in sales taxes annually from remote sales made through catalogues or over the Internet. This also creates a price disparity between goods bought from the corner store and those bought online, effectively giving a continuing and growing subsidy to Internet sales.

Since the Quill ruling, at least two facts have changed: (1) the proliferation of computers to calculate taxes due on sales—just as shipping costs are determined based on Zip Code—and (2) a state agreement on streamlining and simplifying sales taxes so that it is easier to collect and remit sales taxes wherever a company does business.

The Marketplace Fairness Act recognizes these changes and uses them to grant authority to states that simplify their tax systems to make it easier to do business. This common sense approach will allow states to collect the taxes they are owed, help businesses comply with different state laws, and

provide fair competition between retailers that will benefit consumers.

NGA looks forward to working with you as you work to enact the Marketplace Fairness Act and create a more level playing field for all sellers and consumers.

Sincerely,

GOVERNOR BILL HASLAM,
Tennessee.

GOVERNOR CHRISTINE O. GREGOIRE,
Washington.

[From the National Journal Daily, Nov. 30, 2011]

STATES TELL CONGRESS ONLINE TAX
LOOPHOLE COSTLY

(By Juliana Gruenwald)

State officials and some retailers urged Congress on Wednesday to finally close a loophole that they say benefits online retailers by allowing them to avoid collecting sales taxes from out-of-state customers.

The issue the House Judiciary Committee examined relates to a 1992 Supreme Court decision in *Quill v. North Dakota* that found catalog and other retailers do not have to collect sales taxes from customers in states where they do not have a physical store or other facility. Since then, online retailers have exploited the loophole to the tune of billions in lost tax revenue, according to state officials.

"It is estimated that currently in the state of Texas between \$600 million and \$800 million is not collected on out-of-state sales. . . . That points out to me the unfair competition that my storefronts are competing against," Texas state Rep. John Otto, a Republican, told the committee.

Even some tax-averse lawmakers such as Rep. Mike Pence, R-Ind., said congressional action is warranted.

"I don't think Congress should be in the business of picking winners and losers," Pence said. "Inaction by Congress today results in a system today that does pick winners and losers."

State calls for congressional action on the issue got a big boost earlier this month when Amazon, after years of battling efforts to address the loophole, endorsed bipartisan online-sales-tax legislation introduced by Sens. Michael Enzi, R-Wyo., Dick Durbin, D-Ill., and others. That bill would authorize states that meet certain minimum standards to require online retailers to collect sales taxes from customers even in states where those firms have no facility. A similar bill has been introduced in the House by Reps. Steve Womack, R-Ark., and Jackie Speier, D-Calif.

Mr. ALEXANDER. Madam President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR.) Without objection, it is so ordered.

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

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

THE DREAM ACT

Mr. DURBIN. Madam President, it has been 10 years since I introduced the DREAM Act, legislation that will allow

a select group of immigrant students with great potential to contribute to America. The DREAM Act would give these students a chance to become legal in America. They came to the United States as children. They have to be long-term residents of our country, have good moral character, graduate from high school, and complete 2 years of college or military service in good standing. Those are the basic standards we apply.

I think if we enacted the DREAM Act, as I have tried to for many years, it would make America a stronger country, giving these talented young immigrants a chance to serve in our military and make us a stronger nation. Tens of thousands of highly qualified, well-educated young people would enlist in the Armed Forces if the DREAM Act becomes law. We have the support of the Department of Defense and the President. They understand that these young people could make us a stronger and safer nation by serving in our military. And they are willing. Many of them are willing to risk their lives for this country.

Studies have also found that these DREAM Act participants could literally build our economy in years to come with their talent.

Remember, these students we are talking about were brought to America as children and as infants. They grew up here believing they were Americans. They went to class every day, pledged allegiance to the only flag they knew, and sang the only national anthem they had ever heard. They are American in their hearts, and they should not be punished because their parents made a decision to bring them here.

These young people are tomorrow's doctors, engineers, soldiers, teachers. They are the people with whom we can build an America on. We should not squander their talent by deporting them to countries they may not remember at all.

Last year, Republican Senator RICHARD LUGAR of Indiana joined me in asking the Department of Homeland Security to suspend the deportation of these DREAM Act students. Now, for the record, if there is any evidence of wrongdoing by these students, they are completely disqualified from this conversation. We are talking about students of good moral character who are in the United States basically without a country.

Earlier this year, Senator LUGAR and I were joined in our request by 21 other Senators, including majority leader HARRY REID, Judiciary Committee chairman PATRICK LEAHY, and Senator BOB MENENDEZ, asking that these DREAM Act students be given an opportunity to stay and not be deported. In response to our letters, John Morton, the Director of Immigration and Customs Enforcement, issued a memo in June of this year establishing new priorities for deportation. The Morton memo says: It is a high priority to deport those who have committed serious

crimes or those who are a threat to public safety, while it is a low priority to deport individuals who have been in the United States since childhood, like those who are eligible for the DREAM Act.

During hearings this summer on the DREAM Act, Homeland Security Secretary Janet Napolitano told me and my subcommittee that the Department of Homeland Security would establish a process to implement the Morton memo. Under this new process, high-priority cases will be expedited, and low-priority cases will be closed in many instances.

Recently, the Department of Homeland Security announced the next step in the process. Immigration and Customs Enforcement officers and attorneys will receive comprehensive training on the new deportation policy. By January, all ICE officers and attorneys will have the training they need. ICE attorneys will review all new deportation cases to identify low-priority cases that should not be placed in the immigration court.

A review of the cases currently in immigration court is also underway. Department of Homeland Security attorneys will review pending deportation cases in Baltimore and Denver to identify low-priority cases that should be removed from the docket. This trial review of new and pending cases will be completed by mid-January and then expanded nationwide.

Let me commend the President and his administration for these thoughtful and humane steps to implement this new deportation policy.

Today, there are approximately 11 million undocumented immigrants in the United States. It would take billions and billions of dollars to deport all of them. It would likely lead to the collapse of many parts of our economy. You can't go to a hotel or restaurant in the city of Chicago—I have been told this by restaurant owners—and not find at least some place in that establishment an undocumented person doing the tough, hard work immigrants do.

DHS has to set priorities about which people to deport—and not deport—using its limited resources. Some of my Republican colleagues have claimed that this is kind of a backdoor amnesty. That could not be further from the truth. This is simply a temporary decision not to use limited government resources to deport low-priority individuals who are no threat to the United States of America. Individuals whose cases are closed will not receive any permanent legal status. So there is no amnesty involved.

Ironically, some Republican critics of the administration's new policy called on the Clinton administration to establish deportation guidelines—exactly what the Obama administration has done here. In response to this request from some Republicans in Congress, the Clinton administration established a policy on prosecutorial discretion.

The Bush administration kept the policy in force from the Clinton years and issued several followup memos without any criticism from any Republicans in Congress. The Bush administration also stopped deportations of a number of DREAM Act students, again without any criticism from Republican Members.

Let's be clear. What the Obama administration has done in establishing this new process for prioritizing deportations is perfectly appropriate and legal. Throughout our history, our government has had to decide who to prosecute and who not to prosecute based on law enforcement priorities and available resources.

I strongly support the administration's new deportation policy but more needs to be done to implement this policy and it needs to be done quickly. Many young people who would be eligible for the DREAM Act are still facing deportation proceedings. Almost every day my office is contacted by DREAM Act students who are at risk of being deported in a matter of hours or days. Today, let me tell you the story of two of these young people.

Here is a photo of Minhaz Khan. Eighteen years ago, in 1992, Minhaz Khan's parents brought him to the United States from Bangladesh. At the time, he was 4 years old. Today, Minhaz is 22—18 years later—and he has overcome amazing obstacles to complete his education. In 2009, Minhaz graduated from the University of California Riverside with a bachelor's degree in neuroscience.

Minhaz sent me a letter, and here is what he said about his future:

My dream is to make several contributions to science, and become a physician's assistant as a career, and eventually a teacher as well. I have great aspirations, but I do not dream of big houses or tons of cars. I want normality, stability, and liberty.

Today, Minhaz lives in Palo Alto, CA, with his wife, who is an American citizen. Minhaz's wife has filed an application for her husband to become an American citizen, but under our broken immigration laws he has been placed instead in deportation proceedings. Eighteen years in the United States, a bachelor's degree in neuroscience, aspiring to become a researcher or teacher, married to an American citizen, and he is under threat of being deported. What threat is he to America? The threat is losing a person who is talented and can make such a difference in the lives of so many people.

Minhaz was scheduled to be deported last month. Under President Obama's new deportation policy, the Department of Homeland Security put his deportation on hold for 3 months so that his application for legal status can be considered. I think that was the right thing to do. Minhaz grew up in America, he is married to an American, and he wants to make America a better nation.

In his letter to me, Minhaz spoke about what it would mean to him if the DREAM Act became law.

Imagine the countless numbers of individuals ready to contribute to our society as law-abiding, successful individuals who live life with a sense of strength and morality. Abraham Lincoln once said, "I have always found that mercy bears richer fruit than strict justice," and this is more true now than ever. I have a great amount of hope, optimism, and belief in this country and that one day we shall see the DREAM Act enacted into law.

Here is another DREAMer. This is a photo of Jose Librojo. In 1995, when he was a child—16 years ago—Jose's parents brought him from the Philippines to the United States. Shortly after they arrived here, Jose's parents filed an application to stay in this country as legal permanent residents. For more than 15 years, their immigration application has been stuck in the courts.

In the meantime, Jose grew up in America. He graduated from San Francisco State University with a bachelor's degree in biology. As a member of Alpha Phi Omega National Service Fraternity, Jose volunteers, working with the elderly and young Asian Americans, among other things.

Jose has been authorized to work while his immigration case is pending. For more than 10 years, he worked as a registered dental assistant and a dental laboratory x-ray technician. The dentist who employs him was so impressed by his work, he filed papers to sponsor Jose for legal permanent residency in the United States. The employer's petition was approved, but because of our broken immigration laws, Jose has been placed in deportation proceedings. After all of these years in America—16 years—and earning a bachelor's degree in biology, currently working in the health field in dentistry, and one who has done such a good job that his employer wants to have him here permanently, he is now facing the prospect of being deported to a country he cannot even remember.

Jose was scheduled to be deported last month, 3 days before Thanksgiving. But the Department of Homeland Security put his deportation on hold, so he will have a chance to apply for legal status and keep working.

Jose sent me a letter, and this is what he said:

I have followed the laws of our system, but the logjam in the courts has put me in this untimely predicament. I have lived in the U.S. for 16 years, and I consider this country as my home. I have always felt like an American. I wish to stay, live my dreams, and build my own family here in the United States. I hope that someday the DREAM Act becomes a reality so that I may continue making contributions to the country I call home.

I ask my colleagues who are critical of the administration's deportation policy, would America be better off if we deported Minhaz or Jose back to Bangladesh and the Philippines? I don't think so. These two young men were brought here as infants, children. They grew up in our country. They have overcome great odds and achieved great academic success, without the support of Federal assistance. They

didn't qualify for it. They have no problems with moral character, and they pose no threat to America. They would make us a better country if we gave them a chance.

Minhaz and Jose are not isolated examples. There are literally thousands of others like them in this country. We have a responsibility in the Senate to give them a chance to let them prove what they can do for America.

I commend the Obama administration for its new deportation policies. I urge the Department of Homeland Security to move forward on an expedited basis. As long as young people such as Minhaz Khan and Jose Librojo are facing deportation, work still needs to be done.

It is also clear that this policy is only a temporary solution. The deportations of many DREAM Act students will be temporarily suspended. Ultimately, the responsibility lies with Congress and with us to fix these broken immigration laws and give these good young people a chance.

I ask my colleagues to support the DREAM Act. It is the right thing to do. It will make America a stronger nation.

I yield the floor.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Minnesota.

THE COLLAPSE OF MF GLOBAL

Ms. KLOBUCHAR. Mr. President, I rise today to discuss the collapse of MF Global. While its demise hasn't triggered the sort of economic turmoil we saw in 2008, let me assure you it is having a devastating impact on the livelihoods and savings of many in my State.

Sadly, the story of MF Global is all too familiar. It is the story of another overleveraged financial firm that took on too much risk and did little to disclose its bets. Once again, the folks whom the system was supposed to protect have been left holding the short end of the stick. Three years after the U.S. financial system was nearly toppled by this sort of recklessness, it seems little has changed on Wall Street.

Today, Mr. Corzine appeared before the House Agriculture Committee to testify on events that led to the bankruptcy of MF Global—the firm he led—as well as the whereabouts of roughly \$1.2 billion in customer funds that remain missing. While taking responsibility for the collapse of the firm in his testimony today, Mr. Corzine chose to use much of his testimony defending the strategy that ultimately led to the firm's demise and that left many in my State with their life savings on the line. In regard to the missing customer funds, he responded that, as CEO of MF Global, he wasn't really in the position to know what happened.

If executives at MF Global were willing to steer their ship into dangerous waters, they should be able to account for the safety of their customers' funds

held in segregated accounts—something considered sacred within these markets.

If anybody still doubts that Wall Street has not learned from its mistakes, I would have you talk with the farmers in my State who can't access their life savings and aren't sure when or how much of it they will ever get back.

Dean Tofteland, from Luverne, MN, a town of 4,600 people—his family grows corn, soybeans, and raises pigs on their farm in southwest Minnesota. He currently has over \$200,000 in what was supposed to be a segregated MF Global account, which he cannot access and which he may never fully recover. He is not a speculator. He invested to reduce his risk—locking in prices ahead of the growing season so he is protected from price fluctuations that can eat into his profits.

Talk to Dennis Magnuson, a pork producer from Austin, MN, who had a substantial amount of money with MF Global that he used to stabilize the cost of feed for his pigs. Both Senators in the Chamber are from States that have livestock, and they know the cost of feed has been escalating. That is why he vested. He knows the risks—price swings, poor crops, bad weather. These are all part of farming. But his account at MF Global was supposed to help manage those risks, not become one.

It is not just individual farmers; the effects of MF Global's collapse are rippling through the whole agricultural community.

Here is a letter from Philip Deal, who writes:

I am the CEO and General Manager of Wheaton-Dumont Co-Op Elevator in Wheaton, MN.

Wheaton is located on the western edge of Minnesota by the North Dakota/South Dakota border. Our cooperative has approximately 1,200 active members and a total membership of more than 5,000. So the MF Global situation affects a great number of people here.

We employ about 115 people, and we are easily the largest nongovernment employer in all of the communities we operate in.

Our business uses a Chicago Mercantile Exchange and Minneapolis Grain Exchange to hedge grain purchases and sales. We do not speculate. We have always relied on the implied fiduciary responsibility of the Commodity Futures Trading Commission and the Chicago Mercantile Exchange to safeguard our segregated funds.

The impact to our business has been huge. We have been forced to double-margin the missing funds. This has increased our interest expenses and decreased our ability to buy and sell grain.

Simply put, we cannot afford to lose any money on this deal. On a local level, the very future of our business is at stake. On a larger level, if segregated funds are lost, market participants will leave the market, open interest will decline, and market liquidity will fall. Everyone loses.

Sadly, Philip Deal is correct. The failure of MF Global has caused millions in investor losses, created significant uncertainty in the markets, and has left many in my State confused

and angry—and they should be angry. Just 3 years after the 2008 financial collapse, and what has changed? How can ordinary folks trust this system? Who can they trust to protect them?

Two weeks after the collapse of MF Global, it was announced the Commodity Futures Trading Commission, which is leading the investigation into the missing funds, will receive only two-thirds of their budget request for 2012, potentially limiting the agency's ability to do its job at a time when the markets they oversee are expanding exponentially. This is not acceptable. We need to make sure our regulatory agencies aren't allowing Wall Street bankers to go down the street in their Ferraris while those standing up for the middle class—those at the agencies that are supposed to regulate them—are not following behind in a Model T Ford.

We don't know with certainty what the ongoing investigations into MF Global will find, but there is little doubt Congress has work to do. Already the CFTC, after our hearing in the Senate Agriculture Committee last week, has come up with some changes they are proposing to how these funds can be invested. I think more needs to be done. There are also rules of disclosure being considered and that were discussed today at a House hearing, as well as in our Senate Agriculture hearing, that need to be changed. These changes were made to the CFTC rules in 2000 and in 2005 they loosened the rules and expanded things. They need to go back to where they once were, where they protected investor savings.

Investor trust in segregated accounts is vital to market confidence and is the cornerstone of customer protection in the commodity futures market. This trust has been breached. I urge my colleagues to join me in demanding those responsible for the MF Global failure be held accountable for their actions and that steps are taken to prevent this from ever happening again.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent to speak as in morning business for whatever time I might use.

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

SPENDING VERSUS REVENUE

Mr. ENZI. Madam President, I wanted to take this opportunity to share with you what has been keeping me awake, and I am sure, if I explain it well enough, it will keep you awake as well. Misery loves company. This is misery that is going to affect your future, and the Senate has to make some changes to have a future for this country.

For 14 years, I was the only accountant in the Senate. I have been joined by Senator JOHNSON of Wisconsin, who

is an accountant, and these kinds of numbers always bother us a little bit. I have put together a couple of pie charts here. This one on the left represents the spending we are doing; the one on the right represents the revenue we are receiving to do the spending. These are proportionately correct. This is the spending; this is the revenue to do the spending. Dramatically different. The revenues are dramatically lower.

There are a number of pieces to this that I think probably will reveal more. The spending, incidentally, is \$3.456 trillion. We are spending \$3.456 trillion. We are taking in \$2.2 trillion. That is \$1.3 trillion less than we are spending. So we are spending a third more than we are taking in.

How long can you do that? There is no end in sight. What is that made up of? Well, one of the things we worry about is Medicare, Medicaid, and Social Security. I have the revenues represented here for Social Security and other social insurances, and we are taking in \$865 billion a year to support these programs. This piece of the pie is what we are having to put out for those same programs. We are having to put out \$1.494 trillion; so \$865 billion versus \$1.494 trillion.

When we say these programs are going broke, I think that fact is pretty evident. If you don't make any changes, this kind of spending will eliminate a program that seniors rely on. I used to say when we are spending at this rate, we are stealing from our grandkids. Now we are to a point where we have spent so much, it is no longer our grandkids we are stealing from, it is our kids. And in a matter of months the bill could come due.

Europe is having some difficult financial times, and they are changing the way money is going to be available to secure the bonds that allow us to do this kind of spending. These actions could have widespread implications for the United States very soon. We also took Social Security money and put it in a trust fund. I always say, don't trust the trust funds. What we did is put IOUs in a drawer and we spent the money. We are spending some of the money twice. How long can you spend the money twice?

Let us take a look at some of the other parts of this pie, because we always talk about the nondiscretionary spending. Well, to cover our discretionary spending, which includes Defense and all of the nonmandatory items, we are spending \$1.349 trillion. And the income? Individual income tax is paying \$899 billion. Corporate income tax pays \$191 billion. I bet people thought there was a lot more corporate tax than that.

Part of the reason for this corporate number is that a lot of people have single proprietorships, partnerships, or small business corporations. If a business is in one of those three categories, the money their company makes goes straight to their tax line, even though hardly anybody in business can take

out all of the money they make. If they do not reinvest that money into the business, it business would go broke. So they do not get to take the money out, but have to count it through the individual tax code. That goes in this \$899 billion of individual income, as opposed to the corporate tax of \$191 billion. There is also an excise tax of \$67 billion. These are the kinds of numbers that have to fund \$1.349 trillion of spending.

We have discretionary spending of \$660 billion and we have military spending of \$689 billion. I mentioned Social Security, Medicare, and Medicaid, but besides that we have other mandatory spending adding another \$416 billion in spending. That \$416 billion accounts for the other items we have said will definitely be paid no matter what kind of shape the Federal Government is in. There are all sorts of programs included in that tally.

This little yellow sliver here, a very important one, is the interest we have to pay. That is mandatory as well. We don't have an option on whether we are going to pay the interest on the bonds that we owe. Those interest costs come to \$197 billion a year and that is at the lowest interest rate in the history of the United States. What happens when that goes up? As European countries have more trouble trying to sell their bonds, they are going to have to pay a higher rate to be able to sell those bonds. When they have to pay a higher rate, we will have to pay a higher rate. We are all competing for the same dollars, and there aren't enough dollars out there to fund this kind of an increase in spending each and every year. How do we make up the \$1.2 trillion more we are spending than we are taking in? It's a huge difference we aren't coming close to addressing.

I hope people can grasp the difference between spending and revenues. If you look at your own personal budget, your spending better be lower than your revenues, or at least no greater than the revenues. We haven't grasped that concept here yet. We did eliminate earmarks for the most part, and that helps, but it was still a rather small amount and we are still adding programs.

Sometimes we add programs as a demonstration project. A group of Senators get together and they say, our five States could do something beneficial with this new program we have devised, so we will put a little money in the budget and draw up the criteria so just those five States can receive these monies. And the purpose is to see whether the program is effective. In my 14 years here, I have rarely seen one of these types of tailored programs that wasn't effective. I suppose there are some I never heard reported on, but I yet to see one that isn't effective. This means the following year the same group comes back and says, we just had this revelation, this marvelous experiment that happened in our State. It was spectacular and it ought to be

expanded to every State in the Nation. Well, if it is that good, it probably ought to be expanded to every State in the Nation. But with whose money? With what money? We are already spending more than we are taking in.

We can't do the demonstration programs on new ideas unless we can eliminate some of the old ideas, which brings up another problem. Another thing we do around here is we say we are going to eliminate this program, and over 10 years it will bring in the \$5 billion needed to fund a new program. Well, that savings is accrued over 10 years, but the money on the new program is going to be spent over 1 year or 2 years at the most. That is pretty bad accounting. That is how you get to a situation where you have the current spending level versus the current revenues, by using creative accounting to pay for that new program.

Well, you can't bind a future Congress, so there is no assurance that the current method of getting the revenue will stay around. There is also no assurance we won't use that same pot of revenue two or three times. We will probably be told this is not the case, but I have seen some instances around here where revenue has been spent more than once.

One of the other problems we have around here is that we have too many spending decisions to make. There isn't a business in the world, with the exception of a business like Wal-Mart, that spends \$3.456 billion in a year—1 year. There aren't many businesses that comes close to that. And they have a bevy of accountants figuring out how to make expenditures, cuts, and balance the budget for the year.

What we do here in the United States Senate is an appropriations process. We have broken that process down into 12 pieces to make it more manageable, but 12 pieces doesn't cut it. You can't get into the detail for spending the billions. One of those numbers is \$689 billion. How long would it take to go through the expenditures on \$689 billion? We have to trust some of the past spending and some of the past obligations, but we can't be as conscientious and detail-oriented as we should be.

So what do we do about it? Well, we do omnibus bills. That is where we look at what we spent last year, and we put everything into one package and hurry up and pass it so the government can continue to operate. Before that happens, we might do a series of continuing resolutions. We say, we can't shut down government because there are so many things people need that we have already approved—to the tune of \$3.456 trillion—so we have to keep government operating. What we end up with is a continuing resolution.

A continuing resolution allows a government agency to spend one-twelfth of what they had the previous year each month until we get a funding agreement for the remainder of the fiscal year. In 2008, we spent 27 percent less than we spend right now. I think a lot

of the agencies would be delighted to have us keep continuing one-twelfth of their last year's allotted spending each month this year. That is what we have been doing, and it's not getting us anywhere.

I think there ought to be a penalty, which would be reflected in every one of the budgets. I think every time we pass a continuing resolution there ought to be a reduction in the amount spent each month until we get a final resolution. That could be 1 percent or ½ percent or ¼ percent, but there should be some kind of a reduction if we are ever going to reduce spending and pay down our debt.

There is another responsibility, and that is for appropriators to figure out how to get this spending circle down to the size of the revenue circle. This is the only part that the Appropriations Committee has worked on—this little third of the square that contains discretionary spending.

What we are going to have to do now is come up with some solutions. I have some solutions. I am not going to go into those today, but what I want people to do right now is to think about how much we are spending versus the revenue we have. Every person in America needs to be thinking about the way the programs they are involved in can be a part of getting the spending circle down to the size of the revenue circle. It is everybody's responsibility.

What we continually run into are the groups—particularly from our States—that come in and say: I have this fantastic program and we just need a little increase for inflation because it is such a phenomenal program. For years, we have been able to do that. That is how the balloon got this big. We are not going to be able to do that anymore.

What would be helpful is if people could suggest how, in their program, they could make it better for less money. It is either going to have to be better for less with a little pain right now, or wait a couple years and have it worse for less with a lot of pain.

We are at a point right now where we reduce spending 1 percent for each of 7 years and get to a balanced budget; that is, 1 percent true cuts. That isn't 1 percent less growth. It is 1 percent true cuts each and every year, and it has to cover the whole circle, not just the discretionary part of the spending circle—which is what we usually concentrate on—and then have some discretionary capability on it. The fact is, the largest amounts we spend in this whole piece of the pie is spent on mandatory spending, and it is conversely funded by a much smaller amount. We can't do that for long. We are going to have to propose solutions.

Instead we have been in scenario where people come in and say we need a little bit more money or don't cut my program; keep it the same size. I ask for suggestions on how we could keep this practice going in light of our disproportionate revenues and expenditures. The usual approach is to tell me

and my fellow senators there are a couple of other programs that we ought to eliminate. We are looking at those too.

We looked at them in the Health and Human Services areas, Senator COBURN and I did, and found there was \$9 billion of duplication. Do we need duplication? I would hope not. Senator COBURN got so excited, he did this same study for the entire Federal Government and found \$900 billion in duplication. Does that mean a whole lot of other agencies were a whole lot less efficient than Health and Human Services? No. It means we have duplicative programs in every single agency.

We also have financial literacy programs in every single agency. If we are spending \$3.456 trillion and only getting \$2.2 trillion in revenue, is the financial literacy in our government working? I don't think so.

When I first got here, there were 119 preschool education programs. Preschool is important. The start children get from when they are first born until they go to school makes a huge difference in their growth and development for the rest of their lives. However, we had 119 programs and once we took a closer look, we found many of them, according to their own evaluation, were failing. We now have that number down to 69 programs. Do you know why we can't go below 69? My jurisdiction as Ranking Member of the Health, Education, Labor, and Pensions Committee is over the Department of Education, which only has 8 programs—8 of 69 preschool programs. The Department of Agriculture has the most preschool programs.

That's why, when Senator COBURN is talking about duplication and looking at the complete picture of everything the Federal Government does, there is duplication in each and every agency. What we are going to have to do is pick out those that operate with the most efficiency and results, give them a little more funding and eliminate the other duplicative programs. Getting rid of duplication is a surer way of solving the problem than some of the other ways that have been talked about.

One other avenue we keep talking about is waste, fraud, and abuse. Yes, there is waste, fraud, and abuse. We need everybody in America to help us find that waste, fraud, and abuse, but in reality, the total cost of waste, fraud, and abuse is a rather elusive number. Does anybody know how big that is? Everybody is guessing. It is only a guess how much there is. We need to find it, and we need to be taking the money from eliminating these actions before we spend it.

We will sometimes attempt to use the waste, fraud, and abuse numbers as the pay-for for a new program. We aren't able to spend that money until we actually have it, but what happens it is used as pay-for and the program goes into effect, but nobody follows up to go out and dig up that waste, fraud, and abuse. Instead, the waste, fraud, and abuse money ought to go into a

fund before it can be spent on something else.

However, when I am talking about duplication, the \$900 billion worth of duplication, I am talking about numbers that we can go to the Federal budget and look up. We can find out exactly how much those programs are spending. In its duplication, we wouldn't eliminate all of them, but we ought to be able to eliminate half of them. Madam President, \$450 billion alone, half of Senator COBURN's total duplication findings, would be a huge change for this country.

I hope we look at some of those ideas to cut spending. I have a 15-page speech that would explain some ways we could solve this problem, but what I am trying to do is get people to grasp the concept that our Federal tax receipts, and total revenue, is far outweighed by the circle that shows what we are spending. As a family, people know they can't budget this way. As a government, we can't do it for very long, even if we print our own money. Somehow we are going to have to shrink the spending circle down until it is that size or grow the revenue circle until it is—they are comparable in size, or a combination of the two. As I said, I will give some other speeches to outline some of my other ideas. In the meantime, I hope everybody will take a look at the chart I have shown today.

We can't look at it and say don't touch Medicare, Medicaid, and Social Security, we can't have \$½ trillion of extra expenditure spending in that category alone for long. There is another \$416 trillion in mandatory spending in that same category. How long can we keep spending at this rate? What happens if interest rates go up? This piece of the spending pie can become much bigger and probably will. I don't know how long we can keep interest rates as low rate as they are now. If they go up, it will help some seniors because they have some investments in cash that would get higher interest rates, but for the country as a whole, rising interest rates that already make up 6 percent of our budget will only be more cause for worry. When that one expands above the 1 percent we are spending right now—and it is going to expand in the next couple of years because of what is happening in Europe—we had better be worried about it.

This is the kind of picture shown by the deficit commission that Erskine Bowles and Alan Simpson chaired. I was hoping we would repaint this picture a number of times between the time they released their report 1 year ago and now, because we have to get America to understand. Actually, I can tell you the people in my State understand this. I don't need to explain it to them. They know how much more we are spending versus what we are taking in. They can even tell you the numbers. They are concerned, and they need to be concerned. We all need to be concerned.

I am open to suggestions on this. I will have some speeches I'll give later

reiterating this definite problem we are in. I have said a number of times our country has maxed out its credit cards.

A couple weeks ago during a trip to Wyoming, I checked into a hotel and I used my Senate credit card. The lady a few moments later, very embarrassed, said: "I am sorry, but your card is being rejected." I said: "I guess the Federal Government is in worse trouble than I thought," and used my own card and it went through.

We had better be worrying about it now because we do have a problem. We have maxed out our credit cards, and there are not any other places we can go for money. We have been the bastion of money for years.

Keep in this in mind. Start thinking of ways we can actually make some cuts and increase some revenues. I have ideas for both in speeches I'll give in the future. We are in a crisis. It will be a more immediate crisis any time and we are no longer spending our grandkids' money; we are spending our kids' money, and it is about to come due on us. When I say "on us," I am even including myself and the seniors in that count. The day of reckoning is not far away.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. I ask to speak as if in morning business.

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

FUTURE OF AMERICA

Mr. LAUTENBERG. Mr. President, we are here now deciding what kind of a country America might be in the future—whether it will be a place we can look back at and remember when everybody had a chance at success.

It is hard to believe that when we look at the vote we just had. It confirmed where the Republicans are on the issue of whether middle-class families should get a tax break. The Republican answer, was no. The answer they gave on the middle-class families tax break was: Absolutely no. No, no, no.

To the struggling single parent who wants to provide for their family, works hard every day, the Republicans said no way. To the recent college graduate trying to start a career but having trouble paying back college loans, paying rent, paying living costs, the Republicans said no. To the working couple, a family with a couple of kids who needs some help in this tough economy, the Republicans said no. No, no, no. The Republicans refuse to help them because their mission is to shield the wealthy from paying their fair share of our country's obligations.

Across our country, Americans are watching Republicans in this Congress and wondering what they are going to do to supply encouragement and hope for people who need it. Are we going to be simply a big accounting firm, simply doing the auditing, or are we going to be there to stimulate activity for people, to give them a chance to elevate their living standards for their family, to get their kids educated, and take care of the family necessities?

Right now, 14 million Americans are jobless, and they are worried about how they are going to stay in their homes, feed their children, and keep their families warm this winter. But unemployed Americans are not the only people who are struggling. Hard-working Americans from all walks of life are struggling to make ends meet. They are coping with skyrocketing grocery prices, surging health premiums, soaring college tuition.

In my home State, 1 in 10 New Jerseyans is on food stamps, the highest level in more than a decade. New Jersey has traditionally been among the top States per capita income in the country, within the top three, often in the first position.

On this side of the aisle, we are trying to help struggling families. I learned the hard way about family struggles when I was growing up. My father took ill with cancer when he was 42; I was 18. My mother, when my father died, was 37 years old. We had all kinds of obligations to pay. My mother took over the family leadership. We owed money for the pharmacy, for hospitals, for doctors. We were virtually bankrupt. I had enlisted in the Army. Next week, it will be 69 years ago that I enlisted in the Army, in December of 1942.

I know how tough it was and how much aggravation accompanies a family who just cannot keep their heads above water.

Here we are, in a day of some incredible wealth around this country—around this room—and Republicans are trying to thwart our efforts to extend and expand the payroll tax cut for working families—for people who depend upon their incomes to take care of their family needs; not on their savings, not on their inheritance, on their jobs.

Millions of American families have benefitted from this tax cut that we have had this year, but it stands to expire at the end of December. Our side is eager to continue this tax cut and increase the size of that cut to help these families. In my State, this means a typical family would receive a total tax cut of \$2,100 next year. For parents who are trying to feed their families, educate their kids, pay their bills, an extra \$2,100 goes a long way. To make sure that all working families receive this much needed relief next year, we are asking America's millionaires to pay their fair share, but the Republicans would rather protect their wealthy friends than continue the payroll tax cut for working families.

First, the Republicans blocked our side's efforts to cut taxes for the middle class. Then the Republicans offered their own plan. It was a disgrace. Their plan calls for a much smaller middle-class tax break, which they would have paid for by laying off 200,000 middle-class government workers. That is how they would solve the problem—fire people. Don't take it out of your bank account, don't take it out of your salary—even if you make over \$1 million a year—fire people. That will make sure they understand we are not as concerned about them as we are about the person who makes over \$1 million a year.

It was a cynical ploy. It showed the other side's true stripes. The Republicans say they are for lower taxes, but we now see that only goes for the jet set. Their tax-cutting zeal doesn't extend to the middle class. Republican priorities? Raise taxes on middle-class families. Middle-class families do not have it easy in America today. Republicans want to raise their taxes to protect the luxuries for the millionaires.

Make no mistake. Working families will suffer if the Republicans continue to block our efforts to extend and expand the payroll tax cut, and so will our economy. Last week, Barclays Bank warned that our GDP will drop 1.5 percent if the payroll tax cut is allowed to expire.

The choice is clear. We can continue the payroll tax cut for working families or we can allow the Republicans to continue running their millionaires' protection ring. The fact is, American millionaires are doing just fine. They don't need protection from the Republicans. Since the 1980s, our country's wealthiest 1 percent have seen their average household income increase by 55 percent. But for the bottom 90 percent, average household income has not increased at all.

As we see here, even though incomes are growing for the very wealthy, their taxes are actually going down.

We can also look at CEOs to see how well the wealthy are faring. CEOs at the largest companies are now paid an average salary of \$11 million a year. That is 343 times as much as the average worker's salary of \$33,000.

It used to be a much more modest comparison. In 1980, CEOs made 42 times the average worker's pay. Just look at that. Just a few decades ago the pay was much more reasonable, and the people who were working in the mills and making products and doing the service jobs and all of that were living significantly better than they are today.

Millionaires are making much more money today than they did in those years past. This is something I know something about directly. I was the president of a very large company when I came to the Senate. And you know how I got there: I had a boost from our country. I had enlisted in the Army, and I served in Europe. I got the GI bill. I went to Columbia University.

It happened because the country said: Frank, if you can learn we will help you. We will pay your tuition because you served your country. I've done well because my country invested in me, and I'm willing to invest more in my country today to help the next generation.

That company I helped start with two other fellows has 45,000 employees today; 45,000 people are working at ADP, the company I helped start, because we had a chance at an education and to learn what we had to do to be in management, what we had to do to be in leadership.

Our goal should not be to protect millionaires and billionaires who don't need our help. We should focus on the foundation that our society requires to function. We should be focused on protecting Medicare, food safety, Head Start.

Imagine, they want to take seats away from Head Start Programs. I visited a Head Start Program in New Jersey just a few weeks ago, and I saw the children. They were 3, 4, 5 years old. They were interested in learning something. I talked to them, and I wanted—one of the little kids came over and hugged me around the knees. I wanted to pick him up and take him home. He was so beautiful, so nice. I thought: Here is a child, learning. He came from a single-parent family.

The people who need help—we should be focusing on protecting them and giving them a chance to grow. We should be about making sure they have proper Medicare, that food safety is taken care of. Head Start, home heating for the poor, and other essential programs—we should be protecting them from reckless cuts.

The Republicans who served on the supercommittee refused, before the negotiations were started—refused to ask wealthy Americans to pay their fair share. They practically took an oath that they would demand nothing more of the wealthy, when the country is deeply in debt, starving for a better way to solve our problems.

As a result, the poor and the middle class are going to have to make up the difference. These are the people who need help the most right now. We must act now to protect the vital programs on which they rely. If we fail to act, our country and our economy will continue to suffer—especially Americans who are already struggling. It is just plain heartless to continue asking the poor, the middle class, the elderly, and our children to bear the entire burden of these brutal economic times.

It does not hurt any of us who have been successful to pay a fair share. It might cost a few dollars more, but if you are making over \$1 million a year, look in the mirror and see if you have done it all by yourself or whether it took the help of your country to get there. There is a whole cadre of people working across America—they go to work every day because they want to make a week's pay and take care of

their kids and take care of their obligations. That is the foundation that built America. It is the foundation of the development of something that was called the "greatest generation."

That was the generation in the last century who served in World War II. All of us had an opportunity to get a college education when we otherwise would not have been near a college.

That built our country. That strengthened our foundation. Now we see people, Republicans, who want to make it tougher for people to make a living, tougher for people to get an education, tougher to provide heat for people who desperately need it in the wintertime, tougher to think ahead and say: You know what. I know my children will do better than I have done in my life.

That used to be a truism in our view of life in this country. We don't hear that much anymore because people are unsure, and it does not help to have the Republicans sticking up for the wealthiest among us and turning their backs on working-class families in this country, the middle-class families. It is not right.

I hope the people across this country will say: No. We are going to say no to these Republican policies. I hope our Republican colleagues will disband their millionaires' protection game, stop standing in the way, and start standing up for everyday Americans who need our help.

Help us continue the payroll tax cut for working families. Help us protect the programs that benefit the people who need them most. Help us, friends on the Republican side, to make America even stronger than it is today. We can do that.

Countries are failing all over the globe. America need not to do that. We just have to make sure that while we take care of our expenses, we also make sure we have the revenues to do the job.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF NORMAN L. EISEN TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC

NOMINATION OF MARI CARMEN APONTE TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR

Mr. REID. Madam President, I ask unanimous consent that we now proceed to executive session to consider Calendar Nos. 360 and 501, and I send two cloture motions to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the nominations.

The assistant legislative clerk read the nomination of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

CLOTURE MOTION

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

The assistant 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, do hereby move to bring to a close debate on the nomination of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic:

Harry Reid, Barbara Boxer, Patrick J. Leahy, Patty Murray, Richard J. Durbin, Kent Conrad, John D. Rockefeller IV, Jeff Bingaman, Tim Johnson, Daniel K. Inouye, Debbie Stabenow, Robert P. Casey, Jr., Max Baucus, Charles E. Schumer, John F. Kerry, Mark Udall, Michael F. Bennet.

The assistant legislative clerk read the nomination of Mari Carmen Aponte, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

CLOTURE MOTION

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

The assistant 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, do hereby move to bring to a close debate on the nomination of Mari Carmen Aponte, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador:

Harry Reid, John F. Kerry, Barbara Boxer, Patrick J. Leahy, Patty Murray, Richard J. Durbin, Kent Conrad, John D. Rockefeller IV, Jeff Bingaman, Tim Johnson, Robert Menendez, Daniel K. Inouye, Max Baucus, Charles E. Schumer, Mark Udall, Michael F. Bennet, Al Franken.

Mr. REID. Madam President, I ask unanimous consent the mandatory quorum under rule XXII be waived in each instance; that on Monday, December 12, at 4:30 p.m., the Senate proceed to executive session to consider the following nominations concurrently: Calendar No. 360 and Calendar No. 501; that there be 1 hour of debate, equally divided, in the usual form; that upon the use or yielding back of that time, the Senate proceed without interviewing action or debate to vote on Calendar No. 360; and that if cloture is invoked, the Senate immediately vote on confirmation of the nomination, and following disposition of Calendar No. 360, the Senate proceed to vote on cloture on Calendar No. 501; further, that if cloture is not invoked on Calendar No. 360, the Senate proceed to vote on cloture on Calendar No. 501; that any statements be printed in the RECORD, and the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

TRIBUTE TO JACOB'S TREE

Mr. MCCONNELL. Madam President, I rise today to extend my personal blessing this holiday season to the family of Jacob Akin of Somerset, Kentucky. This year, the town of Somerset has graciously chosen to honor the Akin family by accepting their donation of a 20-foot cherry spruce tree to be displayed in the town's Fountain Square as the county Christmas tree. More important, however, is the solemn but heart-warming story of the tree's origin, and the inspiration it brings to the people of the community. The tree, known as "Jacob's Tree," was planted in remembrance of Jacob Akin, who was tragically killed in a terrible accident on December 6, 1994. Five-year-old Jacob was playing with his older brother, Abraham, in a house when a chimney unexpectedly collapsed on top of him. Thus, the holiday season each year is especially burdensome for his family, as it serves as a constant reminder of the horrific accident that took place 17 years ago.

A year after his death, his family decided to plant a tree to honor young Jacob. Over the years, the tree has helped bring comfort and peace to the family. "We decided to put up the tree in memory of my son," Jacob's mother, Rebecca Buis, says. "I felt like as the tree grew, I could keep up with the

years and somehow see how my son might have grown. It's kind of a reminder, and it helps with the grieving process to plant something in memory of someone you love."

Almost two decades later, Jacob's spirit remains ever-present in the magnificent 20-foot cherry spruce tree that Rebecca hopes will bring a joyful light to the community on Fountain Square. "Over the years, it just grew and grew," she says. "It's a beautiful, well-rounded tree and would make a wonderful Christmas tree."

On December 3, Jacob's Tree was scheduled to be lit for the first time in Fountain Square in a special tree-lighting ceremony during this year's annual Christmas parade. In the spirit of the season, Jacob's family hopes that the community will come together around the tree and share in its joy. "Christmas is a time of giving," Rebecca said.

The story of Jacob's Tree and the selflessness of the Akin family is truly inspirational. I would like to extend my personal blessing to Jacob's mother, Rebecca Buis, his father, David Akin, and his brother, Abraham Akin, this holiday season. And I ask my Senate colleagues to join me in wishing the family a very Merry Christmas and a Happy New Year. It is my hope that the tree brings them comfort, and that it shine especially bright in honor of young Jacob.

The Commonwealth Journal, a Somerset-area publication, recently published an article telling the story of Jacob's Tree. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Commonwealth Journal, Nov. 25, 2011]

'JACOB'S TREE' WILL WARM THE SPIRIT THIS SEASON

(By Chris Harris)

The Christmas season is seen as a time of miracles, a time of redemption for mankind.

This year, one of Somerset's proudest symbols of the Christmas tradition will be its own miracle of sorts—a chance to redeem joy and light out of the clouds of tragedy.

The Christmas tree in the town's Fountain Square is scheduled to be lit in a special ceremony on Saturday, December 3, as is the annual custom.

This year's tree comes from the yard of Rebecca Buis, known to local bank customers as a branch manager and loan officer at First & Farmers National Bank in Somerset.

Anyone who has driven down Denham Street lately has probably noticed the towering cherry spruce standing out with its bold green hue, even as the trees around it have shed their leaves and stand bare and bland.

The tree was planted around the holiday season of 1995—one year after a horrific accident that changed Buis's life forever.

On December 6, 1994, Jacob Akin, Buis's 5-year-old son, was killed in what his mother can only call a "freak accident."

Jacob and his brother Abraham, who was 10 at the time, were playing in a house on Newton Street in Ferguson that their father was in the process of razing.

"(The father, David Akin) did construction work," said Buis. "This wasn't anything that was new to (the children). They were used to playing around that kind of stuff."

This time, however, was different. After Abraham exited the structure to ask his father a question, a chimney crumbled and collapsed on top of young Jacob.

A parent's worst nightmare had come to pass—and during the holiday season meant to be a happy time for families.

The memories remain painful to this day. "They couldn't find my son underneath the bricks," recalled Buis, who still finds herself overcome with emotion when talking about the incident. "They had to pull them off brick by brick until they found him."

According to then-county coroner Alan Stringer, Jacob died of multiple skull fractures as a result of the toppled bricks. Buis noted that Jacob's neck was broken immediately, which meant that death came quickly. This and the fact that Abraham survived provided the only sources of solace in that terrible time.

"My worry was that he suffered, and they told me he had not," said Buis. "I'm lucky in the sense that I felt like God could have taken both my boys that day, playing in the house together. I could have lost them both."

Still, the holiday season was unalterably affected for Buis and her family.

"I wasn't able to focus on Christmas at all," said Buis. "We didn't put up a tree that year."

For one thing, Buis felt like she had to stay strong for her other son's sake. The necessity of putting on a brave face took its own toll on the devastated mother.

"You have to carry on because you have two children," she said. "Kids grieve differently. It's not an easy thing to deal with; kids don't usually tell you, but they feel responsible. I tried hard not to show grief because I didn't want (Abraham) to feel responsible. Nobody could have done anything. It was a freak accident."

Buis recalls Jacob, in kindergarten at Hopkins Elementary at the time, as "a funny little young man," as well as one who was both handsome and intelligent.

"He was a very smart young man," she said. "He understood lots of things, I think."

The calendar pages turned, and soon enough, it was the Christmas season again. Buis decided it would be appropriate to pay some kind of tribute to Jacob, and decided to plant the household Christmas tree, only about five feet tall at the time, in the ground outside their home.

"We decided to put up the tree in memory of my son," she said. "I felt like as the tree grew, I could keep up with the years and somehow see how my son might have grown. Every time I would pull in the driveway, I would see the tree."

"It's kind of a reminder," she added. "It helps with the grieving process to plant something in memory of someone you love."

Today, the majestic tree stands about 20 feet tall. It's "reached its potential," as Buis put it, and has "overgrown the place."

As such, Buis decided it might be the perfect time to inquire about donating "Jacob's Tree," as it's called, to use on the Fountain Square as the county's official Christmas tree. County officials happily obliged.

"Over the years, it just grew and grew," said Buis. "I'd been thinking for some time about (donating it), and just decided, 'You know, it's time to cut the tree down.'"

Buis said she also took Abraham's feelings into consideration. Now 27, still in Pulaski County working in construction, Abraham "thinks it's a good idea," according to Buis, but she wanted to make sure he was okay with the choice to donate the tree given the effect Jacob's death had on him as well.

Much as the tree reached its adult size, Jacob would have been 22 years old this year. However, his legacy has managed to live on in other ways as well.

After Jacob's death, Buis decided to donate his corneas and heart valves to help save the lives of other individuals. "(Christmas) is a time of giving," she said, noting that Jacob's untimely passing was able to give hope to others.

"I received letters telling me that one of Jacob's corneas went to a child who was born with a birth defect, and another went to an older man in his 60s with an eye injury from a work accident," said Buis. "His heart valves also went to adults. I didn't realize how important heart valves were to people who need them (until then)."

"It's a hard decision to make because you have to make it quickly," she added, referring to the decision to donate Jacob's organs. "You can't think about it for days. You have to know at the time of death, and it's a very hard time."

Just as Jacob's body was donated to bring a new light of hope to those in need, his spirit remains in the tree that has now been donated to bring a similarly joyful light to the community.

"It's a beautiful tree," said Buis. "It's well-rounded and would make a wonderful Christmas tree."

Citizens can see "Jacob's Tree" lit for the first time on December 3. The annual Christmas parade, sponsored and organized by the Chamber of Commerce, begins at 5 p.m. with the tree lighting activities set for 7 p.m.

As a Chamber Ambassador, Buis is looking forward to the yearly festivities that are so beloved by locals—but especially since she will get to see that special memorial to her son shining in all its glory.

"I just hope that (those who see it) will enjoy the tree and that it will be beautifully decorated," said Buis. "I hope that people will get a warm feeling from the tree, and know that it's given in a good spirit."

COMPUTER SCIENCE EDUCATION WEEK

Mr. CASEY. Mr. President, I rise today to speak about Computer Science Education Week, which began on December 4, 2011, and continues until December 10, 2011. This celebration includes events in my home State of Pennsylvania that advance the teaching and learning of computer science. These activities help to engage students and build their interest in a field that promises good jobs in a rapidly expanding sector. The week also draws attention to the critical need for strong computer science education in our schools.

E-mails, text messages, financial transactions, cell phone calls and doctor's visits are just a few of the activities that rely on computer science. In the last 20 years, we have undergone a technological revolution that has transformed industry, created entirely new segments of the economy, and transformed our daily lives. Pennsylvania's high-tech industry has played a crucial role in this growth, and we must prepare the next generation to continue innovating. The events of Computer Science Education Week help to build momentum for students to learn computer science.

In Pittsburgh, Carnegie Mellon University, which boasts one of the best

computer science and informatics programs in the country, will host high school students and expose them to the multitude of academic and professional opportunities in computer science. At Emmaus High School in Emmaus, young people will demonstrate programmable robots and hear from alumni who have successfully pursued careers in computer science, all while honoring computing pioneer Grace Hopper with a birthday cake. Even the White House is celebrating Computer Science Education Week by honoring the week's organizers and representatives of the Computer Science Teachers Association as "Champions of Change."

I have introduced S. 1614, the Computer Science Education Act, to help students develop the skills to compete for the growing number of jobs in computer science. Our Nation's economy and security depend upon computing professionals, but the current pipeline of graduates will satisfy only 52 percent of the more than 1.4 million computing job openings expected by 2018. The other 48 percent of these jobs will either go unfilled or move to other countries. America should continue to lead in the high-tech sector by preparing students to take these well-paying jobs. This legislation would strengthen computer science education in elementary and high schools by ensuring that students not only use technology but also learn the technical skills needed to work in computer science and grow our economy.

Computer Science Education Week will help to increase the interest of students who will invent the next mobile technology or start the next technology company. This week was established in 2009 by the Computing in the Core Coalition, a group of organizations, companies, and scientific societies that strive to advocate for computer science as a core academic subject. Computer Science Education Week coincides with the birthday of Grace Murray Hopper, a pioneer in computer science, who was born on December 9, 1906. She rose to the rank of rear admiral in the U.S. Navy, engineered new programming languages and developed standards for computer systems that laid the foundation for many computer science advances.

The economy of the future and the jobs that will accompany it demand that we prepare our students to remain competitive as leaders in the high-tech global marketplace. For that reason, I urge my colleagues to join me in recognizing Computer Science Education Week and to cosponsor the Computer Science Education Act.

HOOVER POWER ALLOCATION ACT

Mrs. FEINSTEIN. Mr. President, I rise today to speak about the importance of the Hoover Power Allocation Act of 2011, of which I am a cosponsor.

This legislation passed the Congress after a multiyear effort led by Senator HARRY REID, the bill's lead author, and I thank him for his work.

Upon enactment, Californians will be able to continue buying Hoover Dam's power at the cost of production for the next 50 years.

The legislation allows the people of southern California whose local governments and utilities signed the 50-year contracts that made building Hoover Dam possible to receive 56 percent of the energy produced by the dam for another five decades.

For the people of my State, the Hoover Dam has been a consistent supply of affordable, pollution-free power for decades. The Hoover Dam is one of the largest power plants in the United States, with a capacity of 2,080 megawatts approximately the size of each of California's nuclear powerplants.

Its average production between 1999 and 2008 was about 4.2 billion kilowatt-hours per year, approximately 2.4 billion kilowatt hours of which goes to southern Californians who buy their power from Southern California Edison, the Los Angeles Department of Water and Power, or members of the Southern California Public Power Agency.

Hoover's power also plays an essential role moving water into parched and populous southern California.

The Metropolitan Water District uses Hoover's power to move its 550,000 acrefeet annual allocation of water from the Colorado River, over five desert mountain ranges, to Los Angeles.

Without Hoover's power, the Metropolitan Water District's cost of moving that water would be inordinately more expensive.

And if California rate payers had to buy that much power at market rates instead of Hoover Dam's 2.5 cents per kilowatt hour cost of production, it would cost approximately \$180 million more each year.

And that power would likely come from dirtier, more distant sources, including coal plants.

Instead, continued access to Hoover's low-cost, renewable hydropower will keep rates low as California's utilities bring on new, more expensive renewable power to comply with the State's 33-percent renewable portfolio standard.

The legislation also sets up a process through which new power recipients in California will be determined by the Western Area Power Administration.

As explained in the House committee report accompanying this bill, Congress expects the agency to conduct an open hearing and review the process to determine power allocations fairly and equitably.

The process should provide the opportunity for irrigation districts, rural electric cooperatives, and other eligible entities to receive allocations.

Congress also expects that Western Area Power Administration will evaluate the relevant power requests of potential new Hoover power recipients in an open, thorough, and transparent

process to assess both the applicants' power needs and the classes of customers they serve.

The agency should make allocation determinations in an impartial, unbiased, and objective manner, consistent with State and Federal preference standards, and in a way that provides the most benefit to the most Californians.

My colleagues and I also expect that the process and analytical results will be documented and made available for review.

Finally, no discussion of Hoover Dam would be complete without acknowledging efforts to protect endangered species.

Hoover contractors have committed to providing more than \$150 million over 50 years to support the Lower Colorado River Multi-Species Conservation Program for the protection of 26 endangered, threatened and sensitive species.

The legislation authorizing the MSCP was enacted in the 111th Congress and signed into law on March 30, 2009.

I thank the parties for reaching this agreement.

The Hoover Dam is an American success story. And it is a renewable energy success story.

During the depths of the Great Depression, Americans stepped forward to help build one of the great engineering marvels of all time.

Between 1931 and 1936, our Nation made a massive effort involving thousands of workers more than 100 of whom lost their lives to build a powerplant unlike anything the world had ever seen.

Many in Congress at the time argued the cost of Hoover Dam was too high.

They argued that government should not be making such large investments in infrastructure.

They opposed efforts to invest in an unproven energy technology like hydropower.

The debate was strikingly similar to debates we are having in this body today.

Luckily for the people of California, believers in American infrastructure and technology won the Hoover Dam debate.

The U.S. Congress provided Federal funds, but only after the Department of the Interior arranged power contracts at prices sufficient to both, No. 1, cover the operating and maintenance charges and, No. 2 repay the capital appropriated by the U.S. Congress within 50 years.

When the communities and utilities of California, led by the City of Los Angeles, stepped forward to sign those contracts, construction began.

As the years have passed, the investment has been repaid and the wisdom of Congress's decision has become apparent.

And now we have enacted a law that continues the legacy of Hoover Dam.

I thank the generations before us for having the foresight to fund the Hoover

Dam, and I hope we can again rekindle the spirit and invest in America.

RECOGNIZING LORELEI SHEPARD

Mrs. FEINSTEIN. Madam President, I rise today to recognize and thank Ms. Lorelei Shepard, who will be retiring from the United States Senate at the end of the year. Lorelei began her career on the Hill in 1993, working for the Secretary of the Senate as an elevator operator in the Capitol. She eventually became a supervisor where she was responsible for managing the weekly schedule of 20 operators and supervising their day to day duties. Her pleasant demeanor and calm nature served her well as she guided and delivered confused visitors and harried staff and Senators to their destinations in the Capitol.

She joined the staff of the Senate Select Committee on Intelligence in 1995, as the Committee's receptionist, where once again her calm and friendly approach and knowledge of the Capitol served her well. In 2000, Lorelei decided to pursue one of her dreams and she moved to a beautiful home in a little town in Vermont. As a Californian, I think it is safe to say that although beautiful, the winters in Vermont leave something to be desired. Thanks to that New England winter, Lorelei decided she needed to thaw out and she soon returned to Washington. Through a combination of good luck and timing, the Committee was able to have Lorelei join the Committee staff again, at the end of 2001.

She has served for the last 10 years on the Committee's staff, including for the last 5 years as our security assistant, making sure that classified documents are logged and distributed appropriately, handling classified correspondence, and keeping track of the secrets entrusted to the Committee.

It is the Intelligence Committee's constitutional responsibility to oversee the intelligence activities of our nation. Through her many years of service on the Committee, Lorelei has made a quiet but critical contribution to this effort. For that, I thank her.

Though Lorelei will be leaving, the Shepard family still remains a part of the Senate community. Lorelei's daughter, Lori, and son, Peter, have followed in their mother's footsteps and both work in the Senate today. This is quite a testament to their family's commitment and dedication to our nation and one for which they should be proud.

I wish Lorelei all the best as she retires and eventually returns to Vermont. I know she will enjoy the new-found time she will have to pursue her love of quilting, writing and the myriad of other talents with which she has been blessed.

On behalf of the Intelligence Committee, many thanks Lorelei, best wishes, and stay warm.

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT

Mr. WHITEHOUSE. Madam President, I rise to speak in support of the Violence Against Women Reauthorization Act of 2011, which I am pleased to cosponsor today. As attorney general of Rhode Island, I saw firsthand the good work the Violence Against Women Act, VAWA, has done to protect victims of domestic violence, to provide crucial services to those in need, and to hold batterers accountable. The VAWA Reauthorization Act builds on that record of success and makes important updates to strengthen the law, while cognizant of the challenging budget circumstances we face. I congratulate Senators LEAHY and CRAPO for their hard work and leadership on this bill.

I am particularly appreciative that Senators LEAHY and CRAPO have included the Saving Money and Reducing Tragedies through Prevention Act of 2011, or the SMART Prevention Act, which I previously introduced, within the Violence Against Women Reauthorization Act.

Far too many teens suffer abuse at the hands of a dating partner. According to the Centers for Disease Control, for example, 1 in 10 teenagers reported being hit or physically hurt on purpose by a boyfriend or girlfriend at least once in the past year. The SMART Prevention Act will support innovative and effective programs to protect our children from this dangerous abuse.

Earlier this year, as chairman of the Senate Judiciary Committee's Subcommittee on Crime and Terrorism, I held a field hearing in my home State on "Preventing Teen Violence: Strategies for Protecting Teens from Dating Violence and Bullying." With hundreds of students from Tolman High School in Pawtucket, RI, in the audience, prominent advocates and experts testified about the importance of educational and community programs in preventing dating violence among teenagers.

The witnesses explained that teen dating violence remains a serious problem, but that we can take important preventive measures. Ann Burke, a leading national advocate, explained that school-based teen dating violence prevention programs, especially those focused on middle schools, have proven effective in changing behaviors. The Lindsay Ann Burke Act, named in memory of Ann's daughter, a victim of dating violence, supports abuse education programs for teens in Rhode Island. Since its passage, physical teen dating violence rates in our State have decreased from 14 percent in 2007 to 10 percent in 2009.

These preventive measures are most effective when part of a community-wide approach. As Kate Reilly, the executive director of the Start Strong Rhode Island Project, explained at the hearing, effective prevention programming should not be limited to schools alone, but should "meet kids where

they live and play." That requires involving parents, coaches, mentors, and teen and community leaders, as well as using new technology and social media in innovative ways.

One group of children needs particular attention: children who have witnessed abuse in their home. Deborah DeBare, the executive director of the Rhode Island Coalition Against Domestic Violence, explained at the hearing that "growing up in a violent home may . . . lead to higher risks of repeating the cycle of abuse as teens and young adults." By supporting robust services for children exposed to domestic violence in the home, we can help break the intergenerational cycle of violence.

The SMART Prevention Act builds on each of these insights. It would create a new grant program within VAWA to support dating violence education programs targeting young people, with a particular focus on middle school students. The bill would also support programs to train those with influence on youth, including parents, teachers, coaches, older teens, and mentors. The new teen dating violence prevention program would be coordinated with existing grant programs focused on prevention, including a program directed at children who have witnessed violence and abuse. By requiring coordination with these programs, and focusing resources on prevention, the SMART Prevention Act is also smart policy fiscally. Abuse that is prevented reduces the strain on our already overburdened health and education systems.

New laws in several States, as well as innovative and hard-working organizations such as the Lindsay Ann Burke Memorial Fund and the Katie Brown Educational Program in New England, have demonstrated how effective such prevention programs can be, so now is the time for Congress to act.

I again thank Senators LEAHY and CRAPO for their leadership in reauthorizing the Violence Against Women Act. I look forward to working with them and other Senators from both sides of the aisle toward a country that is free from dating and domestic violence.

INTERNATIONAL HUMAN RIGHTS DAY

Mr. CARDIN. Madam President, I rise today to mark International Human Rights Day, a day which celebrates the adoption of the Universal Declaration on Human Rights by the UN General Assembly on December 10, 1948.

In the immediate aftermath of World War II, and reacting with revulsion to the horrors of that global war and the Holocaust, the community of nations organized itself with the goal of protecting international peace and security. Although the United Nations founding Charter recognized the protection of human rights as one of the

UN's most basic purposes, it was quickly recognized that it would be necessary to further elaborate these fundamental freedoms in order to ensure their protection. The resulting document—the Universal Declaration of Human Rights—has since served as the foundation upon which all other human rights work at the international level has stood. It remains to this day an enduring guide for human rights advocates around the globe.

This has been an exciting and dramatic year that will be remembered for the triumphs of the Arab Spring. The fall of so many dictators who have been responsible for the deaths, torture, and other atrocities meted out against so many has opened up the exhilarating prospect of real reform and meaningful human rights improvements. But the final chapter of the Arab Spring has not yet been written, and nothing can be taken for granted.

Progress in this field is not necessarily linear. As Ronald Reagan said in his inaugural address, "Freedom is a fragile thing and is never more than one generation away from extinction."

I believe it is especially critical, at this historic moment, for the United States to remain vigilant in the protection and promotion of human rights—abroad and at home.

Overseas, the United States must continue to use our voice to speak on behalf of those silenced by brutal regimes. We must continue to lift up those who cannot stand on their own. And while we must inevitably pursue a multifaceted foreign-policy that advances American goals in a broad range of areas including hard security and the economy, we must never treat human rights as something expendable.

I take particular note of the countries that stand shoulder to shoulder with us in that effort. I welcome Polish Foreign Minister Radek Sikorski's call for a "European endowment for democracy," similar to the National Endowment for Democracy which the United States has supported since 1983. I commend Poland for the leadership it has shown on human rights issues during its presidency of the European Union.

In all of these efforts, the role of civil society remains critical. On the 50th anniversary of the adoption of the Universal Declaration of Human Rights, the United Nations adopted a declaration on the rights of human rights defenders. They are the first line of defense and they often pay the highest price.

There are, unfortunately, too many cases of human rights defenders who are imprisoned, persecuted or worse, for me to raise them all here. But I would like to mention one in particular that maybe emblematic of many others: the case of Evgenii Zhovtis, Kazakhstan's most well-known human rights activist.

Zhovtis is the Director of the Kazakhstan International Bureau for Human Rights and Rule of Law and even a member of the OSCE Office for

Democratic Institutions and Human Rights' panel of experts on freedom of assembly. But he was involved in a tragic car accident in which a pedestrian was killed and, after a trial widely condemned for lacking due process, he was sentenced in 2009 to 4 years in prison.

A year ago, at the OSCE Summit in Astana, civil society activists called for Zhovtis' release. As one NGO participant remarked:

Evgenii is the human rights Everyman. If this can happen to him, it can happen to anyone.

A year later, Evgenii Zhovtis remains in a Siberian penal colony, even as Kazakhstan prepares to host an OSCE election observation mission. In the spirit of the Universal Declaration of Human Rights, I once again urge President Nazarbayev to review his case and to release him.

Thank you.

TRIBUTE TO JOAN MCKINNEY

Ms. LANDRIEU. Madam President, I rise today to pay tribute to Joan McKinney, who has been a beloved and respected mainstay of the Senate Press Gallery for almost 40 years.

Joan retired recently after a decade of service on the Press Gallery staff. Prior to that, she served the people of my home State of Louisiana for 2½ decades as Washington correspondent for the Baton Rouge Advocate.

Joan is originally from Greenville, SC, and is a graduate of Winthrop College. She came to Washington in 1971 to work on the press staff of our dear colleague Senator Fritz Hollings.

As her career advanced, she chose to return to journalism, working first as a reporter for the Greenville News, where her father served as editor, and then for another paper from my home state, the Shreveport Journal.

Joan was hired away by the Advocate when she continually beat the Advocate's reporter—who happened to be the son of the publisher—on stories. I came to know and respect Joan during our many hallway meetings that so often occur between Members and the press. I also had the great fortune of getting to know her as a person and as a friend.

In her tenure as the Advocate's congressional correspondent, Joan came to be well respected by members of the Louisiana delegation from both parties. The Members from my State knew her as fair-handed and tough, and most of all, that there was nothing, nothing that could get by her.

Through her work, Joan became an expert on the intricacies of the Senate and the Supreme Court. She took this knowledge with her into her role as a member of the Senate daily press gallery staff. I know her Senate acumen on the institution and its procedure was of great value to the reporters roaming the gallery who relied on her for deep insight about the Chamber they cover.

Joan, who has won reporting awards from the South Carolina and Louisiana press associations, is a longtime member of the elite Gridiron Club of newspaper writers. She was one of the first women to become a member.

I know that one of Joan's biggest interests is dance, something I am told she plans to be very active with in retirement. Long before "American Idol" and "So You Think You Can Dance," Joan was an excellent competitive dancer. Her specialty is Shag, a regional dance popular in the Carolinas.

This year, Joan won her first national Shag championship. With more time to practice, I am sure more dance titles are on the way.

For those of us who have been fortunate to work with Joan, it is almost impossible to imagine the Press Gallery without her. But I know I join the entire Senate press corps in wishing Joan the best as she embarks on this new adventure in her life.

Joan, thank you for sharing with this institution and our entire country your knowledge, experience and good heart. All of us are better as a result of your service to the best ideals of our democracy.

CROWDFUNDING

Mr. MERKLEY. Mr. President, I rise today to address a promising new idea for investors and small businesses: crowdfunding.

In recent years, small businesses and startup companies have struggled to raise capital. The traditional methods of raising capital have become increasingly out of reach for many startups and small businesses. There is another option, but Congress must act to authorize it and provide for appropriate safeguards.

Low-dollar investments from ordinary Americans may help fill the void, providing a new avenue of funding to the small businesses that are the engine of job creation. The CROWDFUND Act would provide startup companies and other small businesses with a new way to raise capital from ordinary investors in a more transparent and regulated marketplace.

The promise of crowdfunding is that investments in small amounts, made through transparent online forums, can allow the "wisdom of the crowd" to provide funding for small, innovative companies. It allows ordinary Americans to get in on the ground floor of the next big idea. It is American entrepreneurship at its best, which is why it has the support of the President and many in the business community.

That said, there are real risks of investment losses at a rate far beyond ordinary investing. Crowdfunding, if done without proper oversight, provides significant opportunity for fraud. Indeed, it was not too long ago that our financial regulators were doing daily battle with scam artists pitching huge returns on fraudulent schemes through small, unregistered securities.

That is why the CROWDFUND Act will tap the opportunity of crowd-funding while reducing the risks.

The CROWDFUND Act provides a capital-raising alternative for startups and other small businesses, while not undercutting essential investor protections. It allows companies to raise up to \$1 million each year from ordinary Americans. It provides more disclosure, more accountability and accuracy, and limits the exposure of any individual investor.

I thank my colleague Senator BENNET for joining me in this effort, and I hope to partner with more of my colleagues to move this idea forward in the days to come.

TRIBUTE TO CHRISTOPHER L. CUGINI

Mr. THUNE. Madam President, today I recognize Christopher L. Cugini, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Chris is a graduate of Glen Oak High School in Canton, OH. Currently, he is attending the University of Mount Union in Alliance, OH, where he is majoring in communication. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Chris for all of the fine work he has done and wish him continued success in the years to come.

TRIBUTE TO ROBERT CUYLER HASKINS

Mr. THUNE. Madam President, today I recognize Robert Cuyler Haskins, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Cuyler is a graduate of L.D. Bell High School in Hurst, TX. Currently, he is attending Texas Christian University in Fort Worth, TX, where he is majoring in political science. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Cuyler for all of the fine work he has done and wish him continued success in the years to come.

TRIBUTE TO KATI M. SEYMOUR

Mr. THUNE. Madam President, today I recognize Kati M. Seymour, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Kati is a graduate of Jones County High School in Murdo, SD. This past August, Kati graduated from Sinte Gleska University in Mission, SD,

where she majored in English and American history. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Kati for all of the fine work she has done and wish her continued success in the years to come.

TRIBUTE TO MICHELLE MATTHIES

Mr. THUNE. Madam President, today I recognize Michelle Matthies, an intern in my Sioux Falls, SD, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Michelle is a graduate of Parker High School in Parker, SD. Currently, she is attending Augustana College, where she is majoring in English and secondary education. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Michelle for all of the fine work she has done and wish her continued success in the years to come.

ADDITIONAL STATEMENTS

REMEMBERING ELDEN HUGHES

• Mrs. BOXER. Madam President, last weekend California and the Nation lost one of our great environmental champions when Elden Hughes died at his desert home in Joshua Tree, CA, at age 80.

As a longtime activist with the Sierra Club and former president of its Angeles Chapter, Elden led successful campaigns to protect California's wild rivers and preserve the historic Union Pacific Railroad depot in the desert town of Kelso, CA.

But Elden Hughes is best known and fondly remembered as one of the tireless leaders of the long grassroots effort to enact the 1994 California Desert Protection Act, which created a new national park in the Eastern Mojave Desert and established higher levels of protection for Death Valley, Joshua Tree, and other desert lands.

Elden was born in 1931 in Whittier, CA, the son of cattle farmers from Modoc County. When he was 13, the family moved out of town and bought a ranch where Elden made enough money raising hogs to buy an old car and begin a lifetime of exploring California's wild places. After earning his way through college, he worked in the family plumbing supply business, which he then sold to become the executive vice president of a major computer service company.

Elden's interest in river-running, spelunking, archaeology, nature photography, and the desert led him to join Sierra Club expeditions and gradually become involved in the club's conservation activities. In the early 1980s, he led a grassroots letter-writing cam-

paign that convinced California Senator Pete Wilson to sponsor "wild and scenic" designation for a major stretch of the Tuolumne River. In the late 1980s, Elden led the successful "three rivers campaign" that obtained wild and scenic designations for portions of the Kings, Kern, and Merced Rivers.

Elden worked with Congressman JERRY LEWIS to save the historic Kelso Depot, in what was then the Eastern Mojave National Scenic Area. Showing their usual flair and creativity, Elvin and his wife Patty galvanized public opinion on the depot issue by convincing Amtrak to run a special "Desert Wind" train from Los Angeles to Kelso, where Elden led the crowd in singing railroad songs.

In 1986, as the new chair of the Sierra Club Angeles Chapter, Elden was invited to attend a press conference on the introduction of the first Desert Bill, authored by Senator Alan Cranston. He brought along some of his photos of the Mojave and was soon leading a group of amateur photographers on a 2-year project cataloguing the fragile beauty of this unique natural area.

In 1990, Elden retired from business to become the west coast spokesman for the Desert Bill. He was a natural, and the media loved him. As Frank Wheat noted in his book "California Desert Miracle," Elden was also "knowledgeable, quotable, pleasant to be with, and willing to go to great lengths to show members of the press what the Desert Bill was intended to protect. Soon he was drawing reporters as a lamp draws moths."

Meanwhile, Elden and Patty had adopted a pair of abandoned pet tortoises and successfully bred a new family. When the babies were 5 months old, Elden and Patty took them on a cross-country tour to raise media and public interest in protecting the desert tortoise. Over the years, they made nine trips to Washington, DC, to gain congressional support for the Desert Bill. Once, when an airline security guard told them they couldn't bring pet tortoises on the plane, Patty said, "They aren't pets, they're lobbyists."

Finally, in 1994, Congress passed the California Desert Protection Act, and I was proud to cosponsor this bill with Senator FEINSTEIN. Elden Hughes was instrumental in passing this landmark legislation. Today, the Mojave National Preserve and the Kelso Depot stand as monuments to this joyous, creative, and inexhaustible man who did so much to protect California's priceless natural heritage.

On behalf of the people of California, who have benefitted so much from Elden's life work, I send my deepest gratitude and condolences to his wife Patty; his sons, Mark, Paul, and Charles; and his three grandchildren.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:39 a.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. 1541. An act to revise the Federal charter for the Blue Star Mothers of America, Inc. to reflect a change in eligibility requirements for membership.

S. 1639. An act to amend title 36, United States Code, to authorize the American Legion under its Federal charter to provide guidance and leadership to the individual departments and posts of the American Legion, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10. An act to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

H.R. 944. An act to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes.

H.R. 1254. An act to amend the Controlled Substances Act to place synthetic drugs in Schedule I.

H.R. 1560. An act to amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe.

H.R. 2351. An act to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

H.R. 2360. An act to amend the Outer Continental Shelf Lands Act to extend the Constitution, laws, and jurisdiction of the United States to installations and devices attached to the seabed of the Outer Continental Shelf for the production and support of production of energy from sources other than oil and gas, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 535. An act to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes.

S. 683. An act to provide for the conveyance of certain parcels of land to the town of Mantua, Utah.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 32. Concurrent resolution to authorize the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 470, an Act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

ENROLLED BILLS SIGNED

At 4:40 p.m., a message from the House of Representatives, delivered by

Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 535. An act to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes.

S. 683. An act to provide for the conveyance of certain parcels of land to the town of Mantua, Utah.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

MEASURES REFERRED

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

H.R. 10. An act to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law; to the Committee on Homeland Security and Governmental Affairs.

H.R. 944. An act to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1021. An act to prevent the termination of the temporary office of bankruptcy judges in certain judicial districts; to the Committee on the Judiciary.

H.R. 1254. An act to amend the Controlled Substances Act to place synthetic drugs in Schedule I; to the Committee on the Judiciary.

H.R. 1560. An act to amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe; to the Committee on Indian Affairs.

H.R. 2351. An act to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area; to the Committee on Energy and Natural Resources.

H.R. 2360. An act to amend the Outer Continental Shelf Lands Act to extend the Constitution, laws, and jurisdiction of the United States to installations and devices attached to the seabed of the Outer Continental Shelf for the production and support of production of energy from sources other than oil and gas, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 8, 2011, she had presented to the President of the United States the following enrolled bills:

S. 1541. An act to revise the Federal charter for the Blue Star Mothers of America, Inc. to reflect a change in eligibility requirements for membership.

S. 1639. An act to amend title 36, United States Code, to authorize the American Legion under its Federal charter to provide

guidance and leadership to the individual departments and posts of the American Legion, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1400. A bill to restore the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of Gulf Coast States, to create jobs and revive the economic health of communities adversely affected by the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, and for other purposes (Rept. No. 112-100).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

S. 678. A bill to increase the penalties for economic espionage.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 1886. A bill to prevent trafficking in counterfeit drugs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

*Rebecca M. Blank, of Maryland, to be Deputy Secretary of Commerce.

*Ajit Varadaraj Pai, of Kansas, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2011.

*Jessica Rosenworcel, of Connecticut, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2010.

*Jon D. Leibowitz, of Maryland, to be a Federal Trade Commissioner for a term of seven years *pm September 26, 2010.

*Maureen K. Ohlhausen, of Virginia, to be a Federal Trade Commissioner for a term of seven years from September 26, 2011.

By Mr. LEAHY for the Committee on the Judiciary.

Kathryn Keneally, of New York, to be an Assistant Attorney General.

*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.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. ISAKSON:

S. 1963. A bill to revoke the charters for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation upon resolution of their obligations, to create a new Mortgage Finance Agency for the securitization of single family and multifamily mortgages, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW (for herself and Mr. PORTMAN):

S. 1964. A bill to amend the Internal Revenue Code of 1986 to exempt from the harbor maintenance tax certain commercial cargo loaded or unloaded at United States ports in the Great Lakes Saint Lawrence Seaway System; to the Committee on Finance.

By Mr. MORAN (for himself and Mr. WARNER):

S. 1965. A bill to jump-start economic recovery through the formation and growth of new businesses, and for other purposes; to the Committee on Finance.

By Ms. AYOTTE (for herself, Mr. BEGICH, Mr. VITTER, and Mr. RUBIO):

S. 1966. A bill to direct the Secretary of Homeland Security to reform the process for enrolling, activating, issuing, and renewing Transportation Worker Identification Credentials so that applicants are not required to visit a designated enrollment center more than once; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON of South Dakota (for himself and Mr. COCHRAN):

S. 1967. A bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare Program; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. KIRK):

S. 1968. A bill to require the Secretary of Transportation to establish a pilot program to increase accountability with respect to outcomes of transportation investments, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW (for herself and Mr. MENENDEZ):

S. 1969. A bill to amend title IX of the Social Security Act to improve the quality, health outcomes, and value of maternity care under the Medicaid and CHIP programs by developing a maternity care quality measurement program, evaluating maternity care home models, and supporting maternity care quality collaboratives; to the Committee on Finance.

By Mr. MERKLEY (for himself, Mr. BENNET, and Ms. LANDRIEU):

S. 1970. A bill to amend the securities laws to provide for registration exemptions for certain crowd-funded securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE (for himself and Mr. JOHANNIS):

S. 1971. A bill to provide for the establishment of a committee to assess the effects of certain Federal regulatory mandates and to provide for relief from those mandates, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COATS (for himself and Ms. AYOTTE):

S. 1972. A bill to amend the Food and Drug Administration's mission; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. LAUTENBERG, and Mr. KERRY):

S. 1973. A bill to prevent gun trafficking in the United States; to the Committee on the Judiciary.

By Mr. UDALL of New Mexico (for himself, Mr. HELLER, Mr. BINGAMAN, Mrs. FEINSTEIN, and Mrs. GILLIBRAND):

S. 1974. A bill to amend the Tariff Act of 1930 to clarify the definition of aircraft and the offenses penalized under the aviation smuggling provisions under that Act, and for other purposes; considered and passed.

By Mr. DEMINT (for himself, Mr. CORNYN, Mr. VITTER, Mr. TOOMEY, Mr. RISCH, Ms. AYOTTE, Mr. JOHNSON

of Wisconsin, Mr. LEE, Mr. PAUL, Mr. BLUNT, Mr. HATCH, Mr. BOOZMAN, Mr. GRAHAM, Mr. KYL, Mrs. HUTCHISON, Mr. CRAPO, Mr. INHOFE, Mr. BARRASSO, Mr. CHAMBLISS, Mr. COBURN, Mr. THUNE, Mr. BURR, Mr. HELLER, Mr. RUBIO, Mr. JOHANNIS, and Mr. SESSIONS):

S. 1975. A bill to repeal the authority to provide certain loans to the International Monetary Fund, to prohibit loans to enable the Fund to provide financing for European financial stability and to oppose the provision of such financing, and for other purposes; to the Committee on Foreign Relations.

By Ms. COLLINS (for herself and Mr. COONS):

S. 1976. A bill to authorize educational assistance under the Armed Forces Health Professions Scholarship program for pursuit of advanced degrees in physical therapy and occupational therapy; to the Committee on Armed Services.

By Mr. SANDERS (for himself and Mr. BEGICH):

S.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States to expressly exclude for-profit corporations from the rights given to natural persons by the Constitution of the United States, prohibit corporate spending in all elections, and affirm the authority of Congress and the States to regulate corporations and to regulate and set limits on all election contributions and expenditures; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. VITTER (for himself, Mr. SHELLY, Mr. COCHRAN, and Mr. WICKER):

S. Res. 346. A resolution expressing the sense of the Senate regarding the Government of Antigua and Barbuda and its actions relating to the Stanford Financial Group fraud; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 306

At the request of Mr. WEBB, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 306, a bill to establish the National Criminal Justice Commission.

S. 494

At the request of Mr. LIEBERMAN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 494, a bill to amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal cancer.

S. 506

At the request of Mr. CASEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 506, a bill to amend the Elementary and Secondary Education Act of 1965 to address and take action to pre-

vent bullying and harassment of students.

S. 626

At the request of Ms. CANTWELL, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 626, a bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

S. 752

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 752, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 955

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 955, a bill to provide grants for the renovation, modernization or construction of law enforcement facilities.

S. 985

At the request of Ms. MIKULSKI, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 985, a bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

S. 996

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

S. 1174

At the request of Ms. STABENOW, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1174, a bill to provide predictability and certainty in the tax law, create jobs, and encourage investment.

S. 1175

At the request of Mrs. HAGAN, the names of the Senator from Minnesota (Mr. FRANKEN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1175, a bill to provide, develop, and support 21st century readiness initiatives that assist students in acquiring the skills necessary to think critically and solve problems, be an effective communicator, collaborate with others, and learn to create and innovate.

S. 1440

At the request of Mr. BENNET, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1440, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 1591

At the request of Mr. KIRK, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1629

At the request of Mrs. GILLIBRAND, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1629, a bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

S. 1680

At the request of Mr. CONRAD, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1749

At the request of Mr. WARNER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1749, a bill to establish and operate a National Center for Campus Public Safety.

S. 1866

At the request of Mr. RUBIO, the names of the Senator from Utah (Mr. LEE), the Senator from New York (Mr. SCHUMER) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 1866, a bill to provide incentives for economic growth, and for other purposes.

S. 1872

At the request of Mr. CASEY, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 1872, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer epinephrine at schools.

S. 1896

At the request of Ms. AYOTTE, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1896, a bill to eliminate the automatic inflation increases for discretionary programs built into the baseline projections and require budget estimates to be compared with the prior year's level.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Minnesota

(Mr. FRANKEN), the Senator from New York (Mr. SCHUMER) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1954

At the request of Mrs. HUTCHISON, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1954, a bill to amend title 49, United States Code, to provide for expedited security screenings for members of the Armed Forces.

S. 1959

At the request of Mr. BURR, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S. 1959, a bill to require a report on the designation of the Haqqani Network as a foreign terrorist organization and for other purposes.

S. 1961

At the request of Mr. REED, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1961, a bill to provide level funding for the Low-Income Home Energy Assistance Program.

AMENDMENT NO. 1209

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of amendment No. 1209 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself and Mr. COONS):

S. 1976. A bill to authorize educational assistance under the Armed Forces Health Professions Scholarship program for pursuit of advanced degrees in physical therapy and occupational therapy; to the Committee on Armed Services.

Ms. COLLINS. Mr. President, I rise today to introduce a bill to allow physical and occupational therapists to enroll in the Armed Forces Health Professions Scholarship Program. I am pleased to be joined in this effort by my colleague, Senator COONS of Delaware. Our legislation provides tuition assistance to critical health care professionals in exchange for service as a commissioned medical officer.

Unfortunately, while the need for physical therapists has grown during the last ten years of combat, neither the Department of Defense nor the military services have conducted a separate analysis of the current or future DoD workforce requirements for occupational and physical therapists, even

though such an analysis was required by last year's Defense authorization bill.

This legislation would allow the military services to extend the same kind of educational benefits to physical and occupational therapists that are already afforded to physicians, dentists, physician assistants, and even veterinarians.

Physical and occupational therapists at the military's major medical centers serve approximately 600 wounded warriors every day on their road to recovery. More than 32,000 service members have been wounded in Iraq and Afghanistan, including many who have suffered very serious injuries and amputations. Physical and occupational therapists play a critical role in the prevention of injury, rehabilitation, and recovery of wounded warriors. They not only serve in medical facilities, but are also embedded with combat brigade teams on the battlefield. They use their medical training and skill to overcome impairments, regardless of the cause to enable service members to overcome disability and succeed in all aspects of life.

The idea for this bill came directly from a visit I had with a wounded Marine from Maine at the National Military Medical Center in Bethesda, Maryland in November. He was severely wounded by an IED in Afghanistan. He lost part of one leg and his other leg contains shrapnel wounds. Both of his arms were wounded, and he has a traumatic brain injury as well. In short, he has very serious wounds that are going to require a very lengthy recovery period. But, his spirits are amazingly strong and upbeat.

However, when I asked him if he had any concerns, while he praised the care he was receiving, he said there was a severe shortage of physical therapists and other trained clinical personnel to help him in what is going to be a very long recovery. He is expected to be at Bethesda for another nine months. It troubles me that he believes there are not a sufficient number of physical therapists to help him and the other wounded warriors who are hospitalized at Bethesda.

While the Department of Defense reports that it does not face a shortage in these professions overall, both the Air Force and the Navy report shortages in physical therapists, physical therapy technicians, and occupational therapists. One out of every four physical therapist positions in the active duty Navy is currently unfilled. So including these medical professions in this existing educational program would help meet this need.

This bill is also endorsed by both the American Physical Therapy Association and the American Occupational Therapy Association, who agree this effort will help curtail a possible shortage of these valuable professionals in the future.

I wish to point out, we are not authorizing additional or new funding in

this bill, it is simply an important insurance policy against a shortfall of these medical professions that will help the Navy and the Air Force fill vacancies. After all, it is these talented and committed professionals who are helping our wounded warriors return to living full and independent lives.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

AMERICAN PHYSICAL
THERAPY ASSOCIATION.

Senator SUSAN COLLINS,
*Dirksen Senate Office Building,
Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the more than 77,000 members of the American Physical Therapy Association, I write to thank you for your amendment to the National Defense Authorization Act and your introduction of legislation to include physical therapists in the Health Professions Scholarship Program (HPSP).

APTA commends your efforts to add physical therapists to the HPSP. This legislation will enable more of these highly qualified professionals to help treat our nation's wounded warriors and ensure that there will be no shortage in the future. There should never be any disruption in care for the reason of inadequate personnel.

As you know, physical therapists play a critical role in the prevention of injury, rehabilitation, and recovery of wounded warriors around the world. They not only serve at medical facilities like the Walter Reed National Military Medical Center (WRNMMC), but they are also found on the battlefield with the Army Medical Specialist Corps and are embedded with combat brigade teams. They aid in shortening the recovery time of soldiers so they can return to service, and are a necessary and integral part of the health care structure of the armed forces.

Thank you for your commitment to improving the rehabilitation and well being of our wounded warriors. Please contact Michael Hurlbut, Associate Director of Congressional Affairs, at michaelhurlbut@apta.org or 703-706-3160, if you have any questions or would like any additional information.

Sincerely,

R. SCOTT WARD, PT, PhD,
President.

THE AMERICAN OCCUPATIONAL
THERAPY ASSOCIATION, INC.,
Bethesda, MD, December 7, 2011.

Hon. SUSAN COLLINS,
*U.S. Senate,
Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the American Occupational Therapy Association (AOTA), the national professional association representing the interests of more than over 140,000 occupational therapists, occupational therapy assistants and students of occupational therapy, I am writing to thank you for sponsoring legislation to promote occupational therapy within the United States military. This legislation seeks to authorize educational assistance under the Armed Forces Health Professions Scholarship program for the pursuit of advanced degrees in occupational therapy and physical therapy.

Occupational therapy is a skilled health, wellness and rehabilitation service with the goal of improving function, independence and quality of life so that individuals can lead more productive and rewarding lives.

Occupational therapists work within the military from the frontlines in Combat Stress Control teams throughout the continuum of care to long-term rehabilitation and stateside community reintegration. While occupational therapists are present in every branch of the service the Army has the largest and most prominent role for occupational therapy; using the professions unique focus on overcoming impairments regardless of the cause to enable soldiers to overcome disability and succeed in all aspects of life.

The current wars in Iraq and Afghanistan have dramatically increased the demand for occupational therapy practitioners within the military. The signature injuries of these conflicts include traumatic brain injury, post-traumatic stress disorder, traumatic amputation and poly-trauma. Within both the military and the Veterans Administration occupational therapists work as critical members of the treatment teams to address each of these conditions.

AOTA and our members in the civilian world and the military appreciate your leadership and vision in promoting occupational therapy education and training for service members so that they can go on to meet the needs of fellow soldiers and society as a whole. Both within the military and the private sector, demand for occupational therapy is expected to increase dramatically and your legislation can help meet those needs.

We look forward to working with you and your staff to enact this legislation during this session of Congress so that more occupational therapists are trained to meet the health care, rehabilitation and reintegration needs of our service members.

Sincerely,

TIM NANOF, MSW,
Director of Federal Affairs.

By Mr. SANDERS (for himself and Mr. BEGICH):

S.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States to expressly exclude for-profit corporations from the rights given to natural persons by the Constitution of the United States, prohibit corporate spending in all elections, and affirm the authority of Congress and the States to regulate corporations and to regulate and set limits on all election contributions and expenditures; to the Committee on the Judiciary.

Mr. SANDERS. Mr. President, I am submitting a resolution to amend the U.S. Constitution. I do not do this lightly, nor have I ever done something such as this before. The U.S. Constitution is an extraordinary document which has served our country well for over 200 years and, in my view, it should not be amended often.

But in light of the disastrous Supreme Court's 5-to-4 decision in the Citizens United case, I see no alternative but a constitutional amendment. I should add that a similar resolution has been offered in the House by Congressman TED DEUTCH of Florida. This constitutional amendment is supported by such grassroots organizations as Public Citizen, People for the American Way, and the Center for Media and Democracy.

Let me go on record as strongly as I can, and as clearly as I can, in stating that I strongly disagree with the Supreme Court's Citizens United decision.

In my view, a corporation is not a person. In my view, a corporation does not have first amendment rights to spend as much money as it wants, without disclosure, on a political campaign. In my view, corporations should not be able to go into their treasuries and spend millions and millions of dollars on a campaign in order to buy elections.

I do not believe that is what American democracy is supposed to be about. I do not believe that is what the bravest of the brave from our country, fighting for democracy, fought and died to preserve. Almost 2 years ago, in its now infamous Citizens United decision, the United States Supreme Court upended over a century of precedent, taking a somewhat narrow legal question and using it as an opportunity to radically change our political landscape, unleashing a tsunami of corporate spending on campaign ads that has just begun. Make no mistake, the Citizens United ruling has radically changed the nature of our democracy, further tilting the balance of power toward the rich and the powerful at a time when already the wealthiest people in this country have never had it so good.

In my view, history will record that the Supreme Court's Citizens United decision is one of the worst decisions ever made by a Supreme Court in the history of our country. While there is no way of knowing for sure, since there are no disclosure requirements in place to track what was spent, it is no secret that already in the 2010 midterm elections, corporations and some very wealthy individuals spent a huge and unprecedented amount of money to further their political goals. There is no question this is just the beginning of their efforts. At a time when corporations have over \$2 trillion in cash in their bank accounts and are making recordbreaking profits, the American people should be concerned when the Supreme Court says these corporations have a constitutionally protected right to spend, spend, spend shareholders' money to dominate an election as if they were real live persons. There will be no end to the impact corporate interests can have on our campaigns and our democracy if we do not end this Citizens United decision and its impact on our Nation.

All of us in the Senate share one common characteristic. We all run for elections. We all live in the real political world. Let me speak for a moment what I think many of my colleagues in their heart of hearts know to be true; that is, that while the campaign finance system we had before Citizens United was, in my view, a disaster—there is no question it is a disastrous situation where candidates, Members of the Senate, spend huge amounts of time having to raise money, and I know that is distasteful not just for Democrats, it is distasteful to Republicans, it is distasteful for an Independent; that is what we do—now, as a result of Citizens United, that bad situation has become much worse because

infinitely more money is going to come into the political process through non-disclosed donations suddenly appearing on TV screens in our States.

According to an October 10, 2011, article in *Politico*:

The billionaire industrialist brothers David and Charles Koch plan to steer more than \$200 million—potentially much more—to conservative groups ahead of Election Day [2012].

What do we think? Do we think American democracy is about a couple of wealthy billionaires putting hundreds of millions of dollars into campaigns without disclosure? Is that the democracy Americans fought and died for in war after war? I think not.

It clearly is not just Republican operatives. There will be Democrats doing the same. So more and more money comes into the system. We do not know where it comes from, and in order to defend ourselves candidates are going to have to raise more money and become more and more dependent on big money interests. Does anybody believe that is what American democracy is supposed to be about?

Let's talk about the practical impacts. What happens on the floor of the Senate? The six largest banks on Wall Street have assets equal to over 65 percent of our GDP, over \$9 trillion—six banks. When an issue comes up that impacts Wall Street—some of us, for example, think it might be a good idea to break up these huge banks. Members walk to the desk up there and they have to decide am I going to vote for this, am I going to vote against it—with full knowledge that if they vote against the interests of Wall Street, 2 weeks later, there may be ads coming down into their State attacking them. Every Member of the Senate, every Member of the House, in the back of their minds, will be thinking: Gee, if I cast a vote this way, if I take on some big money interests, am I going to be punished for that? Will a huge amount of money be unleashed in my State?

Everybody here understands that is true. It is not just taking on Wall Street, maybe it is taking on the drug companies, maybe it is taking on the private insurance companies, maybe it is taking on the military-industrial complex. But whatever powerful and wealthy special interest we are prepared to take on, on behalf of the interest of the middle-class and working families of this country, when we walk to that desk and we cast that vote, we know in the back of our mind we may be unleashing a tsunami of money coming into our State, and we are going to think twice about how we cast that vote.

I am a proud sponsor of a number of bills that would respond to Citizens United and begin to get a handle on the problem. I would like to acknowledge them very briefly. One is the Disclose Act, sponsored by Senator SCHUMER, which would force corporations spending money on campaign ads to disclose their identity, as candidates have to do. That is a good thing. I support it.

Another is the Fair Elections Now Act, sponsored by Senator DURBIN, which would move us to publicly financed elections. I think that is a very good idea. I support that.

The third piece of legislation is a recent resolution for a campaign finance constitutional amendment, introduced by Senator TOM UDALL of New Mexico, that would make it clear that Congress and the States have the authority to write laws to regulate campaign spending across the country and make sure our State and Federal elections are about what is right for our democracy, and I support Senator UDALL's resolution. But even these excellent pieces of legislation are not enough.

The Constitution of this country has served us well for more than 200 years. But when the Supreme Court says—for purposes of the first amendment—corporations are people, that writing checks from the company's bank account is constitutionally protected speech, and that even attempts by the Federal Government and States to impose reasonable restrictions on campaign ads are unconstitutional, when that occurs, our democracy is in grave danger. Something more needs to be done. There needs to be something more fundamental and indisputable, something that cannot be turned on its head by a 5-to-4 Supreme Court decision.

We have to send a constitutional amendment to the States that says simply and straightforwardly what everyone—except five members of the U.S. Supreme Court—seems to understand; that is, corporations are not people. Bank of America is not a person. ExxonMobil is not a person.

The resolution I am offering calls for an amendment to be sent to the States that would do that. It would make perfectly clear, No. 1, corporations are not persons with equal constitutional rights as real-life, flesh-and-blood human beings; No. 2, corporations are subject to regulation by the people; No. 3, corporations may not make campaign contributions, which has been the law of the land for the last century; No. 4, Congress and States have the power to regulate campaign finance as Senator UDALL's amendment would also say.

This amendment is cosponsored by Senator BEGICH of Alaska, and I would urge all my colleagues to cosponsor this amendment which, in fact, does what its title suggests, saves American democracy.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 346—EX-PRESSING THE SENSE OF THE SENATE REGARDING THE GOVERNMENT OF ANTIGUA AND BARBUDA AND ITS ACTIONS RELATING TO THE STANFORD FINANCIAL GROUP FRAUD

Mr. VITTER (for himself, Mr. SHELBY, Mr. COCHRAN, and Mr. WICKER) sub-

mitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 346

Whereas the Government of Antigua and Barbuda has committed numerous acts against the interests of United States citizens and operated the financial sector and judicial system of Antigua and Barbuda in a manner that is manifestly contrary to the public policy of the United States;

Whereas 20,000 investors, including many United States citizens, lost \$7,200,000,000 in an alleged Ponzi scheme involving fictitious certificates of deposit from Stanford International Bank, an offshore bank chartered in Antigua and Barbuda;

Whereas the Government of Antigua and Barbuda violated the order of the United States District Court for the Northern District of Texas regarding the receivership proceeding initiated at the request of the United States Securities and Exchange Commission (referred to in this preamble as the "Securities and Exchange Commission"), in which the court took exclusive control of all the assets owned by Allen Stanford and Stanford-affiliated entities around the world and documents relating to those assets;

Whereas the Government of Antigua and Barbuda challenged the authority of the United States District Court for the Northern District of Texas by—

(1) initiating a separate and competing liquidation proceeding for Stanford International Bank; and

(2) appointing liquidators who have defied the orders of the court in multiple jurisdictions around the world by litigating for control of hundreds of millions of dollars in bank accounts in the United Kingdom, Switzerland, and Canada;

Whereas the Government of Antigua and Barbuda challenged the authority of the United States Department of Justice by seeking to obtain control of hundreds of millions of dollars in bank accounts in the United Kingdom, Switzerland, and Canada that had been frozen at the request of the Department of Justice in accordance with multilateral criminal asset forfeiture treaties;

Whereas the courts of Antigua and Barbuda have denied recognition of the United States district court-appointed receiver for all assets of Allen Stanford and Stanford-affiliated entities;

Whereas the Stanford International Bank liquidators appointed by the Eastern Caribbean Court of Appeals now seek recognition of the Antigua and Barbuda liquidation proceeding as a foreign insolvency proceeding under chapter 15 of title 11, United States Code, in the United States District Court for the Northern District of Texas;

Whereas the Government of Antigua and Barbuda acknowledged in a statement in March 2010 that—

(1) Stanford International Bank "was operating in Antigua as a transit point and for purposes of registration and regulation"; and

(2) "[t]he business of Stanford International Bank, Ltd. was run from Houston, Texas, and its books maintained in Memphis, Tennessee";

Whereas Allen Stanford, the Stanford Financial Group, and the Government of Antigua and Barbuda enjoyed a mutually beneficial business relationship involving numerous economic development projects and loans to the government of at least \$85,000,000, and forensic accounting reports have identified those loans as having been made from Stanford International Bank certificate of deposit funds;

Whereas, in June 2010, the Securities and Exchange Commission alleged that Allen

Stanford bribed Leroy King, the chief executive officer of the Financial Services Regulatory Commission of Antigua and Barbuda, to persuade Leroy King to—

(1) not investigate Stanford International Bank;

(2) provide Allen Stanford with access to the confidential files of the Financial Services Regulatory Commission;

(3) allow Allen Stanford to dictate the response of the Financial Services Regulatory Commission to inquiries by the Securities and Exchange Commission about Stanford International Bank; and

(4) withhold information from the Securities and Exchange Commission;

Whereas, in June 2010, the United States Department of Justice indicted Leroy King on criminal charges and ordered Leroy King to be extradited to the United States;

Whereas the Government of Antigua and Barbuda has failed to complete the process of extraditing Leroy King to the United States to stand trial;

Whereas Dr. Errol Cort, who served as the Minister of Finance of Antigua and Barbuda from 2004 to 2009, allegedly received more than \$1,000,000 of fraudulently transferred Stanford investor funds either directly or indirectly through his law firm, Cort & Cort;

Whereas Cort & Cort, the law firm of Dr. Errol Cort, served as the official registered agent for Stanford International Bank until June 2009;

Whereas the Government of Antigua and Barbuda, along with the Eastern Caribbean Central Bank—

(1) seized control and possession of the Allen Stanford-owned Bank of Antigua without compensation to the United States district court-appointed receiver;

(2) renamed that bank the “Eastern Caribbean Amalgamated Bank”; and

(3) allocated a 40 percent ownership position to the Government of Antigua and Barbuda and 60 percent ownership to 5 Eastern Caribbean Central Bank member banks;

Whereas, after the fraud that the Stanford Financial Group allegedly perpetrated was made public, the Government of Antigua and Barbuda expropriated numerous Allen Stanford-owned properties in Antigua and Barbuda worth up to several hundred million dollars, and the government has not turned over those properties to the United States district court-appointed receiver;

Whereas the Government of Antigua and Barbuda expropriated without compensation the property known as the Half Moon Bay Resort, which is owned by a group of 12 United States citizens; and

Whereas the Government of Antigua and Barbuda—

(1) has sought and obtained loans from the International Bank for Reconstruction and Development and the International Development Association (commonly known as the “World Bank”) and the International Monetary Fund; and

(2) is the recipient of other direct and indirect aid from the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) provision of all further direct or indirect aid or assistance, including assistance derived from Federal funds, by the United States Government to the Government of Antigua and Barbuda should be suspended until the Government of Antigua and Barbuda provides complete redress of the issues described in the preamble, including through—

(A) the full cooperation of the Government of Antigua and Barbuda and any appointee of that government, including the joint liquidators of Stanford International Bank, with the United States Securities and Exchange

Commission, the United States Department of Justice, the United States district court-appointed receiver, and the United States district court-appointed Stanford Investors Committee, in investigating the Stanford Financial Group fraud and marshaling the assets of Allen Stanford and all Stanford-affiliated entities;

(B) an agreement by the Government of Antigua and Barbuda to be subject to the jurisdiction and bound by the judgment of any United States court that adjudicates the claims relating to the Stanford Financial Group fraud;

(C) the transfer of the assets seized by the Government of Antigua and Barbuda, or obtained by the joint liquidators of Stanford International Bank, to the United States district court-appointed receiver for the benefit of victims of the Stanford Financial Group fraud;

(D) a contribution by the Government of Antigua and Barbuda to the United States receivership estate for the benefit of victims of the Stanford Financial Group fraud, in an amount equal to the amount of any funds that Allen Stanford or any Stanford-affiliated entity provided to the Government or government officials of Antigua and Barbuda;

(E) a contribution by the Government of Antigua and Barbuda to the United States receivership estate for the benefit of victims of the Stanford Financial Group fraud, in an amount equal to any payments that Allen Stanford or the Stanford Financial Group made to Leroy King or any other official of the Government of Antigua and Barbuda for the purpose of subverting regulatory oversight of Stanford International Bank;

(F) the fulfillment by the Government of Antigua and Barbuda of its obligations relating to the expropriation of the Half Moon Bay Resort; and

(G) an agreement by the Government of Antigua and Barbuda to not—

(i) interfere with the receivership commenced by the United States Government; and

(ii) seek control of assets claimed by the United States Government; and

(2) the Secretary of the Treasury should direct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association (commonly known as the “World Bank”) and the International Monetary Fund to use the voice and vote of the United States to ensure that any future loan made by the World Bank or the International Monetary Fund to the Government of Antigua and Barbuda is conditioned on providing complete redress of the matters, and satisfaction of the requirements, described under paragraph (1).

NOTICE OF HEARING

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Thursday, December 15, 2011, at 10 a.m. in SD-430 to conduct a hearing entitled “Prescription Drug Shortages: Examining a Public Health Concern and Potential Solutions.”

For further information regarding this meeting, please contact the committee at (202) 224-7675.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 8, 2011, at 10:00 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, “ICANN’s Expansion of Top Level Domains.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 8, 2011, in the President’s Room, at 10:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. DURBIN. 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 December 8, 2011, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC
WORKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on December 8, 2011, at 9:30 a.m., in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 8, 2011, at 10 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. DURBIN. 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 to conduct a hearing entitled “Tales from the Unemployment Line: Barriers Facing the Long-Term Unemployed” on December 8, 2011, at 9:45 a.m., in room 106 of the Dirksen Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on December 8, 2011, at 2:15 p.m., in

room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 8, 2011, at 10 a.m., in SD-226 of the Dirksen Senate Office Building to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 8, 2011, at 2 p.m.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on December 8, 2011, at 2:30 p.m., in room 366 of the Dirksen Senate Office Building.

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

CONSENT OF CONGRESS TO AN AMENDMENT TO THE COMPACT BETWEEN THE STATES OF MISSOURI AND ILLINOIS

Mr. REID. I ask that the Chair lay before the Senate a message from the House with respect to S.J. Res. 22.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. J. RES. 22

Resolved, That the resolution from the Senate (S.J. Res. 22) entitled "Joint resolution to grant the consent of Congress to an amendment to the compact between the States of Missouri and Illinois providing that bonds issued by the Bi-State Development Agency may mature in not to exceed 40 years," do pass with the following amendment:

Strike out all after the resolving clause and insert:

SECTION 1. CONSENT.

(a) *IN GENERAL.*—The consent of Congress is given to the amendment of the powers conferred on the Bi-State Development Agency by Senate Bill 758, Laws of Missouri 2010 and Public Act 96-1520 (Senate Bill 3342), Laws of Illinois 2010.

(b) *EFFECTIVE DATE.*—The amendment to the powers conferred by the Acts consented to in subsection (a) shall take effect on the date of enactment of this Act.

SEC. 2. APPLICATION OF ACT OF AUGUST 31, 1950.

The provisions of the Act of August 31, 1950 (64 Stat. 568) shall apply to the amendment approved under this joint resolution to the same extent as if such amendment was conferred under the provisions of the compact consented to in such Act.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is expressly reserved.

SEC. 4. RESERVATION OF RIGHTS.

The right is reserved to Congress to require the disclosure and furnishings of such informa-

tion or data by the Bi-State Development Agency as is deemed appropriate by Congress.

Mr. REID. Madam President, I ask unanimous consent that the Senate concur in the House amendment, that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

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

CIVILIAN SERVICE RECOGNITION ACT

Mr. REID. Madam President, I ask unanimous consent that the Homeland Security Committee be discharged from further consideration of H.R. 2061 and the Senate proceed to its consideration.

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

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (H.R. 2061) to authorize the presentation of a United States flag on behalf of Federal civilian employees who die of injuries in connection with their employment.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any related statements be printed in the RECORD.

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

The bill (H.R. 2061) was ordered to be read a third time, was read the third time, and passed.

CORRECTING THE ENROLLMENT OF H. R. 2061

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to consideration of H. Con. Res. 86, which was received from the House.

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

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 86) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 2061.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any related statements be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 86) was agreed to.

ULTRALIGHT AIRCRAFT SMUGGLING PREVENTION ACT OF 2011

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 1974.

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

The legislative clerk read as follows:

A bill (S. 1974) to amend the Tariff Act of 1930 to clarify the definition of aircraft and the offenses penalized under the aviation smuggling provisions under that Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that there be no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 1974) was ordered to be read a third time, was read the third time, and passed as follows:

S. 1974

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 "Ultralight Aircraft Smuggling Prevention Act of 2011".

SEC. 2. CLARIFICATION OF DEFINITION OF AIRCRAFT AND OFFENSES UNDER AVIATION SMUGGLING PROVISIONS OF THE TARIFF ACT OF 1930.

(a) *IN GENERAL.*—Section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) *DEFINITION OF AIRCRAFT.*—In this section, the term 'aircraft'—

"(1) has the meaning given that term in section 40102 of title 49, United States Code; and

"(2) includes a vehicle described in section 103.1 of title 14, Code of Federal Regulations."

(b) *CRIMINAL PENALTIES.*—Subsection (d) of section 590 of the Tariff Act of 1930 (19 U.S.C. 1590(d)) is amended in the matter preceding paragraph (1) by inserting ", or attempts or conspires to commit," after "commits".

(c) *EFFECTIVE DATE.*—The amendments made by this section apply with respect to violations of any provision of section 590 of the Tariff Act of 1930 on or after the 30th day after the date of the enactment of this Act.

SEC. 3. INTERAGENCY COLLABORATION.

(a) *FINDINGS.*—Congress makes the following findings:

(1) The Department of Defense has worked collaboratively with the Department of Homeland Security to identify equipment, technology, and expertise used by the Department of Defense that could be leveraged by the Department of Homeland Security to help fulfill its missions.

(2) As part of that collaborative effort, the Department of Homeland Security has leveraged Department of Defense equipment, technology, and expertise to enhance the ability of U.S. Customs and Border Protection to detect, track, and engage illicit trafficking across the international borders between the United States and Mexico and the United States and Canada.

(3) Leveraging Department of Defense equipment, technology, and expertise is a cost-effective inter-agency approach to enhancing the effectiveness of the Department of Homeland Security to protect the United States against a variety of threats and risks.

(b) *SENSE OF CONGRESS.*—It is the sense of Congress that the Secretary of Defense should—

(1) continue the broad program of cooperation and collaboration with the Secretary of Homeland Security described in subsection (a); and

(2) ensure that the Department of Homeland Security is able to identify equipment and technology used by the Department of Defense that could also be used by U.S. Customs and Border Protection to enhance its efforts to combat illicit trafficking across the international borders between the United States and Mexico and the United States and Canada, including equipment and technology that could be used to detect and track the illicit use of ultralight aircraft.

ORDERS FOR MONDAY, DECEMBER
12, 2011

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, December 12, 2011; that following the prayer and pledge, the Journal of proceedings

be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 4:30 p.m. with Senators permitted to speak for up to 10 minutes each; and that following morning business the Senate proceed to executive session under the previous order.

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

PROGRAM

Mr. REID. Madam President, there will be at least two rollcall votes at 5:30 p.m. on Monday in relation to the Eisen and Aponte nominations. Next week, we have additional nominations we expect to consider, and we have to do either a CR or an omnibus spending

bill—or one of each, which is possible. We have the balanced budget amendments, the payroll tax, we have unemployment insurance, Medicare reimbursement, tax extenders, including the Medicare reimbursement, and, of course, what we are talking about there is the SGR or the doctor fix.

All of these matters are set to expire at the end of the year.

ADJOURNMENT UNTIL MONDAY,
DECEMBER 12, 2011, AT 2 P.M.

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:25 p.m., adjourned until Monday, December 12, 2011, at 2 p.m.



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Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

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

Let us pray.

King and judge of the universe, You rule with righteousness and govern with justice. You have been good to us, restoring our strength and directing our footsteps.

Today guide our Senators in their labors. In these difficult days empower them to produce dividends of character and grace. We pray not for tasks fitted to their strength but for strength which fits them for their tasks. In the hard decisions of this day, guide them by Your word and spirit.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER, a Senator from the State of Montana, 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. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 8, 2011.

To the Senate:

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

DANIEL K. INOUE,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in executive session to consider the nomination of Richard Cordray to be Director of the Consumer Financial Protection Bureau. At 10:30 a.m., there will be a cloture vote on the Cordray nomination. If cloture is not invoked, the Senate will resume consideration of the motion to proceed to S. 1944, the Middle Class Tax Cut of 2011. As a reminder to all Senators, cloture has been filed on the motion to proceed to S. 1944. Unless an agreement is reached, that will be tomorrow morning.

CORDRAY NOMINATION

Mr. REID. Mr. President, shortly the Senate will vote on the confirmation of Richard Cordray to lead the Consumer Financial Protection Bureau. Again, the Consumer Financial Protection Bureau. I stress "consumer." By now we all know my Republican colleagues will filibuster Mr. Cordray's nomination. They said they will. This is not an up-or-down vote. In the Republicans' effort to not allow this vote, they are stopping a vote on this very qualified man.

They are not blocking this nomination because of any fault, real or per-

ceived, in this candidate. He has bipartisan support and is eminently qualified. He has a long history of protecting consumers against the unfair practice of financial predators. He currently serves as chief of enforcement at the Bureau.

Before that, Mr. Cordray served as Ohio's attorney general, a very important job in a very heavily populated State. While there, he recovered billions of dollars from pension funds on behalf of retirees, investors, and others. He took action against fraudulent foreclosures and predatory lending. He is qualified, and he is a man of diligence.

The Republicans are blocking his nomination and not allowing a vote because they don't like the Federal agency he would lead, an agency established by law. This is the first time in the Senate's history that a party has blocked a qualified candidate solely because they disagreed with the existence of an agency that has been created by law.

Republicans are doing this to undermine the system of law we have in our country. Democrats fought to pass Wall Street reform last year to protect against the greed of big banks. Well, without a director, the Consumer Financial Protection Bureau doesn't have the tools it needs to get the job done. It is shocking that despite the economic crash in our rearview mirror—it is easy to look back and see what happened because of Wall Street greed—Republicans, in spite of that, would leave consumers without a watchdog to guard against the greed of Wall Street. That is unfortunate.

Would the Chair announce the business of the 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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S8421

EXECUTIVE SESSION

NOMINATION OF RICHARD
CORDRAY TO BE DIRECTOR, BU-
REAU OF CONSUMER FINANCIAL
PROTECTION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided and controlled between the two leaders or their designees.

Mr. REID. I ask that a quorum be called and the time be equally divided between the two sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask 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.

Mr. MCCONNELL. This morning the Senate will vote whether the new Consumer Financial Protection Bureau should be able to put a director in place before concerns about its accountability to the American people are addressed. Let me stress that is all today's vote is about. Today's vote is about accountability and transparency. It is a debate about whether we think Americans need more oversight over Washington or less.

Republicans made our position clear more than 7 months ago when 44 of us signed a letter saying we will not support a nominee for this Bureau, no matter who the President is, until three commonsense conditions are met that would bring some transparency and accountability to the CFPB. That letter now has 45 signatories.

The President knew about these concerns months ago and he chose to dismiss them. Now he is suddenly making a push to confirm his nominee because it fits into some picture he wants to paint about who the good guys are and who the bad guys are here in Washington. So, once again, Democrats are using the Senate floor this week to stage a little political theater. They are setting up a vote they know will fail so they can act shocked about it later. This is what passes for leadership at the White House right now.

The President has made his choice about how to deal with this issue, and we have made ours. What we have said

is that until this or any other President addresses these legitimate concerns, we cannot and will not support a nominee. Here is what we said in that letter 7 months ago: First, replace the single Director with a board of directors who would oversee the Bureau. Second, subject the Bureau to the congressional appropriations process. Third, allow other financial regulators to provide a check on CFPB rules so they don't imperil the health of financial institutions and lead to unnecessary bank failures.

Look, everybody supports strong and effective oversight, but that has to include the overseers as well. Unelected bureaucrats must be held accountable to the American people, and that is exactly what our proposal would do. So it is up to the President. Republicans have outlined our concerns and they are well known. We are not going to let the President put another unelected czar in place, unaccountable to the American people. And, frankly, his refusal to work with us only deepens our concerns. The CFPB requires reforms before any nominee can be confirmed. It is time the President takes these concerns seriously.

I look forward to hearing from the President on this issue so we can put in place the kind of oversight and accountability the American people expect in an agency of this size and this scope. Until then, I will vote against this nominee for the CFPB and any others that this or any other President sends until he works to fix the problems, until he brings transparency to this bureaucracy and accountability to the American people.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. 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.

Mr. SHELBY. Mr. President, I rise today in opposition to the motion to invoke cloture on the nomination of Richard Cordray to be the Director of the Bureau of Consumer Financial Protection.

Earlier this year, I and 44 of my colleagues sent a letter to the President expressing our concerns with the unaccountable structure of the Bureau. It is now 7 months later and the President has yet to respond.

The majority has called for a vote they know will fail today. It is evident the White House and the majority have decided to place politics ahead of good policy. They have chosen to fabricate a political issue rather than do what is in the best interests of consumers. Nonetheless, they claim this debate is about consumer protection.

There is no disagreement, however, that consumer protection, as the Act-

ing President pro tempore knows, needs to be enhanced. The only real point of contention is whether the new Bureau of Consumer Financial Protection will be accountable to the American people.

If we believe regulators never fail, then the current structure of the Bureau is just fine. Yet we all know regulators do fail and their failures harm consumers.

Members of the majority, I believe, have repeatedly made this point with their criticism of the Fed's failure to regulate subprime mortgages and the OCC's preemption of State consumer protection laws.

I strongly agree with the majority that our regulators failed to do their jobs in the lead-up to the financial crisis. But the lesson we should learn from the financial crisis is not that we need more unaccountable regulators. Instead, all of our financial regulators need to be held more accountable.

Just as banks should be held accountable for their failures, regulators should also be held accountable for theirs. After all, if regulators know Congress can hold them accountable, they will have a far stronger incentive to do their jobs. That will be good, as we all know, for consumers. That is why, if the Bureau is reformed, the biggest winners will be the American consumers.

Today, however, the majority will show that they are now more concerned with insulating bureaucrats from accountability and rewarding political allies than looking out for consumers. The administration and the majority will try to argue that the Bureau already is accountable. Indeed, they will say it is more accountable than any other financial regulator. But let's look at the facts. The facts tell a different story.

First, it is necessary to appreciate the amount of power placed in the hands of the Director of this Bureau. No bureaucrat will have more power over the daily economic lives of Americans than this Director. The Director, in effect, will decide which Americans can access credit to buy homes, purchase cars, and pay for college. The Director will regulate not only financial companies but also tens of thousands of Main Street businesses. Also, the Director will unilaterally decide how the Bureau spends its up to \$600 million budget.

Despite the vast power vested in the hands of the Director, there are no effective checks on the Director's authority. To truly understand just how unusual the structure of the Bureau is, one need only compare it to other independent agencies.

Unlike the Chairman of the SEC, the CFTC, and the Federal Reserve, the Director of the Bureau does not have to obtain the agreement of other board members or other government officials before acting. Unlike other consumer protection agencies, the Bureau is not subject to the congressional appropriations process. Indeed, other consumer

protection agencies, such as the Federal Trade Commission and the Securities and Exchange Commission, are both subject to appropriations and are governed by five-member boards.

To further ensure against one party domination, the FTC and the SEC can have no more than three members from the same political party. Another important comparison is with the Consumer Product Safety Commission. This agency actually served as the template for Professor Warren when she first advocated for the creation of a consumer protection agency in an article several years ago. How is the Consumer Product Safety Commission structured? It is, first, funded through appropriations, and there is a five-member commission.

Opponents of accountability have sought to justify the structure of this Bureau by pointing to the Office of the Comptroller of the Currency and the Federal Housing Finance Agency. Once again, the facts refute their argument.

First, the Comptroller can be removed at any time by the President for any reason. In contrast, the President can remove the Director of the Bureau only for limited grounds of "inefficiency, neglect of duty or malfeasance." This means the Director of the Bureau cannot be removed even if the Director pursues policies that are harmful to the American people. How is that good for consumers?

As for the Federal Housing Finance Agency, its Director is far less powerful than the Director of the Bureau. The Director of the Federal Housing Finance Agency oversees the regulation of only 14 financial institutions. He does not have sweeping powers over all consumers and tens of thousands of Main Street businesses like the Director of the Bureau would have.

It should be common sense that the more power an agency has, the more accountable it needs to be. Moreover, rather than attempting to point to other regulators to justify the structure of the Bureau, a more responsible approach would be to make all of our financial regulators more accountable. And we should begin right here with the Bureau.

To make the Bureau more accountable, we have proposed three commonsense reforms.

First, the Bureau should be led by a board of directors, as I have said. This is such a commonsense measure that the President and the Democratic-controlled House originally called for the consumer agency to be structured as a commission.

Second, the Bureau's funding should be subject to congressional appropriations.

Currently, the Federal Reserve is required to transfer up to \$600 million to the Bureau each year. These are funds that could otherwise be remitted to the Treasury and used for deficit reduction or other things. Diverting this money to fund an unaccountable Federal agency sets a dangerous precedent of using

the Federal Reserve as an off-budget mechanism for funding programs. It had not happened before.

In addition, funding the Bureau through the Fed removes any check on runaway spending. I believe the fiscally responsible way to fund the Bureau is through the congressional appropriations process just as every other consumer protection agency is funded.

Our third reform proposal is to create an effective safety and soundness check for the prudential bank regulators.

Some have said the Bureau already has a check under the so-called Financial Stability Oversight Council veto. But this veto was designed so it would never actually constrain the Bureau. The council can only overturn a rule in an extremely rare case: The rule must put at risk the safety and soundness of the entire U.S. banking system or the stability of the U.S. financial system.

Under this construct, a rule could cause the failure of multiple banks, but the council still would not have standing to alter the rule. Additionally, the procedure is rigged to prevent the council from acting. It takes an affirmative vote of at least two-thirds of the council's members to set aside one of the Bureau's rules, and the Bureau's Director is a voting member of the council.

In addition, only 3 of the council's 10 members are actually bank prudential regulators. This veto is not a check on the powers of the Bureau. It is a sham that they have today. We need to change that.

Recent history shows that taxpayers are ultimately on the hook for bank failures. For this reason, consumer protection needs to be carefully coordinated with bank regulation to prevent against unnecessary bank failures.

As presently structured, the Bureau can ignore any advice offered by banking regulators, even if it undermines the safety and soundness of banks. Unless this structural flaw is remedied, a real possibility exists that the consumer bureau will one day cause bank failures that end up harming consumers, taxpayers, and our economy.

In light of the reasonableness of the reform proposals we have requested, the question remains: Why are the administration and the majority so insistent that the Bureau be unaccountable?

Clearly, they want to use the Bureau as a political issue. A second reason is that they believe nonbank financial institutions are not currently regulated. But this is false. The Federal Trade Commission, the State attorneys general, and State financial regulators all have authority over nonbanks. A more likely reason for today's vote is that the Bureau will provide funding to key liberal activists, such as ACORN.

Other agencies must return to the Treasury funds what they receive from enforcement actions. This consumer bureau, as now structured, is allowed to dole out money it collects from fines and penalties to liberal consumer

groups. This reveals why the administration and the majority want so desperately for the Bureau to be unaccountable. They want the Bureau to be a permanent funding machine for their political allies.

Finally, we are going to hear that our methods to achieve reform are unprecedented in the history of the Senate. It has been said:

Never before has the consideration of a nominee been conditioned on a change in the law.

This, of course, is ridiculous on its face. It is nonsense. Nominees are held routinely in the Senate by both parties, for any number of reasons, including the desire to make changes in existing law. The only thing different in this particular case is that it is completely transparent. No secret backroom deals. We are right here in the open.

After all the harm caused to consumers by financial regulators, it is time the majority stops using consumer protection as a political football and starts taking actions that actually help consumers. We can take the first step by reforming the Bureau to make it accountable to the very consumers it purports to protect.

Until that time, however, we cannot, we should not, and we will not move forward on the nomination of the Director to lead this massive and unaccountable bureaucracy. I urge my Democratic colleagues to stop obstructing reform and join with us to move forward on real consumer protection.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to be recognized for 5 minutes at the conclusion of Senator JOHNSON's remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSON of South Dakota. Mr. President, 2 months ago the Senate Banking Committee voted along party lines to send to the full Senate the nomination of Richard Cordray to be the first Director of the Consumer Financial Protection Bureau. Due to an unprecedented and irresponsible display of political gamesmanship, Mr. Cordray's nomination and strong protections for American consumers are being held hostage.

Before any candidate was put forth, Senate Republicans pledged to block the nomination, and their objections have nothing to do with Mr. Cordray's qualifications, his politics, or his character. Republican Senators have actually admitted as much, with a public pledge to block any nominee for the new consumer agency until a list of legislative demands, which would greatly weaken the agency, are met. That those demands were debated and rejected by a bipartisan Congress last year is beside the point. The minority

party is distorting the Senate confirmation process, mandated by the Constitution, to rewrite a law against the wishes of the American people.

Why do Senate Republicans remain opposed to consumer protection despite national surveys showing 3-in-4 bipartisan voters support the new agency's creation? Whatever the motivation, it appears to outweigh any concerns about protecting families buying homes, students borrowing for college, and service members or older Americans falling prey to financial scams.

This vocal minority opposed to strong consumer protection and helped by special interests have drummed up misleading claims to hide behind. They claim the CFPB Director will put the economy at risk—ignoring the effects of the foreclosure crisis, which was itself fueled by irresponsible and predatory lending. They claim the agency lacks accountability—ignoring the fact that it is bound by accountability measures comparable to or exceeding that of other independent financial regulators. And they claim restrictions on abusive financial products will hurt lenders—ignoring the damage those products inflicted on consumers tricked into signing unfair contracts filled with hidden fees and penalties.

In reality the CFPB was created as an accountable yet independent regulator in bipartisan negotiations last year. Its mission is to protect consumers—by cracking down on predatory lenders and streamlining disclosures so families can make better informed financial choices. But until it has a confirmed director in place, the CFPB's authority over nonbank financial institutions, like private student lenders and mortgage brokers, will be stifled. Every day Mr. Cordray's confirmation is blocked, vital protections are delayed, millions of Americans—including service members, veterans and older Americans—are left vulnerable, and the Nation's community banks and credit unions remain at a disadvantage to their less-regulated competitors.

The question we consider today should not be whether the minority party can hijack this constitutional process and demand as ransom legislative changes that would hamstring the consumer agency. The question should be whether Mr. Cordray is qualified for the job. And I believe that Mr. Cordray is an outstanding candidate. For years Richard Cordray has worked tirelessly as a public servant. As Ohio's Attorney General he aggressively pursued financial crimes by banks and mortgage firms, and won more than \$2 billion in settlements for the State. And as Ohio's first solicitor, he argued cases before the Supreme Court to protect consumers and enhance the quality of our financial markets.

American families paid a steep price for the financial crisis, battered by layoffs and foreclosures. Yet incredibly, many of the bad actors that contributed to the crisis remain poorly regulated and continue to lobby against

tougher regulation. Congress created the CFPB to protect consumers and clean up the marketplace, but it needs a director. Richard Cordray has proven himself capable for the job, and there is no legitimate reason to block his confirmation.

I urge my colleagues to reconsider their political game playing and do the right thing.

Stop blocking Richard Cordray's nomination and allow him to have an up or down vote.

I yield to my colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I wish to thank the chairman for his leadership on this important issue and so many others before the Banking Committee.

Since September 2008, we have learned many hard lessons about the factors that contributed to the financial crisis. To address systemic risks and to fix the system, we passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. One of the most important reforms we made in that legislation was the creation of the Consumer Financial Protection Bureau, or the CFPB. The CFPB is charged with stopping abusive mortgage originators, stopping abusive credit card companies, and stopping abusive private student loan lenders.

For years we have had organizations whose purpose was to protect the banking system and, indirectly, consumers. We need to provide a balance. Frankly, if we had this balance in place prior to 2008, we might have avoided some of the incredible costs we have seen not only to consumers but to the entire banking system as a result of predatory behavior by many different financial institutions.

Unfortunately, many of my Republican colleagues are trying not to correct deficiencies in the Dodd-Frank act or improve it. They want to gut it. One of the things they want to take out is consumer protection, and they want to do that by denying a nominee to head up this important agency.

It certainly is a prerogative of my colleagues to work on improving any piece of legislation, but effectively to say: We will not let legislation that has passed this body by 60 votes and that has ample precedent in the law to take effect because we won't put a person in charge is, I think, abusing the process.

We have worked on this issue, and we know consumers need these types of protections. We know that daily there are scams targeting the elderly. There are unscrupulous mortgage lenders and abusive payday lenders. Most financial firms are not like this—in fact, these individuals probably represent a very small minority of the financial community, but they are abusive predators, particularly to the most vulnerable people in our society.

There has been a lot of discussion about the 1 percent and the 99 percent. Well, guess what, the 99 percent are

consumers, and the 1 percent are probably those people who are running some of these financial institutions, some of them fairly and scrupulously, but others who are not.

We want to protect consumers in this country—all of us—certainly the 99 percent, but because of Republican opposition of this nominee, we are running into a real problem. If we do not have a head of this organization, then it cannot effectively implement regulations and effectively enforce the laws it has been given the task to oversee and implement.

We have to have rules that apply across the country that get at the shadow banking system, that provide the kinds of protections consumers can rely on, and that, in fact, improve the operation of the marketplace. Again, I think some of the people who regret what happened the most in the 2007, 2008, 2009 time period are financial leaders looking around and saying: Why wasn't anyone checking the behavior of some of the financial companies out there that have ruined my marketplace and ruined my reputation? Well, we have to do that.

The longer Richard Cordray is blocked, the longer such disreputable practices in the financial marketplace can continue. And Richard Cordray is entirely qualified: as former treasurer of the State of Ohio, he knows the financial business and worked closely with banks at the Treasury, as former attorney general of Ohio, he worked to protect consumers, and as an individual, he has the intellect and the character to do an outstanding job. We have to get him in place.

Who suffers if we don't do this? Well, among those who are suffering are military personnel. I had the privilege of commanding a paratrooper company in the 82nd Airborne Division in the 1970s. I was an executive officer, and I handled all the complaints, all the dunning, all the letters that were coming in from my soldiers. It has gotten worse.

Holly Petraeus, who is the head of the Office of Servicemember Affairs at the CFPB, testified before the committee. She talked about Internet lenders who target military personnel—vulnerable soldiers and their families—who are about to deploy or who just came back from Afghanistan. They will give loans of up to 40 percent of a soldier's pay. Of course, the interest rate can be as high as 584 percent APR. We can't stop that until we get somebody such as Richard Cordray in charge of this organization.

She also talked about the dunning calls, 20 times a day, threatening them: We will go to your commander. We will have you court-martialed. We will take away your security clearance. We will ruin your career.

We have to stop that. This is about real people, real consumers. We have to confirm Richard Cordray.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I understand I have 5 minutes.

The PRESIDING OFFICER. There is no order. The Senator may use 5 minutes.

Mr. MENENDEZ. Thank you very much.

Let me first thank Chairman JOHNSON for his leadership in this regard and in so many other major issues before the Banking Committee. He has really exercised a lot of our oversight obligations in making sure we implement Wall Street reform in a way that protects all of us as taxpayers in the country but creates a system that can still let us economically flourish, and this is one of those.

For too long too many in Washington protected Wall Street from common-sense regulations and let consumers fend for themselves. For too long Republican economic policy, when it should have protected the 99 percent of American consumers from the reckless financial games that led us to the brink of economic disaster in 2008, protected the 1 percent on Wall Street instead.

Banks played Russian roulette with the future and economic security of middle-class families, and no one—no one—was watching. Backed up by too-big-to-fail government guarantees, they wreaked havoc on our economy and on the jobs and retirement savings of families who played by the rules.

We have lived through the unfortunate results of lax oversight, and now it is time to work together to correct it. It is time to stop the political games and govern. It is time to act. It is time to work together to make sure middle-class families get the protection they deserve and the watchdog they need.

This is really about whose side a person is on. Cordray and consumer protection are being blocked simply because Republicans want to protect Wall Street. Wall Street already has a legion of lobbyists protecting its interests. We need someone who can protect Main Street's interests, and that is what Richard Cordray would do as the Director of the Consumer Financial Protection Bureau.

Richard Cordray is an unquestionably well-qualified nominee, and no one is disputing that fact—no one. I have not heard anyone dispute his qualifications for the job. We know the Consumer Financial Protection Bureau would be off to a good start with Richard Cordray at the helm, despite efforts by special interests to derail the process. It will be a strong but fair agency under Richard Cordray—to protect financial consumers who are tired of being tricked by the fine print, the “gotcha” paragraphs that no one but a bank lawyer would understand.

Despite hysterical claims from Wall Street, the Bureau actually won widespread praise from both consumers and the industry for its first major initiative when it created a new and greatly simplified Know Before You Owe mort-

gage loan disclosure form so that consumers understand what kind of mortgage they are getting into before they take it. Had we had that type of language early on, maybe we wouldn't have had part of the crisis in which consumers were led to bad mortgage products—products that ultimately had skyrocketing interest rates—when they qualified for a conventional mortgage. Maybe we wouldn't be in the great predicament we have been in since 2008.

Under Wall Street reform, Richard Cordray will be there to prevent those families from being ripped off again. Fixing our broken system was not easy, and it is still not over. We are still fighting to keep the ground we have gained against special interests.

The longer this nomination is delayed, the more consumers will suffer. Without a Director, the Consumer Financial Protection Bureau cannot carry out some of its most vital functions, including regulating payday lenders, pawn shops, private student loan companies, those that make unscrupulous and predatory loans on our military families—we heard Senator REED, who has great experience in this, talk about that—giving them an unfair advantage at the same time as they do that over community banks and credit unions that are regulated, that are good and that play by the rules.

Now is a time to work together to make that happen. I ask that my colleagues stop playing games. Let us go to a final up-or-down vote on Mr. Cordray.

Republicans have continued to couple Mr. Cordray's nomination to weakening the Consumer Financial Protection Bureau, which is unprecedented. Never in Senate history has a nominee been opposed in the Senate because of opposition to the whole agency for which he or she has been nominated.

I say to my Republican colleagues, let's stop playing games with the protections American consumers need. Work with us to do the job we were elected to do and confirm this nominee. Work with us to protect consumers.

We have come a long way toward a middle ground in creating this agency with checks and balances to begin with. The time has come for Republicans to join us in governing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, there has been a lot of wild rhetoric, quite frankly, hyperbole, exaggeration. I wanted to try to bring this discussion and this debate back to reality. To do that, I wanted to remind folks that conservatives objecting to this nomination have, from the very beginning, laid out three very narrow, specific, concrete reforms we are seeking. So this notion that we are against consumer protection, we are trying to gut CFPB, is silly. Let's get back to reality. Let's get back to what we have

said from the very beginning: We want these three important reforms.

First of all, we think it is very important for the single Director, a new czar quite frankly, a credit czar, to be replaced with a board to oversee this Bureau. That is how other comparable agencies operate. The best example—the best comparison—is the SEC. I think that is a critical check on the Bureau's authority to have a board that can discuss and come up with a consensus, not a single agency.

Secondly, related to that, there should be safety and soundness checks for the prudential financial regulators who oversee the safety and soundness of financial institutions. One of the core reasons we had the 2008 financial crisis is we had political agendas run amok with regard to financial institutions with no safety and soundness checks.

We are putting that same problem on steroids in this new all-powerful bureaucracy. Again, point No. 1, very specific, very concrete, very commonsense reform that we have proposed from the beginning is a safety and soundness check.

Third, and perhaps most important, the Bureau should be subject to the congressional appropriations process so there is some oversight and accountability from the American people and their representatives. That is the norm. That sort of check and balance, that oversight and accountability, is absolutely the norm. It is way outside the norm to have no oversight and accountability because, as it stands now, this new superbureaucracy has an unlimited check that it gets from the Federal Reserve—never has to get an appropriation, never has to answer a single question from the people or their representatives.

Again, the CFPB, as it sounds now, draws its budget directly from the revenue of the Federal Reserve. By the way, this revenue would otherwise be deposited into the Treasury paying down the debt. The CFPB is not just about mega institutions, mega banks—more hyperbole that has been thrown on the floor—but anyone, any business, for instance, that offers four or more payment installments and an installment plan.

Sure, that includes Citibank. It also includes your dentist, your vet, your local electronics store. CFPB right now is so unlimited in their authority that they are able to limit or prohibit the terms of any such product or service, has power over marketing of any such product or service in its jurisdiction with, again, the Federal Reserve as its basically unlimited piggy bank.

I think these concerns we have are pretty darn fundamental and have a lot of common sense in them. Again, we have three very specific, concrete reforms we want advanced. We are not trying to gut the CFPB. Those reforms would not gut it—not against consumer protection. Those reforms would still have a sound, strong consumer protection agency in place.

I think the American people deserve a more honest debate than, quite frankly, they are getting in a lot of this. This notion that if we are against ObamaCare, we are against all improvement of the health care system is silly. I think Americans get that as their health insurance premiums go up significantly now, by every accounting, by every independent source, well beyond what they would have gone up otherwise.

Being against that is not being against health care reform. We heard even earlier, if we are against the stimulus plan, we are against economic recovery. That is silly. I think Americans know that now that we are still stuck at very high unemployment. How is that recovery working out for everyone?

I was against the stimulus because I was for economic recovery, and it is the same thing here. We need to advance the interests of the American people, certainly including consumers. But we do not need an all-powerful, new czar in Washington who can hurt everyone, including consumers.

So we continue to advance three very specific, concrete, commonsense reforms. That is all we want. That does not gut CFPB. That is not against consumer protection. It is against unbridled, unprecedented authority. The American people, agency after agency, issue after issue, have seen the effects of that sort of unbridled, virtually unlimited Federal Government authority in the last 2 years. They do not like it.

Mr. RUBIO. Earlier this week in Kansas, President Obama tried to score political points by chiding Senate Republicans for refusing to vote on the confirmation of Richard Cordray to be Director of the so-called Consumer Financial Protection Bureau—CFPB—saying we refuse to let him do his job. And the President asked, Why? I am happy to answer his question, again.

Earlier this year, I joined 44 other Senators in recommending to the President three necessary reforms for the CFPB in order to improve accountability in its operations. Specifically, we asked that a board of directors be established to oversee it, that the agency be subjected to the regular congressional appropriations process, and for the establishment of a safety and soundness check for the prudential regulators.

We made clear to the President that without these reforms we would not vote to confirm any nominee to run the CFPB, regardless of political affiliation or qualifications. The President chose to ignore our suggestions. Although the President frequently pays lip service to accountability in the regulatory process, when push came to shove, he made this serious issue just another talking point.

President Obama is now trying to pressure my colleagues to vote to confirm Mr. Cordray by traveling around the country giving speeches. I want to reiterate that I will not vote to con-

firm any director for this rogue bureaucracy until appropriate checks and balances are put into place. President Obama promised that “transparency and accountability will be a hallmark of my administration”, making his refusal to make CFPB more transparent especially disappointing.

Without reform, CFPB’s director would serve with unprecedented and unconstitutional amounts of power. The director would have the power to decide what rules are issued in the name of consumer protection, how funds are spent, and how its enforcement authority will be used. In short, it empowers a single, unelected person with seemingly endless and unchecked authority. This bureaucracy holds the sweeping ability to limit choices when it comes to commonly-used financial products such as home equity loans, credit cards, and student loans. Simply put, a designation from the CFPB director saying these products are “abusive” could restrict the availability of credit to consumers and increase the cost of goods or services for all Americans.

This year alone, over 70,000 pages of new regulations have been added to the books from agencies such as the Environmental Protection Agency and the National Labor Relations Board, oftentimes without any compelling justification for their existence. The last thing job creators in America need is more uncertainty from a powerful government agency such as the CFPB that will receive a blank check for a half billion dollar budget with virtually no input from Congress.

President Obama has urged the American people to “help hold [him] accountable”. I stand with my Republican colleagues in an effort to do just that. The truth is we need transparency in government that provides greater confidence that regulations are designed to protect consumers from unfair practices, without destroying jobs. Until basic transparency requests are made, I will not support allowing the CFPB to operate with unaccountable leadership.

Mr. CRAPO. Mr. President, both sides agree that everyone benefits from a marketplace free of fraud and other deceptive and exploitative practices. The disagreement is over the best way to structure our Federal regulatory agencies to accomplish this goal and provide accountability.

One of the lessons of the financial crisis is that we need a supervisory program that looks and considers how safety and soundness and consumer protection work together and reinforce better and safer services to banking customers. Far too often, supervision either looked at consumer issues in isolation—promoting access to credit and home ownership—or it looked at safety and soundness in isolation, such as ensuring that customer information was legally accurate but not asking whether it was understandable to bank customers.

We should have strengthened the link and coordination between prudential supervision and consumer protections rather than severing it. Instead Congress institutionalized this separation by creating a Consumer Financial Protection Bureau and blurred the role and accountability of the prudential regulators and the new Bureau.

Mortgage underwriting is a good example of an issue that was found lacking before the financial crisis and has the potential to be subject to an even more bureaucratic regulatory system going forward. I say potential because it is unclear to me where the authority of the Bureau stops and where the authority of the prudential regulators overlaps on several important issues that will likely cause confusion and potentially inconsistent regulatory approaches. Already we are seeing conflicts among regulators with different regulators adopting different consumer protection rules and duplication in examinations.

From my perspective, the new Bureau is a massive, expensive government bureaucracy that is immunized against meaningful oversight by either Congress or the President, and dramatically extends the Federal Government’s control over the economy.

According to analysis from Andrew Pincus, a partner in the law firm Mayer Brown LLP:

The Bureau’s structure has a number of features that, when taken together, concentrate an amount of unchecked authority in a single individual—the Director—that is unprecedented for a federal agency that regulates private entities and individuals:

First, the Bureau will be headed by a single Director with complete, unilateral authority to make all regulatory and enforcement decisions and to hire and fire all personnel, including his or her own deputy.

Second, the Bureau’s Director does not serve at the pleasure of the President. Rather, during his or her five-year term, the Director may be removed only for inefficiency, neglect of duty, or malfeasance in office. That standard eliminates the President’s power to remove the Director based on a policy disagreement: once nominated and confirmed, the Director cannot be overruled by the President.

Third, the Bureau is exempt from the congressional appropriations process. It is funded instead by a transfer of money from the Federal Reserve in an amount determined solely by the Director, subject only to a cap that already exceeds \$550 million, will increase 10% for the next fiscal year, and is subject to automatic inflation adjustments thereafter.

While I appreciate the willingness of Richard Cordray to serve and answer questions, I can’t support the consideration of any nominee to be the Director of the Bureau until the agency is reformed to make it more accountable and transparent.

First, we would establish a board of directors to oversee the Bureau. This would allow for the consideration of multiple viewpoints in decisionmaking and would reduce the potential for the politicization of regulations. A board of directors structure is consistent with the organization of the Federal Reserve

Board, National Credit Union Administration, FDIC, SEC, CFTC, and Federal Trade Commission.

Second, we would subject the Bureau to the congressional appropriations process to ensure that it doesn't engage in wasteful or unnecessary spending. This also gives Congress the ability to ensure that the Bureau is acting in accordance with our legislative intent. The SEC, CFTC, and the Federal Trade Commission have long been subject to the appropriations process for the same reasons.

Finally, we would establish a safety and soundness check. This would strengthen the link and coordination between prudential supervision and consumer protections.

Given the enormous impact the Bureau will have on the economy, it is important for Congress to revisit its structure and authorities to make it more accountable and transparent.

Mrs. MURRAY. Mr. President, I come to the floor to speak about the nomination of Richard Cordray to lead the Consumer Financial Protection Bureau and to urge my colleagues to join me in voting in support of his confirmation.

In July of last year, I was proud to join many of my colleagues in the Senate to pass comprehensive Wall Street reform legislation that is already working to protect middle-class families, hold Wall Street accountable, and put in place policies to make sure taxpayers will never again be left holding the bag for the big banks' mistakes. I supported this legislation because for far too long the financial rules of the road had not favored the American people. They were tilted toward big banks, credit card companies, and Wall Street, and they were twisted and abused to make sure no matter what happened, the financial industry would come out ahead.

When the economy was roaring, the big banks made enormous sums of money and handed out huge bonuses to their employees. But when the products they created brought down the banks and pulled Main Street down with them, it was the taxpayers who had to foot the bill to prevent absolute calamity. Wall Street had a pretty good system going for a while: Heads they won, tails the taxpayers lost. To correct this, we fought to pass Wall Street Reform last year over Republican objections, and we took a huge step in the right direction. We strengthened the rules. We increased the oversight. And critically, we created the first-ever agency dedicated to protecting middle-class families, seniors, and small business owners from the financial fraud and scams that have devastated so many.

The mission of this new Consumer Financial Protection Bureau is clear: to make sure that consumers come first—that the financial industry can no longer pull fast-ones on their customers—and, fundamentally, that the markets for consumer financial products and services actually work for all

Americans. The CFPB's job is to help consumers understand the financial products that are being marketed to them every day because we know the big banks win when the American people don't understand the fine print. And it is to make sure that the financial firms are playing by the rules and to stand up for the American people and enforce those rules if consumers are being lied to, scammed, or cheated.

Over the last year the CFPB has been staffing up and ramping up and has already started working to protect consumers. But without a confirmed Director, they are simply unable to do everything possible to stand up for middle-class families. Their hands are tied. Without a confirmed Director, the CFPB doesn't have the full authority to protect consumers who use non-bank financial institutions such as payday lenders, credit-reporting agencies, and debt collectors, which are services many working families depend on, as well as so many of our Nation's veterans and servicemembers. This isn't right. We created the CFPB to protect all families and consumers, and we need to confirm a Director to give them the tools they need to do that.

I was proud to support President Obama's appointment of Elizabeth Warren to help set up the new Bureau. I think she did a fantastic job, and I am deeply disappointed that Republicans were so opposed to her work standing up for middle-class families against the big banks that they said they would block any attempt to name her as full-time Director. I thought the way Elizabeth Warren was treated by Senate Republicans was truly shameful. But she hasn't given up, and she is still fighting for the middle-class families and consumers she has always been such a passionate advocate for.

I am very glad that President Obama nominated another strong advocate for the middle-class to fill this role. Richard Cordray has been serving as the Chief of Enforcement at the CFPB, so he understands the mission and the need to fight for the rules that protect consumers. He previously served as attorney general and State treasurer in Ohio, where he amassed a strong record of standing up for seniors, investors, business owners, and consumers. He has received support from Democrats and Republicans, and he is the right man for the job.

But the Republicans who have come out in opposition to this nomination don't seem to be opposing Richard Cordray. They seem to be opposed to the very idea that anyone should be in a position to stand up for consumers and families in the financial products market. They want to keep this position open because they are worried that this agency is going to have too much power.

Well, the Consumer Financial Protection Bureau was designed to have power. It was created to put that power in the hands of middle-class families and consumers and to take some away

from the big banks and credit card companies that had it all before.

So once again we have a simple choice before us in the Senate: Do you stand up for middle-class families who deserve to be protected from scams and financial gimmicks or do you stand up for the big banks and Wall Street firms that are scared to death that a powerful consumer advocate will cut into their fat profits and big bonuses? I know where the American people stand. I stand with them. And I truly hope that Republicans have a change of heart and stand with us to confirm this highly capable and effective nominee so the CFPB can do the job the American people expect and deserve.

Mrs. BOXER. Mr. President, I wish to express my strong support for the President's nomination of Richard Cordray to be the first Director of the Consumer Financial Protection Bureau, CFPB. Mr. Cordray is an exceptionally well-qualified nominee who deserves an up-or-down vote in the Senate.

The opposition to this nomination has nothing to do with Mr. Cordray's credentials and is yet another attempt by Republicans to undermine the CFPB and stop it from cracking down on unscrupulous and fraudulent practices by big banks, credit card companies, payday lenders, and other financial firms.

The CFPB was established as part of the Dodd-Frank financial reform legislation that overhauled our banking system. Before the financial crisis, no single agency coordinated Federal consumer protection. Banks and financial companies could choose their own regulator, which enabled them to avoid regulations with real teeth. The failure of Federal agencies to coordinate and the lack of any effective consumer watchdog agency allowed financial firms to pursue deceitful lending practices that hurt American families and caused the worst recession since the Great Depression.

The CFPB was created to solve this problem and to make sure that financial markets work for all Americans, not just big business. The CFPB has already begun reviewing many areas of consumer protection law, including mortgage disclosure forms. It will enforce new rules for credit cards, require mortgage servicers to better assist homeowners in avoiding foreclosure, and enforce new rules on bank overdraft fees.

President Obama appointed Elizabeth Warren, a respected law professor and dedicated consumer advocate, to set up the CFPB. Elizabeth Warren was selected for her long history of independent, unflinching consumer advocacy, and under her leadership the CFPB had a running start. But Republicans adamantly opposed her as CFPB director, before she had even been nominated. They knew she would crack down on abusive practices in the banking and credit card industries. And they know that by law, the CFPB cannot exercise its full authority without

a confirmed Director. That is why 44 Republican Senators signed a letter promising to oppose any nominee, of any party, until their demands to cut back the agency's power and independence are met.

Mr. Cordray would be an outstanding leader of the CFPB. He currently leads the CFPB's Enforcement Division. He has built his career around protecting the public interest, reflecting his commitment to consumers and his dedication to fairness. After having been a State Representative, Solicitor General and Treasurer in the State of Ohio, Mr. Cordray was elected Attorney General of Ohio in 2008. In this role, he prosecuted fraudulent foreclosures and predatory lending, and recovered more than \$2 billion for Ohio's retirees, investors, and business owners.

Mr. Cordray's nomination has broad, bipartisan support. Attorneys General from 37 States, representing both political parties, signed a letter in support of this nomination, calling him "both brilliant and balanced," with a "superior knowledge of the financial services marketplace." Sixty-one mayors from around the country, led by Mayor Villaraigosa of Los Angeles, also wrote to support his confirmation. The California Reinvestment Coalition, Center for Responsible Lending, Consumers Union, Main Street Alliance, NAACP, National Association of Consumer Advocates, AFL-CIO, AFCSME, International Brotherhood of Teamsters, SEIU, UAW, and UFCW have all expressed support for Mr. Cordray, and for confirming a director so that the CFPB can operate as intended.

It is stunning that Republicans continue to block any effort to rein in the type of reckless and abusive behavior that caused the worst economic crisis since the Great Depression.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, it never ceases to amaze me to hear my colleagues whose first loyalty is to Wall Street banks, who continue to make excuses for being against putting a consumer cop on the beat. This is an office that will be a few-hundred-million-dollar office, this consumer protection—this consumer cop on the beat.

But this consumer cop on the beat has to look at trillions of dollars in mortgages, has to protect consumers when there are \$30 billion in overdraft fees alone that banks are charging, when many times those overdraft fees are because consumers simply cannot figure out the fine print and do not understand the terms of the agreement.

In the end, again, people on this floor and their special interest friends in the Congress, the friends of the Wall Street banks, the friends of these interest groups that continue to fleece the American people—if we had had Rich Cordray or Elizabeth Warren, for that matter, the consumer cop on the beat, would we have had those kinds of fore-

closures in places such as Cleveland and Dayton? Would we have had these fly-by-night mortgage brokers from Ameriquest and New Century and others moving in and taking advantage of people? I am not sure we would have.

But my Republican colleagues, my colleagues who always do the bidding—not all of them, but many of them always do the bidding of these special interest groups that have inflicted far too much damage on this economy—I hear all this, that if we would just make some changes in the agency. I talked to the Senate Historian because I have heard these arguments: If we just change this agency, I would vote for it. First of all, I talked to the Senate Historian, who said: Never in the history of the Senate has one political party tried to block the nomination of a Presidential appointee based on wanting to change the agency. It is nothing about the qualifications of Rich Cordray. I know Rich Cordray better than anybody in this institution. He is from my State. He was our attorney general. He was the State treasurer. He was county treasurer. He was a State legislator. I have known Rich for over 20 years. I know he is qualified. Many of my colleagues on both sides say he is qualified.

But they say: We want to change the agency. We worked with Republicans to change this agency as it went through the process in Dodd-Frank. They kept shifting the goalposts. In order to accommodate Republican concerns, we made the CFPB a bureau at the Federal Reserve. Many of us thought it should be totally independent. We were willing to make that concession in order to get Republican support.

They then, after we did that, asked for regular GAO audits of the books. They got them. The GAO said the CFPB passed with flying colors. They said: We do not like Elizabeth Warren, give us someone else. Elizabeth Warren withdrew. She was a great consumer activist, would have been very good at this. We are replacing her—the President is—with Richard Cordray from Ohio. He will do this job well.

Then, after he is appointed, they say—and Richard Cordray has support from banks and credit unions and consumer groups. That is still not good enough. They asked the President not to recess appoint a Director. The President agreed to that. They are moving the goalposts. Now they are saying they will not approve anyone to serve as the Director of the consumer bureau unless we change the Bureau.

In other words, to protect their Wall Street friends, they are saying: We are not going to allow a Director to be in place unless we weaken this agency. As Senator REED from Rhode Island said, would we not appoint a Director of the Food and Drug Administration in the future until we rolled back all food safety laws? Are we not going to protect the Consumer Products Bureau in the government, in the Department of

Commerce, until we roll back child toy safety laws? That makes no sense.

This was voted with more than 60 votes—61 or 62, if I recall—a supermajority in this Congress 2 years ago. We allowed all kinds of amendments. We accepted many changes that Republicans wanted. But in the end, it is a choice: Are we for consumers or are we for Wall Street? We know who it is. I am not asking my colleagues to vote for him. I am asking my colleagues to let us have an up-or-down vote. Let us vote on it. Do not filibuster. Do not block the vote.

Understand, this is a vote coming up that is to break a filibuster, to break a Republican filibuster, where Republican Senators almost always are flacking for Wall Street. They do that. It never ceases to amaze me.

So all we ask is an up-or-down vote. Vote yes for cloture so we can have an up-or-down vote for Attorney General Cordray.

I yield the floor and ask for a "yes" vote.

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

Mr. SHELBY. I yield back my time.

CLOTURE MOTION

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

The legislative clerk read as follows.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection:

Harry Reid, Joseph I. Lieberman, Jeff Bingaman, Patty Murray, Patrick J. Leahy, Kent Conrad, Sheldon Whitehouse, Jack Reed, Benjamin L. Cardin, Barbara Boxer, Al Franken, Max Baucus, Richard J. Durbin, Robert Menendez, Jon Tester, Sherrod Brown, Tom Harkin, Tim Johnson.

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

The question is, Is it the sense of the Senate that debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection, for a term of 5 years, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Ms. SNOWE (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 223 Ex.]

YEAS—53

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (MA)	Landrieu	Schumer
Brown (OH)	Lautenberg	Shaheen
Cantwell	Leahy	Stabenow
Cardin	Levin	Tester
Carper	Lieberman	Udall (CO)
Casey	Manchin	Udall (NM)
Conrad	McCaskill	Warner
Coons	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murray	

NAYS—45

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Moran
Blunt	Hatch	Murkowski
Boozman	Heller	Paul
Burr	Hoeben	Portman
Chambliss	Hutchison	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Sessions
Collins	Johnson (WI)	Shelby
Corker	Kirk	Thune
Cornyn	Kyl	Toomey
Crapo	Lee	Vitter
DeMint	Lugar	Wicker

ANSWERED "PRESENT"—1

Snowe

NOT VOTING—1

Kerry

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45, and one Senator responded "present." Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

VOTE EXPLANATION

Mr. KERRY. Mr. President, I was necessarily absent for the cloture vote on the nomination of Mr. Richard Cordray to be Director of the Consumer Financial Protection Bureau. If I were able to attend today's session, I would have supported cloture on this nomination.

LEGISLATIVE SESSION

MIDDLE CLASS TAX CUT ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order, the Senate will resume legislative session and the motion to proceed to S. 1944, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 1944) to create jobs by providing payroll tax relief for middle-class families and businesses, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. LEE. I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEE. Mr. President, I stand today to urge my colleagues to support efforts to bring forward a balanced

budget amendment, one that can be passed out of both Houses of Congress and submitted to the States for ratification.

Article V of the Constitution gives us the power to change the Constitution from time to time, to modify our laws, that 224-year-old document that has fostered the development of the greatest civilization the world has ever known.

We have done this 27 times. We have done it at times in order to protect and preserve the Nation our ancestors fought so valiantly to create and later again to defend. We have to modify our government, the manner in which we do business, in order to preserve that system, in order to make it strong, in order to ensure that it will continue to be strong for future generations.

We made it stronger when, for example, we added the Bill of Rights shortly after the ratification of the Constitution. We made it stronger again when, for example, we added the so-called Civil War amendments, amendments XIII, XIV, and XV, ending slavery and the badges and incidents thereof. We made it stronger when we made clear that women must always be given the right to vote. We have made it stronger a number of times. And the time to make it stronger has come yet again.

It is time to modify the Constitution to limit—to restrict—Congress's current power granted by article I, section 8, clause 2 of the Constitution to borrow money on credit of the United States. The reason we need to do this is because this power has been so severely abused over such a prolonged period of time that it is causing devastating consequences for our economy and for our ability to fund the operations of the government.

We have now accumulated over \$15 trillion in debt as a country. That works out to about \$50,000 for every man, woman, and child in America. It works out, arguably, to about \$120,000 to \$150,000 for every taxpayer in America. This is lot of money. It also represents between 90 and 100 percent of our gross domestic product annually, depending on whose statistics you follow. This is troubling, given that there is an abundant amount of research indicating that once a country's sovereign debt-to-GDP ratio crosses the significant 90-percent threshold—which we have now done—economic growth tends to slow, tends to slow to a point that an economy as large as ours can expect to lose as many as 1 million jobs a year. We can't afford to lose jobs, especially when we know one of the major causes is our national debt. It is time we change the way we do business. It is time to change the manner in which Congress acquires new debt.

This is no longer an issue that is either Republican or Democrat, that is either liberal or conservative. It is simply American. I remind my colleagues, whether you are concerned on the one hand about preserving America's leadership, its ability to fund its national

defense program or, on the other hand, if you are most concerned about funding our entitlement programs, you should want a balanced budget amendment because this is what we need to do, this is what we have to do in order to protect our ability to fund both of those things and everything else we do, you see, because by the end of this decade, according to the White House's own numbers, we will be paying close to \$1 trillion every year to pay the interest on our national debt. Just the interest alone. We are currently spending a little over \$200 billion a year on interest—still a lot of money but about \$800 billion lower than what we are likely to be spending by the end of this decade.

Where will that additional \$800 billion every single year come from? This isn't a discretionary sum. This is money we have to pay. It is the first thing we have to pay. Where will that \$800 billion difference be made up? At that point, we can't expect simply to raise taxes to make up that difference. I am not aware of any tax increase plan that could bring in that much additional revenue every year, without stagnating our economy to the point that we might, within 1 year or 2 years, bring in less revenue rather than more—certainly not \$800 billion more. Nor am I aware of any plan whereby we could simply borrow an additional \$800 billion to pay that interest, because doing so, of course, would cause our interest rates to skyrocket, grow out of control, and our interest payments would be even more significant at that point, thus further impairing our ability to fund everything from defense to entitlements. So at that point, the only option on the table would be dramatic, severe, abrupt, even Draconian cuts to everything from defense to entitlements and everything in between. We don't want this. There is a better way. And the better way forward consists of a severe permanent structural spending reform that can be achieved only through a balanced budget amendment.

Let me explain what I mean by that. And, more importantly, let me explain what I don't mean by that.

We have to be aware of things that masquerade as balanced budget amendments, things that will actually do the job instead of purporting to do the job, distracting the public's attention away from the need to do this while in effect doing nothing. We need to be aware of what I sometimes call the Trojan horse balanced budget amendment proposal.

There are a few hallmarks of what a real, effective balanced budget amendment would accomplish. First and foremost, it has to apply to all spending in requiring Congress to provide a supermajority vote for any borrowing authority. There are some who have suggested we should have a balanced budget amendment that exempts certain categories of entitlement spending. But, of course, as we all know, it is entitlement spending that continues to

consume a larger and larger share of our national budget each and every year. It is entitlement spending that is anticipated to have shortfalls for sums that will have to be expended for Americans alive today. It could range anywhere from \$50- to \$60- to \$110 trillion in unfunded entitlement liabilities. So simply exempting entire categories of entitlements is one of these hallmarks of a Trojan horse balanced budget amendment. We can't do that. We need it to apply to all Federal outlays, all Federal spending.

Second, an effective balanced budget amendment must cap spending at the average historic level of Federal revenue. Over the last 40 years, our average take, our average income as a percentage of GDP, has been about 18 to 18.5 percent of our gross domestic product. We need to make sure we are not spending more than that; that Congress can't, without a supermajority vote, spend more than 18 percent of GDP in any given year. Otherwise, we run the risk that Congress will find a way through tricky accounting schemes to circumvent the restrictions to make sure it is not spending more than it takes in.

Third, the supermajority requirement must apply to the folks in both Houses of Congress every time Congress wants to spend more than it takes in. Any balanced budget amendment proposal that allows for a simple majority to bring about an exception to these spending limitations is one that Congress can and will use to circumvent the amendment entirely. Let me explain what I mean.

We have had in the past certain statutory legislative limitations on Congress's spending and borrowing power. Some of these have been known as the Graham-Rudman-Hollings legislation, and also the pay-go rules. But because Congress makes those laws and because they haven't been reduced to a constitutional amendment, just as Congress giveth, Congress taketh away, and Congress has seen fit to exempt itself of those rules. A balanced budget amendment, even while enshrined in our Constitution, becomes no more effective than those statutory or internal rules unless every time Congress wants to get around those limitations Congress is required to cast a supermajority vote to justify that excess.

Finally, an effective balanced budget amendment must require that Congress cast a supermajority vote anytime we raise the debt limit. This will give us an additional guarantee that tricky accounting mechanisms will not be used to circumvent some of these most important restrictions. Without these restrictions, Congress will continue to spend out of control, because Members of Congress tend to be rewarded when they spend and they tend to be criticized when they cut, and political pressures are such that I fear this spending will continue out of control in perpetuity until that moment in which we

reach our natural mathematical borrowing limit—not our statutory debt limit, our natural mathematical borrowing limit. It is at that point when the most abrupt, the most painful, the most Draconian cuts will have to be made. We can do this in a way that makes sense. We can do this in a way that is sensitive to the needs of the most vulnerable Americans, those who have become the most dependent upon our entitlement State, most dependent for their day-to-day existence on these very programs. Those programs will have to be cut abruptly and in a most painful manner unless we take the necessary steps right now and start moving onto a smooth glidepath toward a balanced budget amendment.

We may not be able to balance our budget overnight, but we can do it over the course of a few years. That is exactly what this would allow us to do.

I have worked closely with a number of my Republican colleagues in supporting S.J. Res. 10, a balanced budget amendment proposal that has the support of all 47 Republicans. One of my close allies in this endeavor has been my friend and colleague, the junior Senator from Kentucky. I would like to ask him to share his perspective on why this is necessary.

So I ask Senator PAUL why does he think this is so important for us to have this amendment right now.

Mr. PAUL. I think Congress has failed. We have not passed a budget in 2 years, much less a balanced budget. We cannot even pass a budget under the normal procedures, and we are showing no signs of being able to balance our own budget.

They say the American public, when we ask them are they for a balanced budget, 70 to 75 percent of the people are for it—Republicans, Democrats, and Independents. Congress currently has about a 10-percent approval rating. My thought is maybe our approval rating is so low because we are not listening to what the people want. The people want us to balance our budget. They want us to do the responsible thing. But they also do not want to say: Oh, Social Security, we are going to put that off to the side. They want the Social Security fund to be sound too.

What are we doing right now? We are reducing the funding to Social Security. We are doing exactly the things we should not be doing. So it is important, as my colleague said, that the balanced budget amendment include all spending, and we need to balance our budget.

Mr. LEE. If the Congress is consisting of a Senate and House, and the Members of the Senate and House are elected representatives of the people who stand for reelection at regular intervals, and if the American voting public overwhelmingly supports a balanced budget amendment, why haven't we then passed it and given the States an opportunity to ratify such an amendment?

Mr. PAUL. The big driving force here is the entitlements. If we look at the revenue coming into the government, it is all being spent on entitlements and interest. Forty percent of every dollar is borrowed, but that means we have to borrow all the money for national defense, for our roads, all the rest of government. Forty percent of every dollar, \$40,000 a second, is being borrowed. Why don't we come to an agreement?

I have been asking many people on the other side that, and they say we will not fix entitlements until we have a \$1 trillion tax increase. If that is the starting point, we are never going to fix entitlements because many of us think raising taxes is a mistake, in the middle of a recession, and we think more money left in the private sector would be better spent for jobs.

We have the balanced budget debate as part of this debate on how to reduce spending on the entitlement programs because they consume 60 percent of the budget. But there is this unwillingness up here. I think people would like us to find solutions. When I go home to my State, it doesn't matter whether they are a Republican or Democrat or Independent; they want us to fix the entitlement programs. They don't want it to be dependent on increasing taxes on everyone also.

Mr. LEE. What is my colleague's sense as to how the various State legislatures are likely to respond to a constitutional amendment proposed by both Houses of Congress? Does he think they would likely ratify such an amendment by the necessary three-fourths margin?

Mr. PAUL. In the last year, I spoke before my State legislature to a joint session of the House and Senate, and there was overwhelming support for a balanced budget amendment. I think there is actually a movement out there to do it if we do not do it. There is so much feeling among the public that this enormous debt is hurting us.

When I go home and talk to people, I say: Look, the people the debt hurts the worst are those on fixed incomes, senior citizens, and those in the working class. Those are the people who are being hurt by this debt because it causes rising prices. As we print the new money, those people are hurt every time they go buy gas at the pump, every time they go to the grocery store. The rising prices are hurting senior citizens and the working class. The only way we are going to fix it is to have rules that must be obeyed.

Mr. LEE. So they are paying for Washington's fiscal irresponsibility in the form of job losses and in the form of increased prices for goods and services and in the form of inflation.

It is likewise my experience with my State legislature that they seem to be very supportive of it. In fact, I have a document here signed by the legislative leaders of my State: by Governor Gary Herbert, by Utah house of representatives speaker Rebecca

Lockhart, and by Utah State senate president Michael Waddoups. It concludes essentially as follows:

We urge the United States Senate and House of Representatives to pass a balanced budget amendment and send it to the states for ratification. Additionally, we urge Congress to make Utah's current resolution part of the CONGRESSIONAL RECORD.

They also proceed to explain why they feel so strongly about this. They say:

Not only for our own sake, but for future generations as well, the states must now combine in an unwavering resolve with convincing action to put the nation's financial house in order. Passage of your own state's resolution urging the support for a balanced budget amendment can help make this happen. Please join with Utah to call upon Congress to immediately pass a balanced budget amendment. We respectfully encourage you to urge your congressional delegation to act in your behalf.

They are calling not only on Congress but also their fellow State legislators throughout the country to urge this same action from Congress. In the same breath, they also adopt it, and they supported wholeheartedly the specific balanced budget amendment proposal that is found in S.J. Res. 10.

I thank them for doing that. I think they reflect the views of so many of our State legislatures which balance their budgets every single year. Most of them do. It is not news when they do it. It is not news because it is what is expected. It is expected because that is what they do.

I look forward to the day and age when it is no longer news when Congress balances its budget.

I would like to ask Senator PAUL another question. Why is it that so many are fond of saying, as our President has recently said, "We don't need a balanced budget amendment; what we need is for Congress to just do its job"? Why isn't that enough to carry the day?

Mr. PAUL. The problem is, in the past we have had rules—as the Senator mentioned, Gramm-Rudman-Hollings, pay as you go. I think pay as you go, which was passed in the late 1990s, was broken 700 times. There doesn't seem to be the spine or will power here to say no. Everybody wants something from government, but they do not realize that by getting things from government we do not pay for has ramifications.

Admiral Mullens said last year that the biggest threat to our national security right now is our debt. Erskine Bowles, head of the Debt Commission, said the most predictable crisis in our history is going to be a debt crisis.

For those on the other side who will oppose a balanced budget, they will need to explain to the American people when chaotic situations come and we are having trouble paying for those things that come from government, when the value of the money is destroyed and when prices are rising dramatically, they will have to explain to the American people why they thought

it was not necessary to balance the budget.

I have seen no willpower to attack entitlements. There are simple ways. We could gradually raise the age of the entitlement eligibility and means test the benefits. We could fix Social Security tomorrow. We could fix Medicare tomorrow. But the other side is unwilling to talk about entitlement reform unless—they believe they are owed some obligation of raising taxes by \$1 trillion. That would be a disaster for the economy, and it is beyond me why the other side will not say let's fix Social Security.

What would it take to fix Social Security? What would it take to fix Medicare? I think we could fix all of these problems, but I do not think the dialog is there. I have been trying to ask questions to the other side for months now, and we are not getting anywhere.

Mr. LEE. I think most Members of Congress would acknowledge that their constituents want the Federal budget balanced. Why is it not enough for us just to tell Members of Congress: Please balance it. We don't want to have to restrict your authority. We don't want to have to take the keys away from the irresponsible driver. We just want you to be responsible. Why doesn't that work?

Mr. PAUL. I think because so much of government spending is considered to be mandatory, so it just keeps enlarging and expanding. Also, because people have great big hearts and they want to help everyone, but they do not realize the ramifications of accumulating such a massive debt. As we accumulate this debt there are ramifications. There are higher prices and the threat of an economic collapse.

Greece is going under. Italy is behind them. Portugal, Spain—they are struggling under this burden of debt. They say when a country's debt equals its economy, when it is about 100 percent of its gross domestic product, it is losing 1 million jobs a year.

Our debt is stealing American jobs, it is making us weaker as a country, making us vulnerable, making our national security vulnerable. But we have to do something. There is no evidence in this body we can even pass a budget, much less a balanced budget.

I think everything about this body shows a failure to be fiscally responsible and we need stronger rules.

Mr. LEE. Perhaps it is inherent in the institution itself, in the forces at play, that have made Congress uniquely vulnerable to this kind of massive deficit spending. Whatever the reason, we know Congress is not willing, is not able, or at least in recent years has not been inclined except in rare, unusual circumstances to balance its own budget.

That being the case, we cannot assume that Congress will all of a sudden start doing its job, as those who have used this argument have insisted. Part of Congress's job, as Congress has come to perceive it, is to engage in deficit

spending. One of Congress's powers, as Members of Congress who read the Constitution will point out, is to borrow money on the credit of the United States. So it is not enough to simply tell Congress to do its job because it has regarded this kind of massive deficit as consistent with that mandate, consistent with that injunction.

Meanwhile, Congress is continuing to occupy a larger and larger share of the American economy. We have to remember that for the first 150 years or so of our Republic's existence, we were spending between 1 percent and 4 percent of gross domestic product at the Federal national level, with only two brief exceptions—once during the Civil War and once during and then the immediate aftermath of World War I. But that all started to change in the 1930s when we broke into double digits for the first time ever during peacetime. We have never really gone back.

Now the Federal Government is spending about 25 percent of GDP annually. Roughly a quarter out of every dollar that moves through the American economy every year is taken out of the real economy by Washington. It is absorbed within the Federal morass that is our government. That is a problem. That needs to change.

I fear, I suspect, I firmly believe that it will not change until we take this power away, until we at least impose severe restrictions on Congress's borrowing power because it has become part of Congress's nature to engage in this kind of out-of-control deficit spending.

I would like to ask Senator PAUL another question. How does he think it would impact the lives of Americans, of Kentuckians, on a day-to-day basis, if we were to pass an amendment such as this and have it ratified by the States?

Mr. PAUL. People maintain that they are for jobs, for getting the economy growing again. If we were to pass a balanced budget amendment and send it to the States this year, it would create more jobs and create a better psychology than we have had in this country in decades. I think we would see a rise in the stock market like we have never seen before if we said to Wall Street and said to investors worldwide: We are going to balance our budget; we are not going to spend more than we take in.

I think we would see an economic recovery begin as we have never seen in this country. I think we would see millions of jobs created. That is why we have to do this. That is what the American people want.

What amazes me about this debate is we are going to have this debate and have this vote and the vast majority of the other side said they will not vote for a balanced budget amendment.

I say take that home. Tell your people at home that you are opposed to balancing the budget, and let's run on that. Let's see who wins the elections in the future because our country's future depends on balancing our budget

and controlling the debt. I hope we do not wake up when it is too late.

Mr. LEE. I could not agree more with that assessment. It is important for us to remind our colleagues of that because according to a recent CNN poll, the American people overwhelmingly support this by a margin of about 75 percent. Those who oppose it, those who are Members of this body, those who are Members of our sister body—the House of Representatives—who choose not to support it, will cast their “no” vote at their own political peril because the American people are standing and they are demanding more. They understand that, in the words of Benjamin Franklin: “He’ll cheat without scruple who can without fear.”

When Congress is free to spend more than it takes in every single year without political consequence, bad things happen. When Congress starts to manipulate more and more of the economy, that is something the American people understand is hurtful rather than helpful to them, to the people on the ground, to the person who is unemployed and looking for a job, to the person who is underemployed or underpaid for the work he does, to the single mother who is just worried about taking care of her children, to the grandparents who are worried about the future of their grandchildren, worried about the fact that for the first time in American history, Americans fear their posterity will enjoy a lower standard of living than what they have enjoyed.

All this is due to the fact that Congress has no real boundaries to its authority and recognizes no real limits on its ability to spend our hard-earned money. This has real consequences. We can forestall those negative consequences right now if we will act to restrict, on a permanent and structural basis, Congress’s ability to engage in deficit spending.

Accept no imitations, beware of the Trojan horse balanced budget amendment, the one that can be circumvented easily by a simple majority vote. Beware of the balanced budget amendment that limits, as a percentage of GDP, Congress’s ability to spend money. Look out for these principles. If we get this balanced budget amendment passed, submit it to the States for ratification. They will ratify it, and we will find our best days, as Americans, are yet ahead of us.

I urge my colleagues to cast a vote in favor of S.J. Res. 10.

I thank the Chair.

I yield the floor.

THE PRESIDING OFFICER (Mr. BROWN of Ohio). The Senior Senator from Iowa.

HEALTH CARE LITIGATION

Mr. GRASSLEY. Mr. President, in a few minutes, the Supreme Court will be addressing four issues in connection with the constitutionality of the Obama health care law. Previously, I spoke about the unconstitutionality of the individual mandate. Today, I wish to discuss the second issue of four: how

much of the law must be struck down if the Court finds the individual mandate to be unconstitutional. This legal question is called severability.

When a court rules a law is unconstitutional, it can strike down only those parts it considers unconstitutional. It can strike down the parts that are intertwined with the unconstitutional provision or it can strike down the whole law. Its action will depend upon whether the remainder of the law can function as Congress intended when it passed it.

There are rules governing severability. Normally, when only parts of a law are held to be unconstitutional, only those parts of the law are struck down by the Court. But when a statute’s unconstitutional provisions are severed, the whole law falls when Congress would not have passed the constitutional provisions without the unconstitutional ones being in it as well.

It is not enough that some of the remaining provisions are constitutional. The Supreme Court has asked whether the remaining provisions “would function in a manner consistent with . . . the original legislative bargain.”

The lower courts have reached four different conclusions concerning the health care reform law; first, that the individual mandate can be severed from the rest of the bill; second, that the individual mandate can be severed but only if the law’s related provisions that require mandatory issue and community ratings are also severed; third, the opposite position, that the mandate and the related provisions are not severable; and, finally, that the mandate is not severable and that the whole law must fall.

One of my Judiciary Committee colleagues has stated, for the Democrats, “worst-case scenario, the mandate falls.” But even the Obama administration does not take that view. The administration argues that if the mandate falls, the guaranteed issue and community rating provisions must also be struck down. The President’s administration says health insurance markets will not function if all Americans are not forced to buy health insurance and insurance companies must, nonetheless, insure everyone who seeks coverage at prices that do not reflect their health risk.

If the mandate falls, keeping any of this law would violate the original legislative bargain. I would like to remind my colleagues of that original legislative bargain. The health care law passed because the majority party—in its own partisan way—was going to pass this bill by any means necessary. The individual mandate was very critical to the ability to pass this law and to particularly pass it only by partisan considerations.

We considered an amendment in the Finance Committee that would have granted exemptions from the individual mandate to everybody who asked for that exemption. My good friend, the chairman—and that is Sen-

ator BAUCUS, as we all know—correctly stated: “The system won’t work if this amendment passes.” He further called it “an amendment which guts and kills health reform.” He commented that “if we are serious about making sure that the Americans have health insurance, we all have to participate. . . .” So the bill’s sponsors knew the whole operation of the law depended upon this very important provision that the Court is now considering on the individual mandate and whether that issue was constitutional.

Let me repeat that. The people promoting this legislation that passed on a partisan vote knew the whole operation of the law depended upon the compulsion of the individual mandate. The legislative bargain also showed this law would not have passed if a single comma had been changed. Congress could not have enacted any part of this law without the individual mandate or any other provision. That situation comes about from the fact that the bill passed the Senate by one vote and individual Senators were able to extract specific provisions that benefited their State in return for agreeing to provide their deciding vote for the bill. I think we all know the outrage that came from the grassroots of America over some of those very special provisions. We also know the American people were disgusted by these deals. But without those arrangements and deals, none of the law would have passed.

Those deals were one of the reasons why the Democrats lost their 60-vote majority in the last election. So when the other body could pass a bill only by accepting the Senate bill, they blocked any amendments that would have changed so much as a comma. Had anything changed, the new 59-vote Senate majority would have prevented passage. The bill was offered on a take-it-or-leave-it basis, all or nothing. If the individual mandate is struck down, then the whole law must fall. Although it is not conclusive, it is certainly relevant that the law does not contain a severability clause. This is one more indication Congress thought the law was a unified whole.

It is simply not reasonable to argue that the law should survive without the mandate. The most important political accomplishment of the law is the additional coverage, not the lower costs we were promised. Without the mandate, coverage under the law evaporates.

Does anyone believe that without the coverage in the law, Congress could have passed the massive Medicaid expansion? Does anyone believe that without the coverage in the law, Congress could have passed the Draconian cuts in Medicare? Does anyone believe that without the coverage in the law, Congress could have passed hundreds of billions of dollars in new taxes? Of course not. It is simply not a legitimate argument that the rest of the bill could have ever stood on its own without the individual mandate enabling additional coverage.

I am pleased the Supreme Court has granted oral arguments devoted to the severability question all by itself. In the past, the Supreme Court has issued very activist severability rulings in which it rewrote a statute in a way Congress never would have passed it.

For instance, it completely rewrote the campaign finance laws in the 1976 Buckley v. Valeo decision in a way that produced an unworkable system that no Member of Congress would have ever voted for. In the Booker case, the Supreme Court rewrote the sentencing laws in a way that produced a very unworkable system that no Member of Congress would have voted for. This time, the Supreme Court should not use the severability doctrine to rewrite the health care law into something Congress never would have passed in the first place. It should strike down the entirety of the law in keeping with the law on this subject. Such a ruling would give us the chance to do what we did not do before: work in a truly bipartisan way to address these issues.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

LAS VEGAS HELICOPTER CRASH

Mr. REID. Mr. President, I am saddened to have learned this morning that five people were killed late yesterday in the terrible helicopter crash just a few miles outside Las Vegas. My sympathy is with the families of those who died, including pilot Landon Nield and four passengers. My thoughts are with them as the recovery efforts continue this morning and as they lay their lost loved ones to rest.

Reports indicate the aircraft was on a tour of Hoover Dam. It crashed into a remote and rocky terrain in the River Mountains between Lake Mead and Henderson, NV, a few miles from Las Vegas.

I have taken those helicopter tours. It is an exciting trip. People don't realize this, but we are just a few miles from the Grand Canyon there in Las Vegas. It takes just a short time to travel to that beautiful canyon to see where millions of people go every year to see the Grand Canyon. Hundreds of thousands of tourists come from Las Vegas to see it.

I am truly grateful for the efforts of the National Park Service rangers, the metropolitan police department, the search-and-rescue team, and the Henderson fire departments that responded rapidly to the scene of the accident.

The Federal Aviation Administration and the National Transportation Safety Board are investigating this accident as we speak. I will continue to monitor the investigation as well as the recovery efforts that are in progress.

Hundreds of thousands of tourists, I repeat, enjoy these helicopter tours each year. I am sorry innocent people lost their lives in such a rare tragedy. Nevada puts great stock in protecting the safety of its tourists, whether fly-

ing over the Grand Canyon or walking down the Las Vegas strip. I hope the inquiry into the cause of this crash will help us better protect helicopter pilots and passengers in the future.

Again, my heart goes out to the families as they mourn this awful tragedy.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. 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. GRASSLEY. If the Democrats aren't going to take their time, I would like to take 5 or 6 minutes on another subject, and I ask unanimous consent to do so.

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

BROKEN ACCOUNTING SYSTEM

Mr. GRASSLEY. Mr. President, I come to the floor today to commend Secretary of Defense Leon Panetta for personally focusing top-level attention to what has been a festering problem, and I think it is fair for me to say a festering problem for decades. I am talking about the Defense Department's broken accounting system and lack of financial accountability.

Secretary Panetta has grabbed the bull by the horns and told the military services to get on the stick and move out smartly. He wants them to fix the problem now, not later. Secretary Panetta's bold initiative is laid out in a Department-wide memorandum dated October 11 this year. In this document, he calls for an all-hands-on-deck priority effort to accelerate plans to create a modern, fully integrated finance and accounting system. Such a system, if it ever comes to be, would be designed to generate reliable, accurate, and complete financial information. Such a system should be capable of producing credible financial statements that can earn clean opinions from independent auditors. If that happens, the Department will achieve what is called full audit readiness. But now I want to warn Secretary Panetta about what has happened to so many well-intentioned Secretaries of Defense. That could be a big "if."

Under the Chief Financial Officers Act of 1990, all government agencies were supposed to reach full audit readiness 15 years ago. As I understand it, the Defense Department is now the only delinquent agency. After the passage of so much time, how is it, then, that the Pentagon cannot provide an accurate accounting of all the money it spends? Doing it is a constitutional responsibility. Not doing it is unacceptable. Why are the military services dragging their feet as they are? What is the problem? Are all of the petty fiefdoms entrenched in Pentagon bureaucracy causing the problem? Is it

because they do not want to surrender control of the money to a centralized financial authority?

This is a festering problem Secretary Panetta has tackled. As a former chairman of the House Budget Committee and Director of the Office of Management and Budget, he has the necessary knowledge and the necessary experience to get this job done.

The magic date for achieving full audit readiness at Defense was set in concrete 2 years ago. Unfortunately, this goal has a long and elusive history, and that long and elusive history is best characterized by relentless slippage. It is a rolling target date, and most experts believe the 2017 deadline is unattainable.

I am sure our tax-paying public doesn't understand why the Federal Government wouldn't have the best accounting system in the world, but they don't, particularly in the Defense Department.

Under Secretary Panetta's leadership, I hope all the slippage comes to a screeching halt and all the bureaucratic roadblocks are torn down. He has definitely turned up the heat and turned up the pressure. He has drawn a line in the sand. He wants to see results and see results now. He is calling for a revised plan for achieving audit readiness. It is due on his desk December 13. So Army, Navy, Air Force, Marines, Coast Guard, and everybody else—well, the Coast Guard is not involved but everybody else—get on the stick because that is next week. He has set a near-term goal. He wants the Department to produce partial financial statements by 2014.

As a first step, Secretary Panetta has called for the production of statements of budgetary resources by 2014. A statement of budgetary resources is just one component of a financial statement, but it represents a big important chunk of the whole. If credible statements of budgetary resources can be produced 3 years ahead of schedule, then maybe the full audit readiness by 2017 is, indeed, possible.

I also understand that Secretary Panetta's near-term goal is being incorporated in legislation working its way through Congress right now. That should help to move the ball further down the field.

Secretary Panetta's decision to set a preliminary goal of 2014 will be a good gauge—a good test—of what is and is not possible. Can the Defense Department achieve full audit readiness by 2017? We won't have to wait 6 years to find that out under the process Secretary Panetta is instituting. If problems surface early on, we in Congress can help the Department take corrective action to keep this effort on track and moving in the right direction.

A willingness and a commitment on the part of the Secretary of Defense to take on this problem goes way beyond the production of credible financial statements required by the Chief Financial Officers Act of the late 1970s. It

goes right to the heart of a much larger constitutional issue; that is, whether the Department of Defense is going to be held accountable.

The Department must be able to provide a full and accurate accounting of all the money it spends. Under article I, section 9 of the Constitution, such an accounting must be published from time to time. The taxpayers expect and deserve nothing less than that. Today, DOD can't do that. The status quo is unacceptable.

While I began conducting oversight of the Defense Department financial management issues more than 20 years ago, I did not come to fully appreciate the true understanding of the root cause issue until 3 years ago.

After receiving a series of anonymous letters alleging misconduct and mismanagement within the inspector general's audit office, I initiated an in-depth oversight review of audit reporting. Early on in the review, there was a startling revelation: One all-important, central element was adversely affecting every facet of the inspector general's audit effort, and that was the Department's broken accounting system. This dysfunctional system is driving the audit freight train. The success or failure of an audit turns on the quality of the financial data available for audit by competent examiners. The record clearly shows the quality of financial data presented for audit by the Department should be rated poor—or maybe I ought to say even worse than poor. This is what I call the “no audit trail” scenario. It is frequently encountered by auditors trying to examine Department of Defense books of account. That is the exact problem Secretary Panetta is attempting to address.

All my audit oversight work tells me that fixing the accounting machinery is the first step to audit readiness. Once a modern, fully integrated system is up and running, it should be a simple matter of punching the right computer buttons and credible financial statements will roll off of the printer. Doing routine oversight audits should be a piece of cake. Today's labor-intensive and time-consuming audit trail reconstruction work which auditors now endure in the absence of reliable accounting records will be a thing of the past. Most importantly, effective internal controls will be in place to protect the taxpayers' money against fraud, theft, and waste.

What I am saying to my colleagues is this: Secretary Panetta is on the right track. He is trying to take us to a place where we need to go and go soon. I want to help him lead us there, so I am here today to encourage and support this courageous effort to clean up the books. I admire and respect his personal commitment to such a noble cause.

I am also here to reinforce the words of encouragement contained in a letter that my friend from Oklahoma, Dr. COBURN, and I penned to Secretary Pa-

netta on November 17. We, being Senator COBURN and I, want to work with him to achieve this most worthy goal. And in the process of these remarks to the Senate, I hope other Members of the Senate, particularly those who are on the Armed Services Committee, will also give Secretary Panetta encouraging words of support and thanks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time until 2:30 p.m. be equally divided between the two leaders or their designees for debate on the Reid motion to proceed to Calendar No. 251, S. 1944; that at 2:30 p.m., the Senate vote on the motion to proceed to S. 1944; that upon disposition of the Reid motion to proceed, it be in order for the Republican leader or his designee to move to proceed to Calendar No. 244, S. 1931; that there be 2 minutes of debate equally divided between the two leaders or their designees prior to the vote; that both motions to proceed be subject to a 60-vote threshold; finally, that the cloture motion relative to the motion to proceed to S. 1944 be vitiated.

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

BALANCED BUDGET AMENDMENT

Mr. DURBIN. Mr. President, a little earlier today the junior Senator from Utah, Mr. LEE, came to the floor to discuss the balanced budget amendment. Under the budget agreement agreed to in Congress in August, both the House and Senate were required to vote on a constitutional amendment to balance the budget before the end of this calendar year. The House has already taken the vote. The measure failed. The Senate still has a responsibility to take it up, which we will do in the closing hours of the session this calendar year.

There are at least two proposals before us for a constitutional amendment, and my subcommittee, the Subcommittee on the Constitution, Civil Rights and Human Rights of the Committee on the Judiciary, held a hearing last week asking questions about these approaches to the Constitution.

The leading approach on the Republican side comes from both Senators HATCH and MCCONNELL. I am not certain which they will offer or whether the language might change at the last minute, but it would enshrine in our Constitution a disciplinary mechanism to reduce the budget deficit. This has been brought before the Senate and the House before many times. This particular proposed constitutional amendment would:

Require that in each fiscal year Federal outlays shall not exceed receipts unless two-thirds of each House votes to waive.

It caps outlays at 18 percent of gross domestic product each year unless two-thirds of each House votes to waive.

It requires a two-thirds vote in each House for any tax or revenue-raising measure.

It requires a three-fifths vote in each House for raising the debt limit.

It allows for waiver of the amendment in times of declared war or serious military conflict.

It prohibits courts from ordering any increase in revenue to enforce the amendment.

It directs Congress to enforce the amendment through appropriate legislation.

It takes effect 5 years after ratification.

This is far more extreme than the clean House balanced budget amendment, which failed to pass in that Chamber on November 18.

The testimony before our subcommittee from experts in the field said that this amendment, proposed by Senators HATCH and MCCONNELL, will require Draconian cuts in Social Security, Medicare, Medicaid, our military retirement system, and many programs important to working families.

It will make Republican fiscal policies the constitutional law of the land, giving protection to those in higher income categories from any tax increase forever, without an extraordinary vote in either House.

It would delegate the task of resolving budget disputes to our court system.

It would make recessions worse by requiring cuts in countercyclical safety-net programs such as food stamps and unemployment just at the time when those expenditures are most needed.

It would increase the likelihood of debt limit standoffs each year.

It would lead to increased burdens on our States.

During the course of the hearings, several people came forward to testify. I recommend to my colleagues that they carefully read these testimonies, which are available on the Senate Judiciary Committee website.

The first was Robert Greenstein, president of the Center on Budget and Policy Priorities. Mr. Greenstein, who is well recognized and respected on Capitol Hill, spoke about the countercyclical aspect and said that if you cut spending in the midst of a recession, you will not have the resources you need to provide unemployment benefits, food stamps, and the things that save families when they are out of work or making very little money.

I ask unanimous consent that Mr. Greenstein's statement be printed in the RECORD.

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

TESTIMONY OF ROBERT GREENSTEIN, BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS HEARING ENTITLED, “A BALANCED BUDGET AMENDMENT: THE PERILS OF CONSTITUTIONALIZING THE BUDGET DEBATE,” NOVEMBER 30, 2011

Thank you for the invitation to testify today. I am Robert Greenstein, president of

the Center on Budget and Policy Priorities, a policy institute that focuses both on fiscal policy and on policies affecting low- and moderate-income Americans. We, like most others who analyze fiscal policy developments and trends, believe that the nation's fiscal policy is on an unsustainable course. As part of our work, we have been analyzing proposed changes in budget procedures for more than 20 years. We have conducted extensive analyses of proposals to write a balanced-budget requirement into the Constitution, among other proposals.

The purpose of changing our fiscal policy course is to strengthen our economy over the long term and to prevent the serious economic damage that would likely occur if the debt explodes in future decades as a share of the economy. But we need to choose our fiscal policy instruments carefully. We want to avoid "destroying the village in order to save it."

The goal of a constitutional balanced budget amendment is to address our long-term fiscal imbalance. Unfortunately, a constitutional balanced budget amendment would be a highly ill-advised way to try to do that and likely would cause serious economic damage. It would require a balanced budget every year regardless of the state of the economy, unless a supermajority of both houses overrode that requirement. This is an unwise stricture that large numbers of mainstream economists have long counseled against, because it would require the largest budget cuts or tax increases precisely when the economy is weakest. It holds substantial risk of tipping faltering economies into recessions and making recessions longer and deeper. The additional job losses would likely be very large.

When the economy weakens, revenue growth drops and revenues may even contract. And as unemployment rises, expenditures for programs like unemployment insurance—and to a lesser degree, food stamps and Medicaid—increase. These revenue declines and expenditure increases are temporary; they largely disappear as the economy recovers. But they are critical for helping to keep struggling economies from falling into a recession and for moderating the depth and length of recessions that do occur.

When the economy weakens, consumers and businesses spend less, which in turn causes further job loss. The drop in tax collections and increases in unemployment and other benefits that now occur automatically when the economy weakens cushions the blow, by keeping purchases of goods and services from falling more. That is why economists use the term "automatic stabilizers" to describe the automatic declines in revenues and automatic increases in UI and other benefits that occur when the economy turns down; these actions help stabilize the economy.

A constitutional balanced budget amendment, however, effectively suspends the automatic stabilizers. It requires that federal expenditures be cut or taxes increased to offset the effects of the automatic stabilizers and prevent a deficit from occurring—the opposite course from what sound economic policy calls for.

Over the years, leading economists have warned of the adverse effects of a constitutional balanced budget amendment. In Congressional testimony in 1992, Robert Reischauer—then director of the Congressional Budget Office and one of the nation's most respected experts on fiscal policy—explained: "[I]f it worked [a constitutional balanced budget amendment] would undermine the stabilizing role of the federal government." Reischauer noted that the automatic stabilizing that occurs when the economy is weak "temporarily lowers revenues and in-

creases spending on unemployment insurance and welfare programs. This automatic stabilizing occurs quickly and is self-limiting—it goes away as the economy revives—but it temporarily increases the deficit. It is an important factor that dampens the amplitude of our economic cycles." Under the constitutional amendment, he explained, these stabilizers would no longer operate automatically.

Similarly, when a constitutional balanced budget amendment was under consideration in 1997, more than 1,000 economists including 11 Nobel laureates issued a joint statement that said, "We condemn the proposed 'balanced-budget' amendment to the federal Constitution. It is unsound and unnecessary. The proposed amendment mandates perverse actions in the face of recessions. In economic downturns, tax revenues fall and some outlays, such as unemployment benefits, rise. These so-called 'built-in stabilizers' limit declines of after-tax income and purchasing power. To keep the budget balanced every year would aggravate recessions." This summer, five Nobel laureates in economics issued a new statement opposing a constitutional balanced budget amendment for this reason.

Earlier this year, the current CBO director, Douglas Elmendorf, sounded a similar warning when asked about a constitutional balanced budget amendment at a Senate Budget Committee hearing. Elmendorf observed:

"Amending the Constitution to require this sort of balance raises risks . . . [t]he fact that taxes fall when the economy weakens and spending and benefit programs increase when the economy weakens, in an automatic way, under existing law, is an important stabilizing force for the aggregate economy. The fact that state governments need to work . . . against these effects in their own budgets—need to take action to raise taxes or cut spending in recessions—undoes the automatic stabilizers, essentially, at the state level. Taking those away at the federal level risks making the economy less stable, risks exacerbating the swings in business cycles."

Finally, a month ago, Macroeconomic Advisers (MA) analyzed the economic impacts of a constitutional balanced budget amendment. One of the nation's preeminent private economic forecasting firms, Macroeconomic Advisers provides analysis to major corporations and government entities, such as the President's Council of Economic Advisors under Presidents of both parties, including Presidents Reagan and George W. Bush.

MA concluded that if a constitutional balanced budget amendment had already been ratified and were now being enforced for fiscal year 2012, "the effect on the economy would be catastrophic." If the 2012 budget were balanced through spending cuts, MA found, those cuts would total about \$1.5 trillion in 2012 alone—and would throw about 15 million more people out of work, double the unemployment rate from 9 percent to approximately 18 percent, and cause the economy to shrink by about 17 percent instead of growing by an expected 2 percent.

Even if a BBA were implemented when the budget was already in balance, MA concluded, it would still put "new and powerful uncertainties in play. The economy's 'automatic stabilizers' would be eviscerated [and] discretionary counter-cyclical fiscal policy would be unconstitutional Recessions would be deeper and longer."

MA also warned that "The pall of uncertainty cast over the economy if it appeared a BBA could be ratified and enforced in the middle of recession or when the deficit was still large would have a chilling effect on near-term economic growth." MA concluded

that a BBA would have detrimental effects on economic growth in both good times and bad.

Proponents of a constitutional amendment often respond to these admonitions by noting that the proposed constitutional amendment would allow the balanced-budget requirement to be waived by a vote of three-fifths of the House and the Senate, so the BBA would be set to the side in recessions. But this response is too facile, and the three-fifths waiver provision does not solve the problem. It is difficult to secure three-fifths votes for anything; consider the paralysis that marks much of the work of the Senate. Moreover, it may take months after a downturn begins before sufficient data are available to convince three-fifths of the members of both houses of Congress that a recession is underway. Furthermore, it is all too likely that even after the evidence for a downturn is clear, a minority in the House or Senate would hold a wavier vote hostage to demands for concessions on other matters (such as new, permanent tax cuts). By the time that a recession were recognized to be underway and three-fifths votes were secured in both chambers, if such support could be obtained at all, extensive economic damage could have been done and hundreds of thousands or millions of additional jobs unnecessarily lost.

The bottom line is that the automatic stabilizers need to continue to be able to work automatically to protect American businesses and workers. The balanced budget amendment precludes that.

Nor is a recession the only concern. Consider the savings and loan crisis of the 1980s, or the financial meltdown of the fall of 2008. A constitutional balanced budget amendment would have hindered swift federal action to rescue the savings and loan industry or to rapidly put the Troubled Assets Relief Program in place. In both cases, history indicates that federal action helped save the economy from what otherwise likely would have been far more dire problems.

Moreover, the federal government provides deposit insurance for accounts of up to \$250,000; this insurance—and the confidence it engenders among depositors—is critical to the sound functioning of our financial system so that we avoid panics involving a run on financial institutions, as occurred in the early 1930s. A constitutional prohibition of any deficit spending (unless and until a supermajority of both houses of Congress voted to authorize it) could seriously weaken the guarantee that federal deposit insurance provides. That is a risk we should not take.

These are illustrations of why fiscal policy should not be written into the Constitution.

A parallel problem is that the proposed constitutional amendment would make it even harder than it already is to raise the debt limit, by requiring a three-fifths vote of both the House and Senate to raise the limit. This is playing with fire. It would heighten the risk of a federal government default. A default would raise our interest costs and could damage the U.S. economy for years to come.

MISTAKEN ANALOGIES TO STATES AND FAMILIES

Proponents of a constitutional amendment sometimes argue that states and families must balance their budgets every year and the federal government should do so, too. But statements that the constitutional amendment would align federal budgeting practices with those of states and families are mistaken.

While states must balance their operating budgets, they can borrow to finance their capital budgets—to finance roads, schools, and other projects. Most states do so. States also can build reserves during good times

and draw on them in bad times without counting the drawdown from reserves as new spending that unbalances a budget.

Families follow similar practices. They borrow—they take out mortgages to buy a home or student loans to send a child to college. They also draw down savings when times are tight, with the result that their expenditures in those periods exceed their current incomes.

But the proposed constitutional amendment would bar such practices at the federal level. The total federal budget—including capital investments—would have to be balanced every year, with no borrowing allowed for infrastructure or other investments that can boost future economic growth. And if the federal government ran a surplus one year, it could not draw it down the next year to help balance the budget.

I would also note that the fact that states must balance their operating budgets even in recessions makes it all the more important from the standpoint of economic policy that the federal government not be subject to the same stricture. American Enterprise Institute analyst Norman Ornstein addressed this matter in an article earlier this year, where he wrote: “Few ideas are more seductive on the surface and more destructive in reality than a balanced budget amendment. Here is why: Nearly all our states have balanced budget requirements. That means when the economy slows, states are forced to raise taxes or slash spending at just the wrong time, providing a fiscal drag when what is needed is countercyclical policy to stimulate the economy. In fact, the fiscal drag from the states in 2009–2010 was barely countered by the federal stimulus plan. That meant the federal stimulus provided was nowhere near what was needed but far better than doing nothing. Now imagine that scenario with a federal drag instead.”

S.J. RES. 10 AND S.J. RES. 23 RAISE ADDITIONAL ISSUES

The foregoing concerns apply to all versions of the balanced budget amendment that have been introduced. Some versions of the balanced budget amendment, such as S.J. Res. 10 and S.J. Res. 23, which are identical, raise additional concerns, because they would write into the Constitution new barriers to raising any revenues—including closing wasteful tax loopholes—to help balance the budget and also would prohibit federal expenditures in any year from exceeding a figure such as 18 percent of the Gross Domestic Product in the previous calendar year. These constitutional requirements could be overridden only by supermajority votes in both the House and the Senate.

This requirement for a supermajority to raise taxes would be extremely unwise. It would protect what President Reagan’s former chief economic advisor, Harvard economist Martin Feldstein, has called the biggest area of wasteful government spending in the federal budget—what economists call “tax expenditures” and Alan Greenspan has called “tax entitlements.”

In 2010, tax expenditures amounted to \$1.1 trillion, more than the cost of Medicare and Medicaid combined (which was \$719 billion), Social Security (\$701 billion), defense (\$689 billion, including expenditures in Iraq and Afghanistan), or non-defense discretionary spending (\$658 billion, including expenditures from the Recovery Act). Many of these tax expenditures are fully the equivalent of government spending. Let me use child care as an example.

If you are low- or moderate-income, you may get a federal subsidy to help cover your child care costs, and the subsidy is provided through a spending program. If you are higher on the income scale, you still get a gov-

ernment subsidy that reduces your child care costs, but it is delivered through the tax code, as a tax credit. (Moreover, if you are a low- or moderate-income parent with child care costs, you likely will miss out because the spending programs that provide child care subsidies are not open ended and can only serve as many people as their capped funding allows. By contrast, if you are a higher income household—and there is no limit on how high your income can be—your child care subsidy is guaranteed, because the tax subsidy that you get operates as an open-ended entitlement.) It is difficult to justify making the tax-code subsidy sacrosanct and the program subsidy a deficit-reduction target merely because one is delivered through a “spending” program and the other is delivered through the code.

And as the child care example illustrates, sharply distinguishing between subsidies delivered through the tax code and those delivered through programs on the spending side of the budget also has a “reverse Robin Hood” aspect. Low- and moderate-income households receive most of their government assistance through spending programs; affluent households receive most of their federal subsidies through tax expenditures. Effectively barring reductions in tax expenditures from contributing to deficit reduction is a prescription for placing the greatest burden of deficit reduction on those who can least afford to bear it.

The problems do not stop there. If it requires a supermajority to raise any revenue, another likely outcome is a proliferation of tax loopholes. New loopholes—including loopholes that Congress did not intend but that high-priced tax lawyers and accountants have found ways to create—could become untouchable once they appeared, because it would require a supermajority of the House and Senate to raise any revenue. It would become more difficult to close tax loopholes that opened up, since (under S.J. Res. 10 and S.J. Res. 23) special-interest lobbyists could block such action simply by securing the votes of one-third plus one member in one chamber.

Finally, as noted, S.J. Res. 10 and S.J. Res. 23 would bar federal spending from exceeding 18 percent of GDP in the prior calendar year, which translates into a limit of about 16.6 percent of the current fiscal year’s GDP. To hit that level would require cuts of a truly draconian nature. Consider the austere budget that the House of Representatives passed on April 15, sometimes referred to as the Ryan budget. Under that budget, Medicare would be converted to a voucher system under which, the Congressional Budget Office has said, beneficiaries’ out-of-pocket health-care costs would nearly triple by 2030 (relative to what those costs would be that year under the current Medicare program). CBO also has written that under the Ryan budget, federal Medicaid funding in 2030 would be 49 percent lower than it would be if the Affordable Care Act’s Medicaid expansion were repealed but Medicaid otherwise was unchanged. And funding for non-security discretionary programs would be cut more than one-third below its real 2010 level. Yet CBO says that under this budget, total federal spending would be 20¼ percent of GDP in 2030, so it would breach the allowable limit under S.J. Res. 10 and S.J. Res. 23 by four percentage points of GDP. This illustrates the draconian nature of the proposed 16.6 percent-of-current-GDP requirement.

Another way to look at this stricture is to examine federal expenditures under Ronald Reagan. Under President Reagan, who secured deep budget cuts at the start of his term, federal expenditures averaged 22 percent of GDP. And that was at a time before any members of the baby boom generation

had retired and when health care expenditures throughout the U.S. health care system (including the private sector) were one-third lower as a share of GDP than they are today. It also was before the September 11 terrorist attacks led policymakers to create a new category of homeland security spending, and before the wars in Iraq and Afghanistan led to increases in veterans’ health-care costs that will endure for a number of decades.

ESTIMATING THE EFFECTS OF SPENDING CAP IN S.J. RES. 10 AND S.J. RES. 23

To provide a more precise and detailed analysis of the impact that the spending cap in S.J. Res. 10 and S.J. Res. 23 would have, we recently conducted an analysis of its effects, using the latest Congressional Budget Office ten-year budget projections. We considered the impact if the balanced budget requirement would take effect in fiscal year 2018, as would occur if Congress approved it now and the requisite number of states ratified it by September 30, 2013. Here are the results.

—Congress would have to cut all programs (except interest on the debt) by an average of 24.9 percent in 2018. It would have to cut programs by \$1.1 trillion in 2018 alone, and by \$6.1 trillion through 2021.

—If all programs were cut by the same percentage, Social Security would be cut \$265 billion in 2018 alone and \$1.7 trillion through 2021; Medicare would be cut \$168 billion in 2018 and \$1.1 trillion through 2021; and Medicaid and the Children’s Health Insurance Program (CHIP) would be cut \$115 billion in 2018 and \$724 billion through 2021.

—Veterans disability payments, compensation, and other such benefits would be cut \$19 billion in 2018 and \$122 billion through 2021.

—Defense spending would be cut \$141 billion in 2018 and \$879 billion through 2021, on top of the reductions made to comply with the discretionary spending caps that the Budget Control Act establishes and the reductions made under the sequestration order that is expected to be issued in January 2013, pursuant to that act.

Congress would not, of course, have to cut all programs by the same percentage and likely would not do so. But if Congress chose to spare certain programs, others would have to be cut even more deeply. For example, if Social Security were spared, the average cut to all other programs would rise by more than one third, from 24.9 percent in 2018 to 34.2 percent. Similarly, if the defense budget were increased by placing it at 4 percent of GDP (exclusive of war costs) and maintaining it at that level, as presidential candidate Mitt Romney has proposed, then all other programs—including Social Security—would have to be cut an average of 38.2 percent in 2018 under S.J. Res. 10 and S.J. Res. 23.

Even if the so-called “plain vanilla” version of the BBA is pursued, rather than S.J. Res. 10 and S.J. Res. 23, the required level of budget cuts would be massive, assuming taxes are not raised to help balance the budget. Congress would have to cut everything an average of 17.3 percent in 2018, an average of 23.8 percent if Social Security were protected, and an average of 29.4 percent if the defense budget were set at 4 percent of GDP and Social Security were not protected.

CONCLUSION

Policymakers need to begin to change our fiscal trajectory. As various recent commissions have indicated, we need to stabilize the debt as a share of GDP in the coming decade and to keep it stable after that (allowing for some fluctuation over the business cycle). But establishing a balanced budget amendment in the Constitution would be exceedingly unwise. It would likely exact a heavy toll on the economy and on American businesses and workers in the years and decades

ahead. It is not the course that the nation should follow.

Mr. DURBIN. Mr. President, another testimony that I thought was extremely compelling came from Alan Morrison. Alan Morrison is an accomplished attorney and has argued many cases before the U.S. Supreme Court. He is the Lerner Family Associate Dean for Public Interest & Public Service Law at George Washington University Law School.

Professor Morrison really asked us to think through what we are doing. In fact, he asked us the most important question: If you put an amendment to the Constitution that requires a balanced budget, who will enforce it? Who will make it work? Who will decide if you have lived up to its terms? He concluded, based on his background in constitutional law and arguing before the Supreme Court, not the President. The President is not in that position to do it. The President, of course, with his budget, has his own favorites when it comes to spending and revenue.

Professor Morrison said this case ultimately has to find its way to our court system. But he made it clear that any constitutional balanced budget amendment must expressly give to the Federal courts the standing to decide the question. He raised a question that without that expressed language, he really was doubtful that the courts would take it up. They might view it as just a political question to be resolved by Congress itself.

Now, Senator LEE, who spoke on the floor earlier, has a version of the balanced budget amendment that expressly gives standing to Members of Congress, if I am not mistaken. But the point made by Professor Morrison is that any balanced budget amendment has to expressly give to our Federal court system the power of judicial review. In other words, who is going to call the fouls, the balls, the strikes, and the outs? It is going to have to be the court system when it comes to whether the balanced budget amendment is being complied with.

That is the first question but certainly not the last question.

Professor Morrison then went on to say: Now, put this in the real world. In the real world, where Congress has passed a budget, appropriations bills, and now someone is arguing that what Congress did does not comply with the new provision of the Constitution requiring a balanced budget—arguing that, in fact, Congress is overspending the amount it is allowed to spend, for example—then, of course, that case has to find its way from the Capitol Building to the President, who signed the bill, and then over to the court system.

Keep in mind, while we are in doubt about the outcome on appropriations bills and the budget, there is a serious question about how we will continue to fund our government, whether we can continue to make important payments to military retirees, Social Security recipients, Medicare recipients. All of

it is in doubt while there is a question raised as to whether the budget passed by the Congress is unconstitutional.

This is the thicket we are being led into by those who very glibly say: All we need to do is mandate in the Constitution a balanced budget, and it will just flow naturally from that mandate.

Well, listen to what Professor Morrison said:

The federal courts will (rightly) be extremely reluctant to wade into these budget battles and thus will want to be sure that there is likely to be a violation before agreeing to decide the merits. But budgets are inherently uncertain in their impact, depending on such factors as whether revenue targets are met, whether the demand for entitlements is higher or lower than anticipated, whether discretionary spending is fully realized, and whether an existing war winds down or a new one starts, each with great uncertainties accompanying them. Thus, it will be far from clear on October 1st of a given fiscal year whether a duly enacted budget will or will not be in balance, assuming that the question is reasonably close, as it is likely to be in at least some years. Unless Congress makes it clear, either in the [constitutional] amendment or perhaps by subsequent legislation, that the courts should resolve all doubts in favor of finding claims ripe, the courts are likely to be very reluctant to reach the merits even for those persons who are expressly given standing in the amendment.

Then, of course, is the question of a remedy. What if Congress passes a budget and appropriations bills, the President signs them, and they are challenged in court, and the court says: Yes, in fact, Congress has overspent beyond the requirements of the Constitution. What is next? What remedy would the courts order? What can the court do?

Can they order the recipients (of salaries, social security benefits, Medicare payments, payments under Government contracts etc) to "pay back" [a certain percentage]? Or can it order Congress to rectify the balance in the next year's budget, which would almost certainly trigger a new lawsuit? To be sure, the courts will not dismiss as moot claims that are capable of repetition, yet evade review because the duration of the violation is so limited that the courts cannot decide its legality before it has ceased.

Professor Morrison asks us to get beyond the bumper stickers and to think twice before we amend our Constitution.

In the 220 years since the enactment of the Bill of Rights, we have amended this Constitution precious few times. We have done it for compelling national reasons. We have done it to extend the right to vote to women. We have done it to make it clear that African Americans treated as slaves will be treated as citizens in the United States. We have done it to deal with questions of Presidential disability and succession. These are things which were compelling, major, national issues which could be resolved in a clear, definitive way by our Congress, working with the States for ratification.

Now comes the flavor of the day. In the midst of the deficit crisis debate,

there are those who are arguing that we should not accept our responsibility in the Senate and the House to balance the budget. No, we should just put in the Constitution that we are required to do it. And then they go further. If we are going to address it, they say, we are going to draw certain lines that future Congresses, forever, as long as this constitutional amendment applies, will be bound by—to make it more difficult to raise taxes on anyone in the United States; to make it imperative, if not mandatory, that cuts be made in programs such as Social Security and Medicare. These are questions that should be decided by Congress and the President on a timely basis.

I have been involved in the past 2 years with a lot of debate about our national budget deficit, both on the Bowles-Simpson Commission and with the voluntary effort by six Democratic and Republican Senators. It is not easy. It is very hard. But it can be done if the political will is there.

I think we need to summon the courage, the political courage and the will to do it. But we should reject—summarily reject these efforts to amend our Constitution. They are not well thought out. The Constitution is too important a document, a historical guidepost for our Nation, and an inspiration for nations around the world to put in a fatally flawed constitutional balanced budget amendment in the heat of the moment.

This is a significant vote. Those of us—and that includes every single Member of the Senate—who have sworn to uphold and defend the Constitution need to take that document very, very seriously. Those who want to amend it in quick fashion, changing their amendment language by the day, should be dismissed. If they do not show the reverence for this document that it deserves, if they do not take the time to make certain their proposals are consistent with the sanctity and importance of this document, they should not be taken seriously.

I do not believe any of my colleagues can go home having voted for that amendment and expect wild applause from audiences across America. They will understand that this was just a political reaction to a very important issue. Let's not amend the Constitution with a balanced budget amendment.

(Mrs. HAGAN assumed the chair.)

Mr. DURBIN. Madam President, I would like to make one additional brief statement. I see the Senator from Ohio in the Chamber.

The holiday season is upon us, and a lot of us are thinking about our families, and we are thinking about being with them as quickly as we can. It is a time of year that has a special significance for so many of us. But what was made clear by President Obama yesterday—and my colleagues should take note—we are not going home for

Christmas, Hanukkah, or any holiday season until we have done our job for the people of this country.

Millions of people in Illinois and across America are counting on Congress to extend the payroll tax cut. What does it mean in my State? With an average income of \$50,000 a year, it is worth more than \$1,000 a year to those families. It is worth about \$125 to \$150 a month to have a payroll tax cut—money that working families, struggling from paycheck to paycheck, desperately need to fill the gas tank, to pay the utility bills, to provide clothing for their kids, to make sure they can stay in their home. These are the basics.

No Member of Congress is going to be allowed to go home and ignore the imposition of such a new payroll tax on America. President Obama met with the Democratic leaders of the Senate yesterday, and he said point-blank—he has told the First Lady, Michelle, and his girls that, if necessary, they can have their Christmas vacation in Hawaii, which they go to each year, by themselves, and he will wait here until this job is done. I hope that does not happen for the sake of his family or for the sake of any family of any Member of Congress, but in order to avoid that, we have to do the right and responsible thing.

This afternoon, there will be a vote on the payroll tax cut offered by Senator CASEY of Pennsylvania. It is a payroll tax cut that would help millions of America's working families have more to spend and help the economy to recover. And he pays for it. He does not add to the deficit. He pays for it by imposing a surtax—listen closely—on the second million dollars earned by a person in a year, not the first million. You do not pay a penny on the first million you earn. On the second million, you will pay a surtax, and I think it is 2 percent, maybe less.

The Republicans have said: Absolutely unacceptable. We will not allow you to impose this onerous tax on these people.

People who are already making \$20,000 a week, we cannot ask them to pay 2 percent more on the next dollar they make? I do not think it is unreasonable. And if it leads to a payroll tax cut that helps families across this country, if the economy continues to recover even at a faster pace, if we see more business activity and business life and more people working, do you know what is going to happen? Those same wealthy people will prosper again, as they always do. It is in their best interests for this economy to get well. For our Republican friends to fold their arms and say: We are just not going to let you touch the wealthiest people in America, is an irresponsible position.

Senator CASEY has led this effort. It is the second effort we have made. We had one last week. The Republicans offered their alternative last week. It had 20 votes on the floor of the Sen-

ate—20 out of 47 Republican Senators. Twenty voted for it. They want to bring it up again today. They will probably get more than 20 votes this time, but it is pretty clear that the Republican Senators are halfhearted in their support of this Republican alternative.

One Republican Senator from Maine had the courage to step across the aisle last week and join us. We salute Senator COLLINS for doing that. We hope others will do it today.

We can bring this challenge to a close the right way by extending the payroll tax cut, paying for it with a tax on the wealthiest people in America. We can do our job and go home and be with our families. If Republicans will not come to the table to work with us on a reasonable compromise, I am afraid the American people will know very clearly who is to blame for continuing a tax on working families across America.

The facts are that we want working Americans to have a good year, get through a difficult time, and the economy to recover.

We should be doing this on a bipartisan basis. The President said: Roll out your Christmas trees and blankets here in the Senate because you are going to stay here, even through the holidays if necessary. We are not going to go home to celebrate until we can celebrate with American families who are counting on us across America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Madam President, I go home every weekend, back to northeast Ohio where I live in a town called Avon in Lorain County. I want to go home at Christmas. I want to be with my 3-year-old grandson and my three daughters and son. But I also think our obligation, as Senator DURBIN said, the assistant majority leader, is to stay here and get our work done. And "get our work done" means extend the payroll tax cut and extend unemployment benefits.

If we do not do that, frankly, we are ruining the holiday season for tens of thousands and dozens of tens of thousands, if you will, of Ohioans and Illinoisans and North Carolinians. If we do not do that, we do not deserve to be able to go home and be with our families. I am not trying to be a martyr, but I think it is shameful a group of people, in order to protect the highest income taxpayers in this country—those making over \$1 million a year—continue to block an extension, a continuation, if you will, of this tax cut for working families.

In my State the average tax cut that we will vote for today, and continue until it happens is about \$100, \$110, \$120 per family per month. It is absolutely unconscionable not to do that.

Senator DURBIN also talked about the constitutional amendment to balance the budget. I want to recount something I heard earlier today on the Senate floor. Two of my conservative colleagues—one from Kentucky, one from

Utah—spoke about the importance of a balanced budget amendment. I supported a balance budget amendment in the past when I was in the House of Representatives. In here I have actually voted—it was part of an effort to get us to a balanced budget in reality in the 1990s. When President Bush took office we had the largest budget surplus. We balanced the budget and then some. We had the largest budget surplus in American history.

I was part of that. I was proud of that. We accomplished what we set out to do. We accomplished what we said we would, and we accomplished something very important for our country. It was then in the first years of the last decade—in 2001, 2002, and 2003—that we went to war, two wars, Afghanistan and Iraq, and we did not pay for them.

President Bush, in those days, pushed through two tax cuts—one in 2001, one in 2003—that went overwhelmingly to the wealthiest Americans, without paying for it, without offsets, cuts, or other taxes. Then President Bush also pushed through—at a very close, middle-of-the-night vote in the House of Representatives, by, I believe, one vote or two votes—a Medicare privatization bill that basically was a bailout for the drug companies and the insurance companies and did not pay for that. That is why we got to this situation, unfortunately, where we have had this terrible budget problem.

What I wanted to address is what the solution of a couple of my colleagues seems to be. To their minds, there seems to be sort of a moral equivalent of, on the one hand, asking millionaires, people making a million dollars and up, to pay their fair share and making Medicare beneficiaries and Social Security beneficiaries take big cuts.

So I heard my two colleagues basically say this: that if the Democrats were serious about moving toward a balanced budget—and, again, 15 years ago we did it. We absolutely did it with President Clinton, got to a balanced budget, got to a surplus.

They said if the Democrats are serious about that, they will raise the retirement age for Social Security, and they will raise the eligibility age of Medicare. Let me tell you why that is a bad thing. I was in Youngstown not too long ago at a townhall meeting. A 63-year-old woman stood up and said—62, 63 years old.

She said: I just need to stay healthy and stay alive until I am 65 so I have health insurance. I need to be able to stay alive for another couple of years so I can get on Medicare and have health insurance.

Imagine living your life that way, when you are thinking: I just have to stay alive until I am 65. Then I will have good government Medicare health insurance. So some people here say: Well, tough luck. We are going to have to raise the eligibility age of Medicare to 66, 67, 68, whatever my very conservative colleagues are proposing—from

Utah and Kentucky—raise the eligibility age for Medicare as if that is going to make them better.

When you think about it—I want 62-year-olds—one reason we passed the health care reform, I want 62-year-olds to have health insurance. One, it is good for them. Second, it is way better for the country, including taxpayers, that they get health care before they get sicker and sicker and end up in the emergency room or end up with cobbled-together health care that is much more expensive, let alone what it does to this lady and her family.

Second, they proposed to raise the eligibility age for Social Security. Now, it is easy for people around here to dress like this who, for all intents and purposes, talk for a living—work hard at what we do but talk for a living and work in offices and, you know, do not do heavy lifting and are not exposed to the elements and all of that. It is easy for us to say: Let's raise the Social Security age to 70 because, God willing, we will still be here if the voters vote us in and we can keep doing this. Most of us are pretty healthy and do not work around asbestos and are not doing heavy lifting, are not working in the snow, in the rain, in the heat.

Well, when I think about raising the retirement age to 70, here is who I think about. I think about construction workers. I think about women who cut hair. I think about a waitress who works at a diner. I think about someone who works at a factory in Brunswick, OH. I think about people who walk the floors in retail. We are going to tell them that—we who dress like this, we who have jobs like this are going to tell those constituents—and there are millions in my State and tens and tens and tens of millions around the country, working-class citizens of this country who simply cannot work until they are 70.

If you are cutting hair, if you are changing sheets in a hotel, cleaning out bathrooms in a hotel, if you are working as a carpenter or a laborer or sheet metal worker, if you are working as an auto worker, a steel worker or nonunion in a tool-and-die or machine shop, you probably cannot work until you are 70. Your body probably will not be able to function in the workplace, with the physical and mental demands now to work in the workplace until 70. Yet people here think it is OK to do that.

The people here, I would add, can retire if they have 20 or 25 years in the House and Senate. They can retire at 60 or 62 or whatever and get a full pension. That is why I have introduced legislation—not opposed to their balanced budget amendment. I think it has all kinds of mechanisms in it that lock in low tax rates for the richest people in this country. I will not get into that. Senator DURBIN talked about that.

But I have introduced the legislation that simply says if we raise the retire-

ment age to 70, then Members of Congress cannot retire with a pension until 70. Why should Members of Congress be able to get a pension at 62 or 58 if they served enough years, but a Social Security beneficiary should not until a decade or so later?

So it is important, as we talk about balancing the budget, as we talk about our fiscal situation, not to make a moral equivalence between the richest people, the richest 1 percent in this country paying their fair share in taxes, making that a moral equivalence to Social Security and Medicare beneficiaries having to endure significant cuts.

Some people around here call Medicare and Social Security entitlements. They can be dismissive: We have to fix entitlements. Well, talk to a 72-year-old in Dayton or a 68-year-old in Zanesville or an 81-year-old woman in Xenia or Springfield, OH, and they will tell you oftentimes this is not really an entitlement, this is an investment. They paid into Social Security. They paid into Medicare. They want to make sure the government fulfills the covenant that we made over the last 75 years in the case of Social Security, 45 years in the case of Medicare, the covenant that we made between our government and the citizens of this country. That is the importance of that. We need to think twice.

That is why my legislation was introduced, in part, that Congressmen and Congresswomen cannot receive a pension before the same retirement age as Social Security beneficiaries. We need to think twice before we are going to tell a carpenter or a barber or a retail worker or a steel worker that we are going to raise the retirement age and make them work until 70 so they can receive Social Security benefits.

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

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

Mr. COBURN. I ask unanimous consent that I be allowed to speak as in morning business.

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

MAKING TOUGH CHOICES

Mr. COBURN. I am coming to the floor now because we will not have an opportunity to debate on the payroll tax cuts because the vote is going to be at 2:30 and that time is taken.

I think it is important for the American public to look at what is happening in Washington right now. There is not a disagreement in Washington about whether we want people to continue to receive this tax cut. The disagreement is, should it come out of Social Security? Should we continue to undermine Social Security or should we do it a different way? That is No. 1.

No. 2 is, if we are going to borrow \$117 billion against our children knowing that we have significant waste, fraud, abuse, and duplication in the Federal Government of in excess of \$350 billion a year, should we not eliminate some of that, pay for this rather than borrow the money?

So we have the posturing between the two parties based on the election that is coming to create a predicate that some people only care for the rich and some people only care for those who are less fortunate, which is all smoke and mirrors. There is unanimity that we want this to continue. So what the American people are not hearing is the real debate.

The real debate is, should we eliminate some of the waste, some of the stupidity, some of the duplication in the Federal Government and actually do that to be able to pay for this so that as we do this thing that we all want to do—in other words, keep this \$1,000 to \$2,000 per family in the economy now—that we do not do that by crippling the children of the very people who are in the economy.

You know it is a zero-sum game. Somebody is going to pay the bill sometime. If it is us who refuse to do the hard work of ferreting out waste, duplication, fraud, then our service will have been in vain because what we are really doing is transferring to our children the responsibility for us today. Actually, it is going to come doublefold because the way this bill is lined out is we are going to borrow the money in the market to pay for this continued decrease in Social Security taxes.

We have already stolen \$2.6 trillion from Social Security. Congresses have the last 20 years. When we borrow that money and put it back in, there is no reduction in what is owed, so our kids are actually going to get to pay for it twice. They are going to pay for it now with the new debt that we are taking, and the fact that new payment was not recognized as a reduction, they are going to get to pay it again.

So it is going to cost our children a quarter of a trillion dollars. There is a lack of honesty in talking plainly with the American people. They know we are in trouble. The question is, Will we be honest with them, treat them as adults in terms of how we go about solving the problem? We hear the mess. The press takes advantage of that. There is not a lot of difference between the Senator from Ohio who just spoke, in terms of what we want to do in terms of protecting seniors. But the politics surrounding it and the game playing poorly serves our country.

So for all the press that is watching, we are going to get this done. I know it is the game Blood Sport that is happening right now, with the press saying: Will they or will they not? It is going to happen. We are going to fix unemployment so that we have a continuation of that. The real question is, Will we fix the real things that the

country needs fixed or are we just going to kick the can down the road?

What we are doing is kicking the can down the road because we won't make the tough choices to pay for it. We won't pay for the unemployment benefits. The first 26 weeks is what is earned; that is what people contributed to. We are up to 99 weeks, and that comes directly from the American taxpayer—it actually comes from the future American taxpayer.

Some real questions ought to be asked. What is the game being played in Washington by both sides—trying to get advantage in the next election? As our country drowns in debt, we continue to further mortgage our children's future, and we continue to treat the American people like children rather than the adults they are. Everybody knows we are all going to have to sacrifice. Does that mean we are going to abandon the social safety net? No, it doesn't. Does that mean a 62-year-old who is trying to get on Social Security is not going to get there? No; they are. Those are the tactics of fear that something will not be there. As a fiscal conservative or a constitutional conservative, I want us to fulfill our obligation to the promises we have made and to our oath, which is to uphold the Constitution. Thomas Jefferson said you should never borrow money which you have not laid a tax to pay for. He is a Founder—one of the Founders of our country. We would do well to go back and revisit the wise and prudent advice of our Founders. You don't see that or hear that much anymore in the U.S. Congress.

These are big problems our country is facing. I am 63—soon to be 64—years old. We have never faced anything close to what we are facing today. How we react and how we respond is going to make all the difference in the world—not only for our short-term future but also for our long-term future.

I hope the American people who are listening right now understand that we are going to do what is necessary to help get the economic process of our country running again in a better and viable way. I hope you will dismiss the partisan rhetoric and the class warfare rhetoric that is all too commonplace today. If we will focus on what the problem is rather than the next election, we will have a great deal more success in coming together and forging solutions the American people can be proud of and we will actually move our country ahead.

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

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

CORDRAY NOMINATION

Mr. BEGICH. Madam President, first, I want to comment on the Cordray ap-

pointment that was attempted a little bit ago, and then I want to bring up some more good news on the economic front.

First, I was somewhat disappointed in the vote of 54 to 45, garnering only 1 Republican from the other side—only 1—and on such an important agency that ensures the protection of consumers in a variety of areas. It seems illogical to me that we would not find compromise in a vote to appoint someone to run an agency that this body, in a 60-vote margin, approved to help protect consumers, particularly considering what has happened over the last several years and the glaring problems and challenges consumers have had to endure with the financial institutions of this country as well as from other entrepreneurs, such as pawnshops and payroll check cashers. All of these institutions would have firm regulations and provide the consumer an opportunity to respond, or those who get abused by those programs.

I am a little disappointed. I wasn't intending to come and speak on that issue, but I wanted to have my voice on the floor that I was disappointed that an appointment could not happen, which I believe is raw politics. It has nothing to do with the individual's ability to make this agency run properly. They didn't want to appoint him because they didn't like the agency—the 45 or so who didn't vote for it. And I think it all boils down to one very simple thing: Consumers are now, once again, left without someone running an agency that will help protect them against these people who prey on individuals in the financial arena.

THE ECONOMY

Again, Madam President, I am somewhat disappointed, but let me get to the real reason I came to the floor. I came down yesterday and had a lot to say about the economy and where we are and the headlines that were reported yesterday. And in less than 48 hours—27 hours—there are more good news headlines.

These are some of the headlines I talked about yesterday: "Jobless Rate Dips to Lowest Level in More Than 2 Years." New York Times. CNN: "Dow Closes With the Largest Gain Since March 2009." "Private Sector Jobs Soar. Payroll Forecasts Rise." That is Reuters. The Wall Street Journal: "Online Sales Reached Record \$1.25 Billion on Cyber Monday."

On top of that, we had record sales for Thanksgiving weekend—Black Friday they call it, and Small Business Saturday. Again, an incredible impact for our economy.

What this tells me—even though we get a lot of criticism from the other side and others who complain maybe we are not doing our job and are frustrated that Washington isn't working as well as it could—and I agree there are a lot of areas where we are not able to move forward, such as the appointment I mentioned a few minutes ago—is there are good examples of policies

we have worked through over the last 3 years during this great recession. We have fought kind of a lonely war to get these policies in place.

Once again, more good news, and let me read off a couple. This week's Time magazine has a whole article entitled "How America Started Selling Cars Again." Why is this important? Because this is a manufacturing base for our country. It employs people not only in jobs in the automobile industry but it trickles all the way through the economy of the country. It doesn't matter if they are at a port, for example.

I remember meeting recently with the folks from the Detroit Port Authority talking about ships and the movement of product from the automobile industry across this country, but also manufacturing and other activities throughout the country that support the automobile industry. It is moving forward. It is growing.

We took a dramatic step and got a lot of criticism for it. As a matter of fact, no one wants to even mention the words, because everyone is so nervous about it. Some call it an auto bailout. And, yes, we did do that. That result is a healthy, strong, profitable industry that is bringing jobs to America and creating jobs in America. As a matter of fact, there was an article in the Wall Street Journal not long ago talking about how we are importing jobs from Japan and China back to the United States, to the automobile industry, because it is successful.

And, oh, by the way, they are paying back all those loans they got from the Federal Government with interest. So the taxpayers are getting their money back in full. The net result is, because we helped at the right time, we have ensured we are still a player in the automobile industry not only in this country but in the world market. So for those who want to continue to complain and to demonize that action, the net result is we are bringing jobs back to the United States in this industry.

The Cash for Clunkers Program was another piece of legislation that barely passed. Again, many of us on this side of the aisle took that lonely road because we thought it was the right thing to help move this economy forward. Again, the net result is this industry is profiting more in the last several years. They are producing more jobs not only in their industry directly but indirectly. And the naysayers on the other side rarely bring this up anymore, because in less than 3 years—really, less than 2 years—this industry has turned itself around because of American ingenuity and with the help and support from the U.S. Government, and that help and support is being paid back with interest in the good old American way.

So from my perspective, once again, this is a great story, and I commend Time magazine for talking about the future.

Let me also talk about another one. This is from CNBC. I pulled this off because I like looking at all the business magazines and Web sites every morning. I glance through quickly to see what is happening, what the markets are doing, what the industry is doing, who is investing, what are the new businesses, and what is happening out there. Here is this one: "U.S. Mortgage Applications Jumped Last Week."

This is the industry that fell apart in the beginning of the great recession—the housing industry. A lot of people say that was the main reason the economy collapsed. It was a significant portion of it, no question about it. But let me read this.

The Mortgage Bankers Association said its seasonally adjusted index of mortgage application activity, which includes both refinancing and home purchase demand, spiked 12.8 percent in the week December 2. The MBA's seasonally adjusted index of refinancing applications also jumped, gaining 15.3 percent, while the gauge of loan requests for home purchases rose 8.3 percent.

By loan requests, these are people who are now saying, I want to think about buying a home. I want to purchase today. I want to start examining what is out there.

Here is what the Mortgage Bankers Association's vice president of research and economics said. These are his words:

Applications increased significantly as mortgage rates dropped to their lowest levels in about 2 months.

Actually, overall, it is the lowest level in decades. But we now measure things by an eighth of a point. So when you are at 4.125 or 4.25, we are now measuring which is lower overall, but it is lower for the last several decades. Incredible.

Let me read another one. This is from Politico, but it is reporting on the Bloomberg Global Poll—which they started doing in 2009 to sort of see where foreign investors will put their money. Where will they invest? Where will they take the dollars they have accumulated or will gather through investors and shareholders and so forth? Where are they going to put their money?

More than . . . 41 percent, said they expect the U.S. will have one of the strongest performing economies in the world in the coming year—the highest percentage the country has seen since the Bloomberg Global Poll began in October 2009.

Here is another one. Today, again MSNBC. "Jobless claims drop to 9-month low."

. . . jobless claims dropped 23,000 to adjusted 381,000—

That is actually below the magical threshold of 400,000, which people watch. The question is, Will it be consistently under 400,000? We have received more of these under 400,000 recently than in the last 3 years. That is a good signal that the economy is moving.

I know some will say it is not enough. Well, when I came here, half a

million people were losing their jobs every single month. So we have now had 21 consecutive months of job growth in the private sector. That is a great statement for us as an economy, this 21 consecutive months of job growth. It is an indication our economy is moving.

Do we want it to move faster? Of course we do. That is what America is about. We want to see things happen right now—today. But this has been called a great recession. Yet we are pulling ourselves out of it. It takes time and it takes good policy. And, yes, it takes some opportunity and taking a little risk, and we did some of that here. We made some decisions that were tough and were not necessarily very popular at times.

I remember many of the calls I received on some of these issues. But what is the end result? That is what we have to measure by. Leadership is not about waiting for a poll to tell us what is right or wrong or waiting for someone to say, here is the right move because your constituency will vote for you if you do this thing this way. It is about leadership. Sometimes the leadership role is tough. It means getting a few trucks running over you a little bit, leaving some tire tracks on your back, but the end result is what we look for.

Today, where we are, we have job growth—not as significant as we want but job growth. Where were we? Half a million jobs a month disappearing.

Let me cite another one. This is a big issue people are concerned about. As a former mayor, managing a city, you are always looking at the revenues because the revenues tell you how your local economy or, if it is State revenue, how your State is doing. If you remember, at the end of 2008, 2009, and beginning of 2010, there was incredible concern about local governments collapsing under the debt and deficit spending and unable to manage.

As a matter of fact, the markets were concerned about municipal and State debt and what that might mean. Oddly enough—and I wish I had brought that article—it hasn't panned out as people thought. Local governments, State governments are doing better than people anticipated. It is still a tough road, no question about it. We still have firefighters, police officers, and teachers who have been laid off. We tried to pass a bill here to help that out, but that didn't happen because too many on the other side opposed it.

But for State and local governments, here is the latest State revenue report by the Nelson A. Rockefeller Institute of Government, University at Albany, NY: "Overall Tax Revenues Show Strong Growth in Second Quarter." The article speaks to State tax revenues growing by 10.8 percent in the second quarter of 2011.

As a matter of fact, the year ending June 2011—which is the end of a lot of fiscal years for State and local governments—the period corresponding to 46

States—almost all of the States' fiscal years—total State collections increased by \$58 billion in that year, or 8.4 percent, from the previous year, the strongest annual gain since 2005.

What does that mean? That means local economies, State governments, are starting to recover. It is still a rough road but starting to recover. Good signs. That means there is more economic activity within their communities. It means businesses are replanting and redesigning their opportunities in those communities. People are buying homes, as I mentioned, which means they are paying property taxes, which means those local governments can hire police and fire and paramedics and teachers.

Again, I could probably come here every day and give this kind of good news. Because what we all hear—today, the market is down. I forget what it is—70, 80 points, maybe 100 today—but the headlines will be: market crashes or market dips significantly.

Here is the reality. Since March of 2009, the market is up, even with today's activity, 81 percent. That means my son's 529 account is better today than it was 3 years ago. That is good because that means my wife and I can afford to make sure he can go to college someday. But it also means retirement accounts have more resources in them today than they did 2½ or 3 years ago. It means public pension programs and investment retirement programs that invest in these kinds of markets also are doing better. But, again, the headline will be that the sky is falling because that is what people like to do. They like to prey on fear rather than opportunity.

I think a lot of us on this side believed in the opportunity, in the future of this great country 3 years ago when we sat here and made some tough decisions over the first 18 months in my term. Tough decisions. But we believed in what was possible. We believed that this economy would turn around with a little help from the people who live here, work here, and see the future.

We also knew we had to do a little bit. We had to do something extraordinary to create the opportunities for the future of this great country. As I mentioned, private sector jobs increased, the automobile industry better than ever before, home sales doing better than they were 2½ years ago, the market is up by 80 percent—all good news. But we don't hear a lot of those as the front-page, above-the-fold, big, bold headlines because they are not sexy. They are not controversial. But that is what is happening. If a lot of us around here had more belief in the potential, it would be incredible what could happen.

Let me end on this note; that is, we are in the middle of the debate on continuing tax relief for the folks who are working every day, the people I just talked about who are buying homes, buying cars, paying taxes. We are saying to them: We want to make sure you

continue to receive the dollars in your pocket.

In my State, that is \$300 million—just in my State, \$300 million with the payroll tax deduction that they get to keep for 400,000 Alaskans instead of the IRS taking it. I don't know about you, but I think that is a good thing.

I know some will say: We have no proof this works. Well, I just gave proof. I will give proof every day if necessary. Yes, we can't say this certain industry came back because of this one little item. But I will tell you, if we put \$300 million in my State into the hands of 400,000, Alaskans, a little over \$1,000 per person, the net result is they are going to spend that money in the economy. They are going to buy that car, that washing machine, or go on that vacation. They are going to spend that money in this economy. Yes, there is no fancy report that said this business succeeded because we gave them this special tax break—which we shouldn't do. We gave to the people of this country an incredible opportunity to take their money and put it to work.

Mr. President, 160 million families will benefit—160 million families will benefit by this action today. People making \$50,000 or less will put back about \$1,000 into their pockets again—not in the IRS's pocket but into the consumers' pockets that they will spend.

Again, I will hear from the other side how bad it is, that there is no proof, that this may not work. It is working. They can deny it all they want, but I will continue to lay all the facts down. It is not me producing this out of some government document. It is mostly some very conservative publications reporting on the good news.

I hope the folks on the other side—and I know we picked up a Republican from when we had this before. This is a modified, compromised version that didn't pass last week to say: OK, we are trying to compromise. But we are keeping it simple and trying to do it in a way that ensures that middle-class Americans, and Alaskans whom I represent, put more money in their pockets, people who are working every day, making a difference in the economy—not people who are just on the top end of the cycle. I know that is the great debate, and we differ and I differ with several people on the other side.

I do believe people who make \$1 million or more should pay a little bit more. I don't have any heartburn over that. It is 235,000 people we are talking about versus 160 million. That is who I want to put my investment in because I know those people, who are individuals, families, and a significant portion of small businesspeople who will continue to build this economy.

As a matter of fact, the best growth period and growth pattern right now is small business. They are the ones that are the backbone of this economy. Those are the ones that we need to help. That is what this bill does. I hope we find the magical success.

I wish we would have 50 majority votes like the rest of this world operates under. For some reason, this place has to have special rules and make it complicated and hard for anything to get done. But maybe there will be some people who join and want to support the American people and support giving them tax relief and making sure their lives are better, especially at this time of year with Christmas around the corner. I would love to give them a good Christmas gift. I think all of us would. Let's do it. Let's do it today. Let's do it for the American people. Let's do it for my constituency in Alaska, for your constituency, Mr. President, and all the rest in this room.

Mr. President, if there is one thing I look for, if it makes a difference for Alaska, if it is about Alaska, I am there. This is not only about Alaska, it is about this country. It is about the middle class. Not only am I there, I am double there, and I hope we find opportunity in this Chamber to do the right thing.

Mr. President, I ask unanimous consent that any time spent during a quorum call between now and 2:30 p.m. be equally divided.

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

The Senator from Nevada.

Mr. HELLER. Mr. President, today the Senate will consider my legislation again to extend the temporary payroll tax cut.

This week, the Senate has been given another opportunity to do the right thing and provide much needed relief to the American worker.

It shouldn't be news to anyone that Americans are desperate for solutions. Millions of Americans are unemployed, underemployed, or have simply given up looking for a job.

In between looking for a job or higher paying employment, Americans are busy trying to figure out how to handle high health care costs, looming bankruptcy, and the threat of foreclosure.

As a Senator from Nevada, I understand how difficult it is, perhaps more than any of my other colleagues. My State has the unfortunate distinction of leading the Nation in unemployment, in bankruptcies, and in foreclosures. I hear from my constituents every day on these issues. Nevadans—Democrats, Independents, and Republicans—are looking to Congress for answers, and they are frustrated that they are not getting them.

Even with the economic difficulty Americans across the country are experiencing, Congress appears to be prepared to stage a partisan standoff rather than extending a payroll tax cut for hard-working Americans. I cannot allow this to happen. Americans deserve solutions.

The plan I have introduced to extend the payroll tax cut is a workable solution that will provide relief for Americans responsibly. In fact, the solution I am proposing today borrows a cost-cut-

ting idea from the bipartisan Simpson-Bowles Commission that can actually pass Congress and be signed into law.

My proposal allows American taxpayers to hold on to more of their hard-earned wages while not punishing the Nation's job creators as the majority proposes. Under my plan, American taxpayers will not see a tax increase. In fact, my plan prevents a tax increase on those already receiving a payroll tax credit. Today, Congress can do the right thing by allowing employers to continue to invest in their businesses so they can plan for the future and, of course, hire more workers.

I understand that Democrats would prefer to pay for the payroll extension by raising taxes on employers. But treating tax dollars responsibly is absolutely necessary if we are going to see long-term economic growth in this country. In this case, we can extend the payroll tax cut and still pay for it.

I also understand that not all Republicans support my plan. To be honest, I disagree with some of my colleagues who claim a payroll tax holiday is not necessary. I believe that we should allow more Americans to hold on to their hard-earned wages. For those who are already struggling to live within their means, this payroll tax cut will continue some much needed relief.

Today, I am asking my Republican and Democratic colleagues to come together and join me to help continue the payroll tax holiday without raising taxes on businesses in America. This will help preserve long-term job growth in the future.

My proposal is a workable solution containing provisions endorsed by both the majority and my colleagues in the House of Representatives. This is the only version of the payroll tax cut that has the potential to pass Congress and to be signed into law.

My proposal pays for the payroll tax cut by reducing government spending where it is no longer needed and requires the richest Americans to pay higher premiums for Medicare. This will allow us to strengthen and preserve Medicare for those Americans who rely on the program the most.

This is the same approach endorsed by Democrats who say the richest Americans should do more. Americans want solutions. They do not want more partisan bickering.

This week Congress has another opportunity to do the right thing to help hard-working Americans extend the payroll tax cut holiday.

I make calls back to my home State every week. In those calls, I ask Nevadans if they think their children will have access to a better, brighter future than their own. For the first time in history, a majority of Americans and a majority of Nevadans believe their children will have less opportunity. By continuing down this path of partisanship, Congress is robbing the American people of the dream for their children. This needs to stop.

We in this body need to seriously consider the high stakes of the political games that continue to unfold on this Senate floor. American workers need solutions and they need relief right now. Congress should come together today, put partisanship aside, and pass meaningful legislation that will benefit all Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CASEY. Mr. President, I rise this afternoon to speak about an issue we will be voting on today and we have been discussing and debating now for a number of days. We are into our second week of debate about a cut in the payroll tax. Just by way of review—and so many Americans have been following this debate—here is where it basically stands between what we did last year and what we are trying to do this year.

Last year, as part of a larger tax bill, we reduced the payroll tax for employees across the country from 6.2 percent to 4.2. So that 2-percent reduction meant millions of American families were able to have about \$1,000 in their pocket of take-home pay they wouldn't have had otherwise absent that action in the tax bill. What we are trying to do this year—and I should start with what I tried to do last week, and we got 51 votes for this—is to say we should not only continue or extend that cut in the payroll tax but we should expand it. So instead of saying it should go from 6.2 to 4.2, we take it down to 3.1. In essence, what we tried to do last week was cut in half the payroll taxes that relate to employees. We wanted to add to that cutting in half the payroll tax for small businesses, and they would benefit disproportionately. Thirdly, we wanted to add to that a tax credit so that if an employer hired or increased wages for employees, if an employer expands their payroll in one of several ways, they can get a tax credit equal to an elimination of the payroll tax. So instead of the usual 6.2, you would be down to zero. So the combination of those three would mean we would be helping employees by cutting their payroll tax in half, helping employers by cutting their payroll contribution in half, and then have this third element as well for employers who actually hired people or added to their wage base.

Unfortunately, in the Senate, because we needed 60 votes and got 51, we knew at that point we couldn't get enough support from the other side of

the aisle. So what I did, in working with our leadership and working with folks in the Senate, was to refashion the legislation so that we made it smaller. We reduced the cost of the overall proposal by some \$80 billion. We also concentrate on just the element we worked on together last year, which was the employee side.

Here is where we are in this debate about cutting the employee payroll taxes. It is down to this question: Should we cut it to 4.2, as we did last year, or should we cut it further and reduce it in half? I believe we should, and I think most Americans believe that.

Here is what it means to folks out there. Instead of saying we will continue what we did last year—which would be about \$1,000 per worker, in essence, per family, on average—if we cut it in half, we can get that number up to \$1,500. So it is not just putting money in people's pockets and continuing to do that for another year, but it is more money. It would go from roughly \$1,000 to approximately \$1,500.

That is where we are. Unfortunately, we are not yet sure we can get the support we need to do that.

Here is what it means to Americans. It means more money in their pockets, more take-home pay, but it also means that if we don't, at a minimum, extend the payroll tax cut from last year—here is what it means on two issues: GDP—gross domestic product—and jobs. According to Mark Zandi of Moody's—someone we have quoted often on both sides of the aisle and relied on his expertise—not extending the payroll tax at least to the 4.2 level would reduce 2012 growth of real GDP in a State such as Pennsylvania, by way of example, by 0.52 percentage points. That means we are talking about gross domestic product or gross State product, in a sense, in a State such as Pennsylvania, cutting it in half instead of allowing it to grow. So this has a real adverse consequence for Pennsylvania and for the country if we don't do what we did last year.

Of course, if we did more than we did last year, as I think we should and I think most people do, we could not only not fall behind, but we could move forward dramatically.

Here is another way to look at it: Jobs. According to Mark Zandi, not extending the payroll tax cut will cost Pennsylvania 19,700 payroll jobs in the calendar year 2012. For context, in the State of Pennsylvania last year, the payroll tax job creation number—or payroll jobs added last year—was 54,500. So we created last year in a State such as Pennsylvania almost 55,000 jobs. But if we don't extend the payroll tax cut this year, we are talking about losing as many as almost 20,000 jobs. This is a substantial factor in the discussion about our economy. It would have a substantially adverse impact if we don't keep the payroll tax cut in place.

As I said before, we should do more than we did last year. We should cut it

in half. It would give people across the country peace of mind in two time periods: The next couple weeks when they are going out and shopping and enjoying the holidays. We want people to spend as much as they feel they can, and if they know they are going to get \$1,000 to \$1,500, they can spend more in this upcoming holiday season. But it is especially important for 2012. Why should taxpayers have to live with a tax increase because Washington just didn't get along and the same old political games were played in Washington instead of saying let's come together in a bipartisan way and extend and expand the payroll tax cut from last year.

We have lots to do in the next couple days and weeks. But maybe the most important thing we can do in the next few days is to make sure we cut the payroll tax again. Because this is about whether we are going to give people peace of mind as we head into a new year and whether we are going to put more money in their pockets in order to jump-start the economy, to give the economy the jolt we got at the end of last year. Last year, we came together and passed a tax bill and we had average job growth from February, March, and April 2011—those 3 months—average private sector job growth of just about 240,000 jobs. We need another 3-month period similar to that. In fact, we need another 6 or 7 or 8 months similar to that. But the only way to get there is to put in place this payroll tax cut.

I hope when we vote later today, we will get at least 60 votes for this effort to make sure we are giving Americans peace of mind and more money in their pockets.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent to speak despite the expiration of the majority's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BLUMENTHAL. Thank you, Mr. President.

Mr. President, I begin by thanking my colleagues, many of whom served in the last Congress. I thank them for extending the payroll tax cut at that time, providing a payroll tax cut from 6.2 percent to 4.2 percent. I thank them on behalf of myself. I was not a Member of this body at that time. I thank them on behalf of the American people. They are due that thanks and appreciation for that vision and courage in extending that measure in cutting the

payroll tax so as to lessen the recession. We have only to listen to the virtually unanimous opinion of economists to the effect that we saved the Nation, this body saved the Nation from a deeper recession.

Now I ask my colleagues to undertake a similar mission, to accomplish the same goal, to once again save the Nation from a deeper recession. The recovery of this Nation's economy has been fragile and slow. Many economists—notably, Mark Zandi, who has been quoted by my distinguished colleague from Pennsylvania—say that a failure to extend it will mean a new recession. We are talking about average Americans, ordinary people who are hurting and struggling. They are hurting economically and struggling to find jobs. They are struggling to stay in their homes and keep their families together at a time of year when joy and satisfaction ought to be the quality of their lives. They deserve this measure of peace of mind, as my colleague from Pennsylvania, BOB CASEY, has referred to it. But all of us—the entire Nation—deserve the economic security, which is a matter of national security.

Rescuing this country from continuing debt and deficit means returning to full employment. Twenty-five percent of our deficit can be eliminated by going back to lower rates of unemployment.

Economic recovery is a means to countering and curtailing what the former Chairman of the Joint Chiefs of Staff called a national crisis and a security threat.

Economic recovery depends on consumer demand. As I go around the State of Connecticut, businesspeople tell me what they need most is consumer demand. Their confidence and certainty about the future of the economy, their willingness to invest, depends on consumer demand. That kind of factor, that need is what ought to motivate all of my colleagues—every Member of this body—to vote for this measure, not only extending that payroll tax cut but also reducing it by 3.1 percent.

We are talking about anywhere from \$1,400 to \$1,500 or more in the pockets of people around the country, people around the State of Connecticut. The average middle-class family in Connecticut earns \$83,797 per year and would save \$1,676 in taxes under the current payroll tax cut. Let me give you those numbers again. The average middle-class family in Connecticut earns \$83,797 per year—back in their pockets \$1,676 in taxes under the current payroll tax cut as proposed in this measure.

We are talking here about a compromise. Our side of the aisle has modified this bill to make it about one-third smaller in size and cost. This legislation will no longer give employers a tax break. We have pulled back on the magnitude of this measure. But it will still affect 160 million workers who will receive nearly \$1,500 in additional take-home pay.

This bill will be paid for by measures that were coming from the deficit reduction proposals contained in a number of the supercommittee's ideas. It is paid for by fees charged by Fannie Mae and Freddie and by a proposal suggested by my colleague, the Republican leader. The cost-saving reform suggested by him would make millionaires ineligible for unemployment compensation and food stamps.

This legislation also levies a surcharge, a temporary 10-year surcharge, on the highest earners in American society, who can well afford it when their own interests would be extraordinarily well served by the consumer demand and economic recovery that would be generated.

I know many of my colleagues, including the Presiding Officer, are concerned about the effect on Social Security, and so am I. The Social Security trust fund is a trust, a sacred trust that we are honor bound to protect. And I would not vote for this measure if I thought it created a threat, a real threat, to the viability of that fund. But I believe the assurance we have received from the chief actuary of that fund—and it is contained in a letter to Secretary Geithner and to Jacob Lew, it was printed in the CONGRESSIONAL RECORD yesterday by Senator CASEY, and it assures that the effect would be negligible. In fact, it says the trust funds would be “unaffected.” It uses that word, and I will quote directly from the letter.

We estimate that the projected level of the OASI and DI Trust Funds would be unaffected by enactment of this provision.

That letter comes from the chief actuary of the trust fund, and I am prepared to rely on that assurance and to say that I believe this kind of measure is the responsible thing to do at this point in our economic history to make sure our recovery is continuing.

The effects of failing to do so: The economists differ whether the rate of growth will suffer by .5 percent, which is Mark Zandi; or .66 percent, Goldman Sachs; or 1 percent, RBC Capital Markets; or 1.5 percent, Michael Pond. Whatever the specific percentage, we know it will be grave and serious in the damage to our economy if we fail to extend and enlarge the tax cut.

So I urge my colleagues to heed the voices they are hearing back home, as I am hearing from ordinary citizens, middle-class families.

We are talking about a middle-class family measure that will benefit people like Marilyn in Bloomfield, who writes to me:

I believe these cuts need to remain in effect in order to avoid deepening the recession we are in. I urge you to support the President's jobs plan and pass as much of it as you can in upcoming legislative sessions, for the benefit of struggling families.

She writes and she says “to urge you to vote in favor of extending the payroll tax cut for workers beyond Dec 31.

Listen to people like Ginny. They are in every one of our States. Ginny, who is from Southport, CT, writes:

I know you will do the right thing when the payroll tax cut and increasing the taxes of only the 2nd million and above of wealthy Americans comes up for a vote. I have faith in you.

With the economy still struggling to recover and millions of Americans struggling to put food on the table this holiday season, we cannot afford to raise taxes on working Americans.

Those voices from middle-class families are reaching this body every day. We have heard them before. This body heeded them last year in enacting this tax cut. I thank every Member who voted for it. It was a bipartisan vote. I hope this one will be as well. I will be proud to join Members from both sides of the aisle, and I hope this measure will have support—overwhelming support—from both sides of the aisle in showing the American people we can come together, bridge our differences, and compromise.

This measure reflects a compromise on both sides. I hope it will be passed later in the day.

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. 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.

MR. WHITEHOUSE. I thank the Chair.

THE PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to the motion to proceed to S. 1944, which is subject to a 60-affirmative-vote threshold.

MR. WHITEHOUSE. Mr. President, 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.

MR. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—50

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Blumenthal	Johnson (SD)	Rockefeller
Boxer	Klobuchar	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Collins	McCaskill	Warner
Conrad	Menendez	Webb
Coons	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feinstein	Murray	

NAYS—48

Alexander	Graham	McConnell
Ayotte	Grassley	Moran
Barrasso	Hatch	Murkowski
Blunt	Heller	Paul
Boozman	Hoeven	Portman
Brown (MA)	Hutchison	Risch
Burr	Inhofe	Roberts
Chambliss	Isakson	Rubio
Coats	Johanns	Sanders
Coburn	Johnson (WI)	Sessions
Cochran	Kirk	Shelby
Corker	Kyl	Snowe
Cornyn	Lee	Thune
Crapo	Lugar	Toomey
DeMint	Manchin	Vitter
Enzi	McCain	Wicker

NOT VOTING—2

Kerry Kohl

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

The Republican leader.

TEMPORARY TAX HOLIDAY AND GOVERNMENT REDUCTION ACT—MOTION TO PROCEED

Mr. MCCONNELL. Madam President, I move to proceed to S. 1931.

The PRESIDING OFFICER. Under the previous order, the motion is now pending.

The majority leader.

Mr. REID. Madam President, this will be the last vote of this week. We will have a couple of votes on Monday night. I will announce later as much of the schedule as I am able to do. Right now, I can't do that, but I will before the day is out.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided.

The Senator from Pennsylvania.

Mr. CASEY. Madam President, what is about to happen is we are going to be taking a vote on a measure that got 20 votes last week—this same vote. I don't know what the vote will be today, obviously, but this is an exercise in futility to vote on this again.

What we should do is cut the payroll tax in half for American workers. That is what we have been trying to do. I hope we can continue to work together, but we should move beyond this measure that got 20 votes last week and cut the payroll tax in half for 160 million American workers. We should do that and give people the peace of mind and dollars in their pockets they would not have otherwise.

I urge a "no" vote on this motion, and I hope we can continue to work together to support the American worker.

The PRESIDING OFFICER. Who yields time?

Time is yielded back.

Under the previous order, the question is on agreeing to the motion to proceed to S. 1931, which is subject to a 60-affirmative-vote threshold.

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

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

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

The result was announced—yeas 22, nays 76, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—22

Ayotte	Heller	Portman
Barrasso	Hoeven	Risch
Brown (MA)	Hutchison	Rubio
Cochran	Lugar	Snowe
Collins	McCain	Vitter
Crapo	McConnell	Wicker
Enzi	Murkowski	
Grassley	Paul	

NAYS—76

Akaka	Franken	Moran
Alexander	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Hatch	Reed
Blumenthal	Inhofe	Reid
Blunt	Inouye	Roberts
Boozman	Isakson	Rockefeller
Boxer	Johanns	Sanders
Brown (OH)	Johnson (SD)	Schumer
Burr	Johnson (WI)	Sessions
Cantwell	Kirk	Shaheen
Cardin	Klobuchar	Shelby
Carper	Kyl	Stabenow
Casey	Landrieu	Tester
Chambliss	Lautenberg	Thune
Coats	Leahy	Toomey
Coburn	Lee	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	Lieberman	Warner
Corker	Manchin	Webb
Cornyn	McCaskill	Whitehouse
DeMint	Menendez	Wyden
Durbin	Merkley	
Feinstein	Mikulski	

NOT VOTING—2

Kerry Kohl

The PRESIDING OFFICER. On this vote, the yeas are 22 and the nays are 76. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the votes on the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931. If I were able to attend today's session, I would have supported the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and opposed the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931.●

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent we proceed now to a period for morning business, with Senators allowed to speak for up to 10 minutes each until 6 o'clock this evening.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

(The remarks of Mr. SANDERS pertaining to the introduction of S.J. Res. 33 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Florida.

MEDICARE

Mr. NELSON of Florida. I wish to thank the Senator from Tennessee for his graciousness to make a very few brief remarks.

I wish to call to the attention of the Senate that there are some good things that are happening in Medicare. In the health care bill—which was a very complicated piece of legislation—there are a lot of good things. There were some things that are implemented over time, that if mistakes had been made, we can correct those mistakes as they are starting to be implemented.

I wish to point out some of the salutary things that are happening under the new health care reform bill with regard to Medicaid. It was just this week that the agency that runs Medicare, the Centers for Medicare and Medicaid Services, CMS, announced that more seniors and people with disabilities on Medicare are seeing significantly lower costs for important health care because of this new law.

For example, what we are seeing for the first time is that millions of Americans on Medicare are now getting free physical exams as part of their preventive medicine. Because of the doughnut hole, which is that complicated black hole senior citizens would fall into when they were getting assistance for their prescription drugs, well, lo and behold, that doughnut hole is being filled by the Federal Government assisting them in paying for those drugs. Therefore, they are getting a lot more of their drugs without having to pay for them.

For example, Nationwide has over 2.5 million people on Medicare who have saved more than \$1.5 billion on their prescriptions. If we boil that down to my State of Florida, we have 172,000 Medicare recipients who save \$96 million, which is an average for the senior citizen in Florida of \$563 per person per year.

In the case of physical exams, we have over 24 million people in the country who now have taken advantage of having one of these free physical exams in order to help with the preventive health care aspects that the bill was aimed at. In my State, where there are a lot of senior citizens, close to 2 million senior citizens have taken advantage of those physical exams.

Remember how we were discussing the doom and gloom of Medicare Advantage? What has happened to Medicare Advantage? We had to change it because Medicare Advantage before, under the previous law, had a 14-percent bump over and above Medicare fee-for-service. The Federal Government was going to go broke if we did

not do something about that. Where was that money going? It was going to the insurance company because Medicare Advantage is a fancy term for Medicare given through an insurance company and HMO.

What has happened? If we look all across the country at Medicare Advantage, enrollments are up and the premiums senior citizens pay are down. Look at the State of Florida in this last year. Enrollment was up by 6 percent, premiums decreased by about 10 percent. What is happening now in 2012? Enrollments are up almost 20 percent and the premiums are going down by a whopping 26 percent. That means more seniors are going to have access to higher quality care while paying less, and it is a win-win-win. It is clearly a win for the country that we are leveling out all of the excess bumps. It is clearly a win to the senior citizen and, in the process, the insurance companies are giving better quality care.

I wanted to bring this to the attention of the Senate, and I do thank my colleague from Tennessee for his generosity in allowing me to make these comments prior to his.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

MARKETPLACE FAIRNESS ACT

Mr. ALEXANDER. Madam President, we hear a lot about tax breaks and tax loopholes around the Senate. I wish to talk about a tax loophole, a big one, that is on its way out. It is a \$23 billion tax loophole. It is not a loophole in the tax code of Washington, DC. It is a loophole in virtually every State in the country. It is a loophole that prefers some taxpayers over other taxpayers. It subsidizes some businesses over other businesses. Because of that loophole, it causes tax rates in States to be higher, and it causes States to have less money to fund the universities or the State parks or the schools or the other expenses that are legitimate in the operation of a State.

I say it is a tax loophole that is on its way out because after 10 years, Senator ENZI of Wyoming and Senator DURBIN of Illinois have produced a piece of legislation that is rare in Washington, DC. It is only 10 pages long. It is very simple. It is a States rights piece of legislation that gives each State the right to decide for itself how to collect its State sales tax from everybody who owes it, whether that person buys a pair of cowboy boots in Nashville or whether that person buys a pair of cowboy boots online.

Senator ENZI and Senator DURBIN introduced the Marketplace Fairness Act 4 weeks ago. It has five Republican sponsors and five Democratic sponsors. I am one of those sponsors. This is the bill that solves the problem of the online sales tax loophole, the one I described a little earlier. I mentioned cowboy boots. Let me describe what I am talking about in practical terms.

I called the owner of the Nashville Boot Company a couple weeks ago. His name is Frank Harwell. He sold boots online, and he sells them to people who walk into his store in west Nashville. When he started the company, almost all of his boots were sold online. Here is what he says is happening to him today: People come into the store in Nashville and they try on cowboy boots. They find a pair they like and then they go home and buy the cowboy boots online in order to save the State sales tax.

They owe the sales tax. Many people don't know they owe it. They owe the sales tax as much as if they had bought the boots at the cowboy boot store in Nashville. They don't pay it. Why is that? Under the State law, when Frank Harwell sells a pair of cowboy boots in his store in Nashville, he collects the sales tax and sends it to the State.

But under the law, the Supreme Court said 20 years ago, the State of Tennessee or the State of Missouri or the State of Washington could not require an out-of-State seller to collect the same sales tax. They had a reason for doing so, and it was a good reason. They said it was so complicated to do that it put a burden on interstate commerce. But at the same time, the Supreme Court invited the Congress to fix the problem. By fixing the problem, that means the Congress could act in order to create a fair way for States to require retailers that are out-of-State to collect the same sales tax retailers on Main Street collect.

Over that 20 years, the online sales tax loophole got to be a big loophole. It subsidizes some businesses at the expense of others and, as I said earlier, prefers some taxpayers at the expense of others.

Last week, the Hudson Institute, a generally conservative organization, released a new report that explains how the subsidizing of out-of-State sellers works and how the Federal Government—those of us in Washington—are keeping States from closing this loophole. Hudson concludes that this online sales tax loophole is distorting the marketplace, and I urge my colleagues to take a serious look at the Hudson Institute report.

Governors and legislators are up in arms because they are being deprived of the right to enforce their own sales tax law. This is a little different loophole—actually, a little worse one. Usually, loopholes are written into the law. Those are the kind we are trying to change in our tax reform proposals in Washington. This is a tax that is already owed. This is a tax that is already owed that Governors and legislators want to collect. It is used to pay for the things States need to pay for or reduce a tax. In the State of Tennessee, which has a very high sales tax, if the State was allowed to collect sales tax from out-of-State retailers the same way it does from Main Street retailers, then we might postpone the day of a State income tax, which are probably

three of the most hated words in the tax vocabulary in Tennessee.

I said, when Senator ENZI and Senator DURBIN introduced their bill, that I believed they had solved the problem and that if I were an out-of-State retailer or an online retailer, I would begin to make plans to collect sales tax the same way Main Street collectors collect it today, and many have. For example, Amazon—which had opposed for a long time this kind of legislation because, in their view, it was too complicated for them to figure out what the tax might be—changed their mind, and said the Enzi-Durbin bill is a good bill and Amazon now supports it. That is not all. Mississippi Gov. Haley Barbour, a strong conservative Republican Governor and former chairman of the Republican Governors Association, wrote a letter on November 29 which I wish to quote:

In the early days of the Internet, the complexities of collecting State sales taxes across thousands of State and local sales tax jurisdictions were major obstacles. The technology simply didn't exist to expect startups to comply with the various tax compliance rules in every part of the country. But today, e-commerce has grown, and there is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses who reside on the Main Streets across Mississippi and the country.

Governor Barbour continues:

The time to level the playing field is now, as there are no effective barriers to complying with state sales tax laws.

Here is what Governor Barbour is saying: Twenty years ago we didn't have the kind of software and information we do today. If I want to know what the weather is in Maryville, TN, where I live, I put in "weather" and my ZIP Code, 37886. Under this new bill and under the technology that exists today, States will be required to give out-of-State retailers or online retailers the software that will permit them to do the same thing. If I order a pair of cowboy boots, they can put in my name, the cost of the boots, and the ZIP Code, and the software will compute the tax and even find a way to send it on to the State. It will be just as easy, or maybe even easier, for the out-of-State retailers to collect the sales tax that is owed as it will be for a cowboy boots store selling it out of the front door in Nashville.

The National Governors Association sent a letter last week saying that the Enzi-Durbin bill represents a common-sense approach that will allow States to collect taxes they are owed, help businesses comply with different State tax laws, and provide fair competition between retailers that will benefit consumers.

Last week, the Judiciary Committee in the House of Representatives held an oversight hearing to discuss all three bills that have been introduced to address this issue and there was a lot of good discussion. I wish to share a few things that were said and I hope we can have a similar hearing in the Senate soon.

MIKE PENCE of Indiana, one of the leading conservatives in Congress and a fellow who knows a tax when he sees one, said:

I don't think Congress should be in the business of picking winners and losers. Inaction by Congress today results in a system that does pick winners and losers.

Congressman PENCE also talked about something I want to make sure my colleagues understand. The Enzi-Durbin bill is not talking about taxing the Internet. It is not talking about creating a new tax. As far as the Internet access tax goes, the Senate debated that a few years ago. I was in the middle of that debate and I was in the middle of the solution that imposed a moratorium on the Internet access tax. That law is still there. We are not talking about an Internet access tax. Neither are we talking about a new tax. We are talking about the plain old State sales tax that already exists. It is very hard to imagine how anyone can say collecting a tax that is already owed is a new tax.

Governor Barbour and Congressman PENCE are correct; 20 years ago the technology didn't exist. Today it does. About the only ones complaining are the taxpayers and businesses that enjoy being subsidized by other taxpayers and other businesses, and that, in our opinion, is not correct tax policy.

As Republicans, I believe our party should oppose government policies that prefer some taxpayers over others or some businesses over others. As Republicans, I believe we should support States rights, and our bill does that by giving the State the right to make the decision about how to collect its own taxes: Do you want to collect taxes from everybody who owes the tax, or do you not want to? Do you want to prefer some out-of-State businesses over in-State businesses, or do you not want to? Do you want to collect the tax, reduce tax rates, or spend the money on services? That is up to the States.

These sentiments are also shared by the late William F. Buckley and Al Cardenas, chairman of the American Conservative Union. Ten years ago William Buckley, who many people see as the father of the modern conservative movement, wrote in the National Review:

The mattress maker in Connecticut is willing to compete with the company in Massachusetts, but doesn't like it if out-of-State businesses are, in practical terms, subsidized; that's what the non-tax amounts to. Local concerns are complaining about traffic in mattresses and books and records and computer equipment which, ordered through the Internet come in, so to speak, duty free.

That is William F. Buckley.

Then Al Cardenas, the chairman of the American Conservative Union, a distinguished man from Florida, and the head of an outfit that is arguably as strong and influential as any conservative organization in Washington, said in his recent essay:

There is no more glaring example of misguided government power than when taxes or

regulations affect two similar businesses completely differently.

As I have said many times before, I believe the Enzi-Durbin legislation solves the problem. I believe it is going to happen. I hope that out-of-State sellers and online sellers will move ahead to work with States to make voluntary agreements as, for example, Amazon has in Tennessee, and begin to allow States to enforce their tax policy properly.

Our bill is a remarkable feat in Washington, DC. I have mentioned it before and I wish to emphasize it again. It is only 10 pages long. It is only about allowing States to make a decision about whether they want to close a tax loophole. It is about stopping the subsidization of some taxpayers over others. It is about stopping the subsidization of some businesses over others. I am glad others are starting to share this view, and as more Senators learn about the Marketplace Fairness Act and look at the options it gives each State, I hope and I believe we will have more cosponsors.

Ten years ago the bills introduced weren't adequate to solve the problem. Fortunately, today, Senator ENZI and Senator DURBIN have solved the problem. I agree, Democratic Senators agree, the chairman of the American Conservative Union agrees, a former chairman of the Republican Governors Association agrees, Congressman MIKE PENCE agrees: It is a matter of marketplace fairness.

I ask unanimous consent to have printed in the RECORD the letter to which I referred from Mississippi Governor Barbour, a letter from the National Governors Association, and the National Journal article published last week regarding the House Judiciary Committee hearing on this subject.

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

STATE OF MISSISSIPPI,
OFFICE OF THE GOVERNOR,
Jackson, MS, November 29, 2011.

Hon. MIKE ENZI,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

Hon. LAMAR ALEXANDER,
Senate, Dirksen Senate Office Building, Wash-
ington, DC.

DEAR SENATOR ENZI AND SENATOR ALEXANDER: I am writing to congratulate you on the introduction of the Marketplace Fairness Act and offer my support for its timely passage.

Fifteen years ago, when e-commerce was still a nascent industry, it made sense to exempt startups like Amazon.com from collecting and remitting sales taxes in states where they had no facilities. As chairman of the Republican Party, I was there when discussions surrounding the Internet commerce tax moratorium took place, and this was only to last until e-commerce had truly taken root. I supported this effort then, because I believed this budding industry needed every opportunity to thrive and grow. Looking back, I think it's clear we made the right call as America is home to the largest and most dynamic e-commerce companies in the world.

In the early days of the Internet, the complexities of collecting sales taxes across

thousands of state and local tax jurisdictions were major obstacles. The technology simply didn't exist to expect startups to comply with the various tax compliance rules in every part of the country. But today, e-commerce has grown, and there is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses who reside on the Main Streets across Mississippi and the country. The time to level the playing field is now, as there are no effective barriers to complying with states' tax laws.

As Governor of Mississippi, I value the important role that our Main Street retailers play in our communities. Failure to level the playing field threatens to, and in fact has, run many of them out of business, taking with them jobs and the sizable contribution they make to not just our community culture, but to the Organizations who have long benefited from their charitable involvement.

States should not be deprived of their right to establish and collect taxes as they see fit. I've stood for lower taxes and smaller government my entire career in public life, but I've also stood for the authority of states to devise their own tax laws without being overridden by the federal government for no existing purpose.

Finally, government shouldn't be picking winners and losers. In this area, at least, the Marketplace Fairness Act will end that practice, and that's something conservatives should be proud to support.

I again applaud you for addressing this important issue and I look forward to working with you to end the special treatment for online retailers and give everyone the opportunity to compete fairly.

Sincerely,
HALEY BARBOUR,
Governor.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, November 28, 2011.

Hon. RICHARD DURBIN,
U.S. Senate, Washington, DC.

Hon. TIM JOHNSON,
U.S. Senate, Washington, DC.

Hon. MICHAEL ENZI,
U.S. Senate, Washington, DC.

Hon. LAMAR ALEXANDER,
U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN, SENATOR ENZI, SENATOR JOHNSON AND SENATOR ALEXANDER: The National Governors Association applauds your efforts to level the playing field between Main Street retailers and online sellers by introducing S. 1832, the "Marketplace Fairness Act."

As you know, years ago the Supreme Court opinion in Quill Corp. v. North Dakota stated that Congress has the authority to require out-of-state sellers to collect sales taxes. At present, states are unable to collect more than \$22 billion in sales taxes annually from remote sales made through catalogues or over the Internet. This also creates a price disparity between goods bought from the corner store and those bought online, effectively giving a continuing and growing subsidy to Internet sales.

Since the Quill ruling, at least two facts have changed: (1) the proliferation of computers to calculate taxes due on sales—just as shipping costs are determined based on Zip Code—and (2) a state agreement on streamlining and simplifying sales taxes so that it is easier to collect and remit sales taxes wherever a company does business.

The Marketplace Fairness Act recognizes these changes and uses them to grant authority to states that simplify their tax systems to make it easier to do business. This common sense approach will allow states to collect the taxes they are owed, help businesses comply with different state laws, and

provide fair competition between retailers that will benefit consumers.

NGA looks forward to working with you as you work to enact the Marketplace Fairness Act and create a more level playing field for all sellers and consumers.

Sincerely,

GOVERNOR BILL HASLAM,
Tennessee.

GOVERNOR CHRISTINE O. GREGOIRE,
Washington.

[From the National Journal Daily, Nov. 30, 2011]

STATES TELL CONGRESS ONLINE TAX
LOOPHOLE COSTLY

(By Juliana Gruenwald)

State officials and some retailers urged Congress on Wednesday to finally close a loophole that they say benefits online retailers by allowing them to avoid collecting sales taxes from out-of-state customers.

The issue the House Judiciary Committee examined relates to a 1992 Supreme Court decision in *Quill v. North Dakota* that found catalog and other retailers do not have to collect sales taxes from customers in states where they do not have a physical store or other facility. Since then, online retailers have exploited the loophole to the tune of billions in lost tax revenue, according to state officials.

"It is estimated that currently in the state of Texas between \$600 million and \$800 million is not collected on out-of-state sales. . . . That points out to me the unfair competition that my storefronts are competing against," Texas state Rep. John Otto, a Republican, told the committee.

Even some tax-averse lawmakers such as Rep. Mike Pence, R-Ind., said congressional action is warranted.

"I don't think Congress should be in the business of picking winners and losers," Pence said. "Inaction by Congress today results in a system today that does pick winners and losers."

State calls for congressional action on the issue got a big boost earlier this month when Amazon, after years of battling efforts to address the loophole, endorsed bipartisan online-sales-tax legislation introduced by Sens. Michael Enzi, R-Wyo., Dick Durbin, D-Ill., and others. That bill would authorize states that meet certain minimum standards to require online retailers to collect sales taxes from customers even in states where those firms have no facility. A similar bill has been introduced in the House by Reps. Steve Womack, R-Ark., and Jackie Speier, D-Calif.

Mr. ALEXANDER. Madam President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR.) Without objection, it is so ordered.

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

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

THE DREAM ACT

Mr. DURBIN. Madam President, it has been 10 years since I introduced the DREAM Act, legislation that will allow

a select group of immigrant students with great potential to contribute to America. The DREAM Act would give these students a chance to become legal in America. They came to the United States as children. They have to be long-term residents of our country, have good moral character, graduate from high school, and complete 2 years of college or military service in good standing. Those are the basic standards we apply.

I think if we enacted the DREAM Act, as I have tried to for many years, it would make America a stronger country, giving these talented young immigrants a chance to serve in our military and make us a stronger nation. Tens of thousands of highly qualified, well-educated young people would enlist in the Armed Forces if the DREAM Act becomes law. We have the support of the Department of Defense and the President. They understand that these young people could make us a stronger and safer nation by serving in our military. And they are willing. Many of them are willing to risk their lives for this country.

Studies have also found that these DREAM Act participants could literally build our economy in years to come with their talent.

Remember, these students we are talking about were brought to America as children and as infants. They grew up here believing they were Americans. They went to class every day, pledged allegiance to the only flag they knew, and sang the only national anthem they had ever heard. They are American in their hearts, and they should not be punished because their parents made a decision to bring them here.

These young people are tomorrow's doctors, engineers, soldiers, teachers. They are the people with whom we can build an America on. We should not squander their talent by deporting them to countries they may not remember at all.

Last year, Republican Senator RICHARD LUGAR of Indiana joined me in asking the Department of Homeland Security to suspend the deportation of these DREAM Act students. Now, for the record, if there is any evidence of wrongdoing by these students, they are completely disqualified from this conversation. We are talking about students of good moral character who are in the United States basically without a country.

Earlier this year, Senator LUGAR and I were joined in our request by 21 other Senators, including majority leader HARRY REID, Judiciary Committee chairman PATRICK LEAHY, and Senator BOB MENENDEZ, asking that these DREAM Act students be given an opportunity to stay and not be deported. In response to our letters, John Morton, the Director of Immigration and Customs Enforcement, issued a memo in June of this year establishing new priorities for deportation. The Morton memo says: It is a high priority to deport those who have committed serious

crimes or those who are a threat to public safety, while it is a low priority to deport individuals who have been in the United States since childhood, like those who are eligible for the DREAM Act.

During hearings this summer on the DREAM Act, Homeland Security Secretary Janet Napolitano told me and my subcommittee that the Department of Homeland Security would establish a process to implement the Morton memo. Under this new process, high-priority cases will be expedited, and low-priority cases will be closed in many instances.

Recently, the Department of Homeland Security announced the next step in the process. Immigration and Customs Enforcement officers and attorneys will receive comprehensive training on the new deportation policy. By January, all ICE officers and attorneys will have the training they need. ICE attorneys will review all new deportation cases to identify low-priority cases that should not be placed in the immigration court.

A review of the cases currently in immigration court is also underway. Department of Homeland Security attorneys will review pending deportation cases in Baltimore and Denver to identify low-priority cases that should be removed from the docket. This trial review of new and pending cases will be completed by mid-January and then expanded nationwide.

Let me commend the President and his administration for these thoughtful and humane steps to implement this new deportation policy.

Today, there are approximately 11 million undocumented immigrants in the United States. It would take billions and billions of dollars to deport all of them. It would likely lead to the collapse of many parts of our economy. You can't go to a hotel or restaurant in the city of Chicago—I have been told this by restaurant owners—and not find at least some place in that establishment an undocumented person doing the tough, hard work immigrants do.

DHS has to set priorities about which people to deport—and not deport—using its limited resources. Some of my Republican colleagues have claimed that this is kind of a backdoor amnesty. That could not be further from the truth. This is simply a temporary decision not to use limited government resources to deport low-priority individuals who are no threat to the United States of America. Individuals whose cases are closed will not receive any permanent legal status. So there is no amnesty involved.

Ironically, some Republican critics of the administration's new policy called on the Clinton administration to establish deportation guidelines—exactly what the Obama administration has done here. In response to this request from some Republicans in Congress, the Clinton administration established a policy on prosecutorial discretion.

The Bush administration kept the policy in force from the Clinton years and issued several followup memos without any criticism from any Republicans in Congress. The Bush administration also stopped deportations of a number of DREAM Act students, again without any criticism from Republican Members.

Let's be clear. What the Obama administration has done in establishing this new process for prioritizing deportations is perfectly appropriate and legal. Throughout our history, our government has had to decide who to prosecute and who not to prosecute based on law enforcement priorities and available resources.

I strongly support the administration's new deportation policy but more needs to be done to implement this policy and it needs to be done quickly. Many young people who would be eligible for the DREAM Act are still facing deportation proceedings. Almost every day my office is contacted by DREAM Act students who are at risk of being deported in a matter of hours or days. Today, let me tell you the story of two of these young people.

Here is a photo of Minhaz Khan. Eighteen years ago, in 1992, Minhaz Khan's parents brought him to the United States from Bangladesh. At the time, he was 4 years old. Today, Minhaz is 22—18 years later—and he has overcome amazing obstacles to complete his education. In 2009, Minhaz graduated from the University of California Riverside with a bachelor's degree in neuroscience.

Minhaz sent me a letter, and here is what he said about his future:

My dream is to make several contributions to science, and become a physician's assistant as a career, and eventually a teacher as well. I have great aspirations, but I do not dream of big houses or tons of cars. I want normality, stability, and liberty.

Today, Minhaz lives in Palo Alto, CA, with his wife, who is an American citizen. Minhaz's wife has filed an application for her husband to become an American citizen, but under our broken immigration laws he has been placed instead in deportation proceedings. Eighteen years in the United States, a bachelor's degree in neuroscience, aspiring to become a researcher or teacher, married to an American citizen, and he is under threat of being deported. What threat is he to America? The threat is losing a person who is talented and can make such a difference in the lives of so many people.

Minhaz was scheduled to be deported last month. Under President Obama's new deportation policy, the Department of Homeland Security put his deportation on hold for 3 months so that his application for legal status can be considered. I think that was the right thing to do. Minhaz grew up in America, he is married to an American, and he wants to make America a better nation.

In his letter to me, Minhaz spoke about what it would mean to him if the DREAM Act became law.

Imagine the countless numbers of individuals ready to contribute to our society as law-abiding, successful individuals who live life with a sense of strength and morality. Abraham Lincoln once said, "I have always found that mercy bears richer fruit than strict justice," and this is more true now than ever. I have a great amount of hope, optimism, and belief in this country and that one day we shall see the DREAM Act enacted into law.

Here is another DREAMer. This is a photo of Jose Librojo. In 1995, when he was a child—16 years ago—Jose's parents brought him from the Philippines to the United States. Shortly after they arrived here, Jose's parents filed an application to stay in this country as legal permanent residents. For more than 15 years, their immigration application has been stuck in the courts.

In the meantime, Jose grew up in America. He graduated from San Francisco State University with a bachelor's degree in biology. As a member of Alpha Phi Omega National Service Fraternity, Jose volunteers, working with the elderly and young Asian Americans, among other things.

Jose has been authorized to work while his immigration case is pending. For more than 10 years, he worked as a registered dental assistant and a dental laboratory x-ray technician. The dentist who employs him was so impressed by his work, he filed papers to sponsor Jose for legal permanent residency in the United States. The employer's petition was approved, but because of our broken immigration laws, Jose has been placed in deportation proceedings. After all of these years in America—16 years—and earning a bachelor's degree in biology, currently working in the health field in dentistry, and one who has done such a good job that his employer wants to have him here permanently, he is now facing the prospect of being deported to a country he cannot even remember.

Jose was scheduled to be deported last month, 3 days before Thanksgiving. But the Department of Homeland Security put his deportation on hold, so he will have a chance to apply for legal status and keep working.

Jose sent me a letter, and this is what he said:

I have followed the laws of our system, but the logjam in the courts has put me in this untimely predicament. I have lived in the U.S. for 16 years, and I consider this country as my home. I have always felt like an American. I wish to stay, live my dreams, and build my own family here in the United States. I hope that someday the DREAM Act becomes a reality so that I may continue making contributions to the country I call home.

I ask my colleagues who are critical of the administration's deportation policy, would America be better off if we deported Minhaz or Jose back to Bangladesh and the Philippines? I don't think so. These two young men were brought here as infants, children. They grew up in our country. They have overcome great odds and achieved great academic success, without the support of Federal assistance. They

didn't qualify for it. They have no problems with moral character, and they pose no threat to America. They would make us a better country if we gave them a chance.

Minhaz and Jose are not isolated examples. There are literally thousands of others like them in this country. We have a responsibility in the Senate to give them a chance to let them prove what they can do for America.

I commend the Obama administration for its new deportation policies. I urge the Department of Homeland Security to move forward on an expedited basis. As long as young people such as Minhaz Khan and Jose Librojo are facing deportation, work still needs to be done.

It is also clear that this policy is only a temporary solution. The deportations of many DREAM Act students will be temporarily suspended. Ultimately, the responsibility lies with Congress and with us to fix these broken immigration laws and give these good young people a chance.

I ask my colleagues to support the DREAM Act. It is the right thing to do. It will make America a stronger nation.

I yield the floor.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Minnesota.

THE COLLAPSE OF MF GLOBAL

Ms. KLOBUCHAR. Mr. President, I rise today to discuss the collapse of MF Global. While its demise hasn't triggered the sort of economic turmoil we saw in 2008, let me assure you it is having a devastating impact on the livelihoods and savings of many in my State.

Sadly, the story of MF Global is all too familiar. It is the story of another overleveraged financial firm that took on too much risk and did little to disclose its bets. Once again, the folks whom the system was supposed to protect have been left holding the short end of the stick. Three years after the U.S. financial system was nearly toppled by this sort of recklessness, it seems little has changed on Wall Street.

Today, Mr. Corzine appeared before the House Agriculture Committee to testify on events that led to the bankruptcy of MF Global—the firm he led—as well as the whereabouts of roughly \$1.2 billion in customer funds that remain missing. While taking responsibility for the collapse of the firm in his testimony today, Mr. Corzine chose to use much of his testimony defending the strategy that ultimately led to the firm's demise and that left many in my State with their life savings on the line. In regard to the missing customer funds, he responded that, as CEO of MF Global, he wasn't really in the position to know what happened.

If executives at MF Global were willing to steer their ship into dangerous waters, they should be able to account for the safety of their customers' funds

held in segregated accounts—something considered sacred within these markets.

If anybody still doubts that Wall Street has not learned from its mistakes, I would have you talk with the farmers in my State who can't access their life savings and aren't sure when or how much of it they will ever get back.

Dean Tofteland, from Luverne, MN, a town of 4,600 people—his family grows corn, soybeans, and raises pigs on their farm in southwest Minnesota. He currently has over \$200,000 in what was supposed to be a segregated MF Global account, which he cannot access and which he may never fully recover. He is not a speculator. He invested to reduce his risk—locking in prices ahead of the growing season so he is protected from price fluctuations that can eat into his profits.

Talk to Dennis Magnuson, a pork producer from Austin, MN, who had a substantial amount of money with MF Global that he used to stabilize the cost of feed for his pigs. Both Senators in the Chamber are from States that have livestock, and they know the cost of feed has been escalating. That is why he vested. He knows the risks—price swings, poor crops, bad weather. These are all part of farming. But his account at MF Global was supposed to help manage those risks, not become one.

It is not just individual farmers; the effects of MF Global's collapse are rippling through the whole agricultural community.

Here is a letter from Philip Deal, who writes:

I am the CEO and General Manager of Wheaton-Dumont Co-Op Elevator in Wheaton, MN.

Wheaton is located on the western edge of Minnesota by the North Dakota/South Dakota border. Our cooperative has approximately 1,200 active members and a total membership of more than 5,000. So the MF Global situation affects a great number of people here.

We employ about 115 people, and we are easily the largest nongovernment employer in all of the communities we operate in.

Our business uses a Chicago Mercantile Exchange and Minneapolis Grain Exchange to hedge grain purchases and sales. We do not speculate. We have always relied on the implied fiduciary responsibility of the Commodity Futures Trading Commission and the Chicago Mercantile Exchange to safeguard our segregated funds.

The impact to our business has been huge. We have been forced to double-margin the missing funds. This has increased our interest expenses and decreased our ability to buy and sell grain.

Simply put, we cannot afford to lose any money on this deal. On a local level, the very future of our business is at stake. On a larger level, if segregated funds are lost, market participants will leave the market, open interest will decline, and market liquidity will fall. Everyone loses.

Sadly, Philip Deal is correct. The failure of MF Global has caused millions in investor losses, created significant uncertainty in the markets, and has left many in my State confused

and angry—and they should be angry. Just 3 years after the 2008 financial collapse, and what has changed? How can ordinary folks trust this system? Who can they trust to protect them?

Two weeks after the collapse of MF Global, it was announced the Commodity Futures Trading Commission, which is leading the investigation into the missing funds, will receive only two-thirds of their budget request for 2012, potentially limiting the agency's ability to do its job at a time when the markets they oversee are expanding exponentially. This is not acceptable. We need to make sure our regulatory agencies aren't allowing Wall Street bankers to go down the street in their Ferraris while those standing up for the middle class—those at the agencies that are supposed to regulate them—are not following behind in a Model T Ford.

We don't know with certainty what the ongoing investigations into MF Global will find, but there is little doubt Congress has work to do. Already the CFTC, after our hearing in the Senate Agriculture Committee last week, has come up with some changes they are proposing to how these funds can be invested. I think more needs to be done. There are also rules of disclosure being considered and that were discussed today at a House hearing, as well as in our Senate Agriculture hearing, that need to be changed. These changes were made to the CFTC rules in 2000 and in 2005 they loosened the rules and expanded things. They need to go back to where they once were, where they protected investor savings.

Investor trust in segregated accounts is vital to market confidence and is the cornerstone of customer protection in the commodity futures market. This trust has been breached. I urge my colleagues to join me in demanding those responsible for the MF Global failure be held accountable for their actions and that steps are taken to prevent this from ever happening again.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent to speak as in morning business for whatever time I might use.

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

SPENDING VERSUS REVENUE

Mr. ENZI. Madam President, I wanted to take this opportunity to share with you what has been keeping me awake, and I am sure, if I explain it well enough, it will keep you awake as well. Misery loves company. This is misery that is going to affect your future, and the Senate has to make some changes to have a future for this country.

For 14 years, I was the only accountant in the Senate. I have been joined by Senator JOHNSON of Wisconsin, who is an accountant, and these kinds of

numbers always bother us a little bit. I have put together a couple of pie charts here. This one on the left represents the spending we are doing; the one on the right represents the revenue we are receiving to do the spending. These are proportionately correct. This is the spending; this is the revenue to do the spending. Dramatically different. The revenues are dramatically lower.

There are a number of pieces to this that I think probably will reveal more. The spending, incidentally, is \$3.456 trillion. We are spending \$3.456 trillion. We are taking in \$2.2 trillion. That is \$1.3 trillion less than we are spending. So we are spending a third more than we are taking in.

How long can you do that? There is no end in sight. What is that made up of? Well, one of the things we worry about is Medicare, Medicaid, and Social Security. I have the revenues represented here for Social Security and other social insurances, and we are taking in \$865 billion a year to support these programs. This piece of the pie is what we are having to put out for those same programs. We are having to put out \$1.494 trillion; so \$865 billion versus \$1.494 trillion.

When we say these programs are going broke, I think that fact is pretty evident. If you don't make any changes, this kind of spending will eliminate a program that seniors rely on. I used to say when we are spending at this rate, we are stealing from our grandkids. Now we are to a point where we have spent so much, it is no longer our grandkids we are stealing from, it is our kids. And in a matter of months the bill could come due.

Europe is having some difficult financial times, and they are changing the way money is going to be available to secure the bonds that allow us to do this kind of spending. These actions could have widespread implications for the United States very soon. We also took Social Security money and put it in a trust fund. I always say, don't trust the trust funds. What we did is put IOUs in a drawer and we spent the money. We are spending some of the money twice. How long can you spend the money twice?

Let us take a look at some of the other parts of this pie, because we always talk about the nondiscretionary spending. Well, to cover our discretionary spending, which includes Defense and all of the nonmandatory items, we are spending \$1.349 trillion. And the income? Individual income tax is paying \$899 billion. Corporate income tax pays \$191 billion. I bet people thought there was a lot more corporate tax than that.

Part of the reason for this corporate number is that a lot of people have single proprietorships, partnerships, or small business corporations. If a business is in one of those three categories, the money their company makes goes straight to their tax line, even though hardly anybody in business can take

out all of the money they make. If they do not reinvest that money into the business, it business would go broke. So they do not get to take the money out, but have to count it through the individual tax code. That goes in this \$899 billion of individual income, as opposed to the corporate tax of \$191 billion. There is also an excise tax of \$67 billion. These are the kinds of numbers that have to fund \$1.349 trillion of spending.

We have discretionary spending of \$660 billion and we have military spending of \$689 billion. I mentioned Social Security, Medicare, and Medicaid, but besides that we have other mandatory spending adding another \$416 billion in spending. That \$416 billion accounts for the other items we have said will definitely be paid no matter what kind of shape the Federal Government is in. There are all sorts of programs included in that tally.

This little yellow sliver here, a very important one, is the interest we have to pay. That is mandatory as well. We don't have an option on whether we are going to pay the interest on the bonds that we owe. Those interest costs come to \$197 billion a year and that is at the lowest interest rate in the history of the United States. What happens when that goes up? As European countries have more trouble trying to sell their bonds, they are going to have to pay a higher rate to be able to sell those bonds. When they have to pay a higher rate, we will have to pay a higher rate. We are all competing for the same dollars, and there aren't enough dollars out there to fund this kind of an increase in spending each and every year. How do we make up the \$1.2 trillion more we are spending than we are taking in? It's a huge difference we aren't coming close to addressing.

I hope people can grasp the difference between spending and revenues. If you look at your own personal budget, your spending better be lower than your revenues, or at least no greater than the revenues. We haven't grasped that concept here yet. We did eliminate earmarks for the most part, and that helps, but it was still a rather small amount and we are still adding programs.

Sometimes we add programs as a demonstration project. A group of Senators get together and they say, our five States could do something beneficial with this new program we have devised, so we will put a little money in the budget and draw up the criteria so just those five States can receive these monies. And the purpose is to see whether the program is effective. In my 14 years here, I have rarely seen one of these types of tailored programs that wasn't effective. I suppose there are some I never heard reported on, but I yet to see one that isn't effective. This means the following year the same group comes back and says, we just had this revelation, this marvelous experiment that happened in our State. It was spectacular and it ought to be

expanded to every State in the Nation. Well, if it is that good, it probably ought to be expanded to every State in the Nation. But with whose money? With what money? We are already spending more than we are taking in.

We can't do the demonstration programs on new ideas unless we can eliminate some of the old ideas, which brings up another problem. Another thing we do around here is we say we are going to eliminate this program, and over 10 years it will bring in the \$5 billion needed to fund a new program. Well, that savings is accrued over 10 years, but the money on the new program is going to be spent over 1 year or 2 years at the most. That is pretty bad accounting. That is how you get to a situation where you have the current spending level versus the current revenues, by using creative accounting to pay for that new program.

Well, you can't bind a future Congress, so there is no assurance that the current method of getting the revenue will stay around. There is also no assurance we won't use that same pot of revenue two or three times. We will probably be told this is not the case, but I have seen some instances around here where revenue has been spent more than once.

One of the other problems we have around here is that we have too many spending decisions to make. There isn't a business in the world, with the exception of a business like Wal-Mart, that spends \$3.456 billion in a year—1 year. There aren't many businesses that comes close to that. And they have a bevy of accountants figuring out how to make expenditures, cuts, and balance the budget for the year.

What we do here in the United States Senate is an appropriations process. We have broken that process down into 12 pieces to make it more manageable, but 12 pieces doesn't cut it. You can't get into the detail for spending the billions. One of those numbers is \$689 billion. How long would it take to go through the expenditures on \$689 billion? We have to trust some of the past spending and some of the past obligations, but we can't be as conscientious and detail-oriented as we should be.

So what do we do about it? Well, we do omnibus bills. That is where we look at what we spent last year, and we put everything into one package and hurry up and pass it so the government can continue to operate. Before that happens, we might do a series of continuing resolutions. We say, we can't shut down government because there are so many things people need that we have already approved—to the tune of \$3.456 trillion—so we have to keep government operating. What we end up with is a continuing resolution.

A continuing resolution allows a government agency to spend one-twelfth of what they had the previous year each month until we get a funding agreement for the remainder of the fiscal year. In 2008, we spent 27 percent less than we spend right now. I think a lot

of the agencies would be delighted to have us keep continuing one-twelfth of their last year's allotted spending each month this year. That is what we have been doing, and it's not getting us anywhere.

I think there ought to be a penalty, which would be reflected in every one of the budgets. I think every time we pass a continuing resolution there ought to be a reduction in the amount spent each month until we get a final resolution. That could be 1 percent or ½ percent or ¼ percent, but there should be some kind of a reduction if we are ever going to reduce spending and pay down our debt.

There is another responsibility, and that is for appropriators to figure out how to get this spending circle down to the size of the revenue circle. This is the only part that the Appropriations Committee has worked on—this little third of the square that contains discretionary spending.

What we are going to have to do now is come up with some solutions. I have some solutions. I am not going to go into those today, but what I want people to do right now is to think about how much we are spending versus the revenue we have. Every person in America needs to be thinking about the way the programs they are involved in can be a part of getting the spending circle down to the size of the revenue circle. It is everybody's responsibility.

What we continually run into are the groups—particularly from our States—that come in and say: I have this fantastic program and we just need a little increase for inflation because it is such a phenomenal program. For years, we have been able to do that. That is how the balloon got this big. We are not going to be able to do that anymore.

What would be helpful is if people could suggest how, in their program, they could make it better for less money. It is either going to have to be better for less with a little pain right now, or wait a couple years and have it worse for less with a lot of pain.

We are at a point right now where we reduce spending 1 percent for each of 7 years and get to a balanced budget; that is, 1 percent true cuts. That isn't 1 percent less growth. It is 1 percent true cuts each and every year, and it has to cover the whole circle, not just the discretionary part of the spending circle—which is what we usually concentrate on—and then have some discretionary capability on it. The fact is, the largest amounts we spend in this whole piece of the pie is spent on mandatory spending, and it is conversely funded by a much smaller amount. We can't do that for long. We are going to have to propose solutions.

Instead we have been in scenario where people come in and say we need a little bit more money or don't cut my program; keep it the same size. I ask for suggestions on how we could keep this practice going in light of our disproportionate revenues and expenditures. The usual approach is to tell me

and my fellow senators there are a couple of other programs that we ought to eliminate. We are looking at those too.

We looked at them in the Health and Human Services areas, Senator COBURN and I did, and found there was \$9 billion of duplication. Do we need duplication? I would hope not. Senator COBURN got so excited, he did this same study for the entire Federal Government and found \$900 billion in duplication. Does that mean a whole lot of other agencies were a whole lot less efficient than Health and Human Services? No. It means we have duplicative programs in every single agency.

We also have financial literacy programs in every single agency. If we are spending \$3.456 trillion and only getting \$2.2 trillion in revenue, is the financial literacy in our government working? I don't think so.

When I first got here, there were 119 preschool education programs. Preschool is important. The start children get from when they are first born until they go to school makes a huge difference in their growth and development for the rest of their lives. However, we had 119 programs and once we took a closer look, we found many of them, according to their own evaluation, were failing. We now have that number down to 69 programs. Do you know why we can't go below 69? My jurisdiction as Ranking Member of the Health, Education, Labor, and Pensions Committee is over the Department of Education, which only has 8 programs—8 of 69 preschool programs. The Department of Agriculture has the most preschool programs.

That's why, when Senator COBURN is talking about duplication and looking at the complete picture of everything the Federal Government does, there is duplication in each and every agency. What we are going to have to do is pick out those that operate with the most efficiency and results, give them a little more funding and eliminate the other duplicative programs. Getting rid of duplication is a surer way of solving the problem than some of the other ways that have been talked about.

One other avenue we keep talking about is waste, fraud, and abuse. Yes, there is waste, fraud, and abuse. We need everybody in America to help us find that waste, fraud, and abuse, but in reality, the total cost of waste, fraud, and abuse is a rather elusive number. Does anybody know how big that is? Everybody is guessing. It is only a guess how much there is. We need to find it, and we need to be taking the money from eliminating these actions before we spend it.

We will sometimes attempt to use the waste, fraud, and abuse numbers as the pay-for for a new program. We aren't able to spend that money until we actually have it, but what happens it is used as pay-for and the program goes into effect, but nobody follows up to go out and dig up that waste, fraud, and abuse. Instead, the waste, fraud, and abuse money ought to go into a

fund before it can be spent on something else.

However, when I am talking about duplication, the \$900 billion worth of duplication, I am talking about numbers that we can go to the Federal budget and look up. We can find out exactly how much those programs are spending. In its duplication, we wouldn't eliminate all of them, but we ought to be able to eliminate half of them. Madam President, \$450 billion alone, half of Senator COBURN's total duplication findings, would be a huge change for this country.

I hope we look at some of those ideas to cut spending. I have a 15-page speech that would explain some ways we could solve this problem, but what I am trying to do is get people to grasp the concept that our Federal tax receipts, and total revenue, is far outweighed by the circle that shows what we are spending. As a family, people know they can't budget this way. As a government, we can't do it for very long, even if we print our own money. Somehow we are going to have to shrink the spending circle down until it is that size or grow the revenue circle until it is—they are comparable in size, or a combination of the two. As I said, I will give some other speeches to outline some of my other ideas. In the meantime, I hope everybody will take a look at the chart I have shown today.

We can't look at it and say don't touch Medicare, Medicaid, and Social Security, we can't have \$½ trillion of extra expenditure spending in that category alone for long. There is another \$416 trillion in mandatory spending in that same category. How long can we keep spending at this rate? What happens if interest rates go up? This piece of the spending pie can become much bigger and probably will. I don't know how long we can keep interest rates as low rate as they are now. If they go up, it will help some seniors because they have some investments in cash that would get higher interest rates, but for the country as a whole, rising interest rates that already make up 6 percent of our budget will only be more cause for worry. When that one expands above the 1 percent we are spending right now—and it is going to expand in the next couple of years because of what is happening in Europe—we had better be worried about it.

This is the kind of picture shown by the deficit commission that Erskine Bowles and Alan Simpson chaired. I was hoping we would repaint this picture a number of times between the time they released their report 1 year ago and now, because we have to get America to understand. Actually, I can tell you the people in my State understand this. I don't need to explain it to them. They know how much more we are spending versus what we are taking in. They can even tell you the numbers. They are concerned, and they need to be concerned. We all need to be concerned.

I am open to suggestions on this. I will have some speeches I'll give later

reiterating this definite problem we are in. I have said a number of times our country has maxed out its credit cards.

A couple weeks ago during a trip to Wyoming, I checked into a hotel and I used my Senate credit card. The lady a few moments later, very embarrassed, said: "I am sorry, but your card is being rejected." I said: "I guess the Federal Government is in worse trouble than I thought," and used my own card and it went through.

We had better be worrying about it now because we do have a problem. We have maxed out our credit cards, and there are not any other places we can go for money. We have been the bastion of money for years.

Keep in this in mind. Start thinking of ways we can actually make some cuts and increase some revenues. I have ideas for both in speeches I'll give in the future. We are in a crisis. It will be a more immediate crisis any time and we are no longer spending our grandkids' money; we are spending our kids' money, and it is about to come due on us. When I say "on us," I am even including myself and the seniors in that count. The day of reckoning is not far away.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. I ask to speak as if in morning business.

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

FUTURE OF AMERICA

Mr. LAUTENBERG. Mr. President, we are here now deciding what kind of a country America might be in the future—whether it will be a place we can look back at and remember when everybody had a chance at success.

It is hard to believe that when we look at the vote we just had. It confirmed where the Republicans are on the issue of whether middle-class families should get a tax break. The Republican answer, was no. The answer they gave on the middle-class families tax break was: Absolutely no. No, no, no.

To the struggling single parent who wants to provide for their family, works hard every day, the Republicans said no way. To the recent college graduate trying to start a career but having trouble paying back college loans, paying rent, paying living costs, the Republicans said no. To the working couple, a family with a couple of kids who needs some help in this tough economy, the Republicans said no. No, no, no. The Republicans refuse to help them because their mission is to shield the wealthy from paying their fair share of our country's obligations.

Across our country, Americans are watching Republicans in this Congress and wondering what they are going to do to supply encouragement and hope for people who need it. Are we going to be simply a big accounting firm, simply doing the auditing, or are we going to be there to stimulate activity for people, to give them a chance to elevate their living standards for their family, to get their kids educated, and take care of the family necessities?

Right now, 14 million Americans are jobless, and they are worried about how they are going to stay in their homes, feed their children, and keep their families warm this winter. But unemployed Americans are not the only people who are struggling. Hard-working Americans from all walks of life are struggling to make ends meet. They are coping with skyrocketing grocery prices, surging health premiums, soaring college tuition.

In my home State, 1 in 10 New Jerseyans is on food stamps, the highest level in more than a decade. New Jersey has traditionally been among the top States per capita income in the country, within the top three, often in the first position.

On this side of the aisle, we are trying to help struggling families. I learned the hard way about family struggles when I was growing up. My father took ill with cancer when he was 42; I was 18. My mother, when my father died, was 37 years old. We had all kinds of obligations to pay. My mother took over the family leadership. We owed money for the pharmacy, for hospitals, for doctors. We were virtually bankrupt. I had enlisted in the Army. Next week, it will be 69 years ago that I enlisted in the Army, in December of 1942.

I know how tough it was and how much aggravation accompanies a family who just cannot keep their heads above water.

Here we are, in a day of some incredible wealth around this country—around this room—and Republicans are trying to thwart our efforts to extend and expand the payroll tax cut for working families—for people who depend upon their incomes to take care of their family needs; not on their savings, not on their inheritance, on their jobs.

Millions of American families have benefitted from this tax cut that we have had this year, but it stands to expire at the end of December. Our side is eager to continue this tax cut and increase the size of that cut to help these families. In my State, this means a typical family would receive a total tax cut of \$2,100 next year. For parents who are trying to feed their families, educate their kids, pay their bills, an extra \$2,100 goes a long way. To make sure that all working families receive this much needed relief next year, we are asking America's millionaires to pay their fair share, but the Republicans would rather protect their wealthy friends than continue the payroll tax cut for working families.

First, the Republicans blocked our side's efforts to cut taxes for the middle class. Then the Republicans offered their own plan. It was a disgrace. Their plan calls for a much smaller middle-class tax break, which they would have paid for by laying off 200,000 middle-class government workers. That is how they would solve the problem—fire people. Don't take it out of your bank account, don't take it out of your salary—even if you make over \$1 million a year—fire people. That will make sure they understand we are not as concerned about them as we are about the person who makes over \$1 million a year.

It was a cynical ploy. It showed the other side's true stripes. The Republicans say they are for lower taxes, but we now see that only goes for the jet set. Their tax-cutting zeal doesn't extend to the middle class. Republican priorities? Raise taxes on middle-class families. Middle-class families do not have it easy in America today. Republicans want to raise their taxes to protect the luxuries for the millionaires.

Make no mistake. Working families will suffer if the Republicans continue to block our efforts to extend and expand the payroll tax cut, and so will our economy. Last week, Barclays Bank warned that our GDP will drop 1.5 percent if the payroll tax cut is allowed to expire.

The choice is clear. We can continue the payroll tax cut for working families or we can allow the Republicans to continue running their millionaires' protection ring. The fact is, American millionaires are doing just fine. They don't need protection from the Republicans. Since the 1980s, our country's wealthiest 1 percent have seen their average household income increase by 55 percent. But for the bottom 90 percent, average household income has not increased at all.

As we see here, even though incomes are growing for the very wealthy, their taxes are actually going down.

We can also look at CEOs to see how well the wealthy are faring. CEOs at the largest companies are now paid an average salary of \$11 million a year. That is 343 times as much as the average worker's salary of \$33,000.

It used to be a much more modest comparison. In 1980, CEOs made 42 times the average worker's pay. Just look at that. Just a few decades ago the pay was much more reasonable, and the people who were working in the mills and making products and doing the service jobs and all of that were living significantly better than they are today.

Millionaires are making much more money today than they did in those years past. This is something I know something about directly. I was the president of a very large company when I came to the Senate. And you know how I got there: I had a boost from our country. I had enlisted in the Army, and I served in Europe. I got the GI bill. I went to Columbia University.

It happened because the country said: Frank, if you can learn we will help you. We will pay your tuition because you served your country. I've done well because my country invested in me, and I'm willing to invest more in my country today to help the next generation.

That company I helped start with two other fellows has 45,000 employees today; 45,000 people are working at ADP, the company I helped start, because we had a chance at an education and to learn what we had to do to be in management, what we had to do to be in leadership.

Our goal should not be to protect millionaires and billionaires who don't need our help. We should focus on the foundation that our society requires to function. We should be focused on protecting Medicare, food safety, Head Start.

Imagine, they want to take seats away from Head Start Programs. I visited a Head Start Program in New Jersey just a few weeks ago, and I saw the children. They were 3, 4, 5 years old. They were interested in learning something. I talked to them, and I wanted—one of the little kids came over and hugged me around the knees. I wanted to pick him up and take him home. He was so beautiful, so nice. I thought: Here is a child, learning. He came from a single-parent family.

The people who need help—we should be focusing on protecting them and giving them a chance to grow. We should be about making sure they have proper Medicare, that food safety is taken care of. Head Start, home heating for the poor, and other essential programs—we should be protecting them from reckless cuts.

The Republicans who served on the supercommittee refused, before the negotiations were started—refused to ask wealthy Americans to pay their fair share. They practically took an oath that they would demand nothing more of the wealthy, when the country is deeply in debt, starving for a better way to solve our problems.

As a result, the poor and the middle class are going to have to make up the difference. These are the people who need help the most right now. We must act now to protect the vital programs on which they rely. If we fail to act, our country and our economy will continue to suffer—especially Americans who are already struggling. It is just plain heartless to continue asking the poor, the middle class, the elderly, and our children to bear the entire burden of these brutal economic times.

It does not hurt any of us who have been successful to pay a fair share. It might cost a few dollars more, but if you are making over \$1 million a year, look in the mirror and see if you have done it all by yourself or whether it took the help of your country to get there. There is a whole cadre of people working across America—they go to work every day because they want to make a week's pay and take care of

their kids and take care of their obligations. That is the foundation that built America. It is the foundation of the development of something that was called the "greatest generation."

That was the generation in the last century who served in World War II. All of us had an opportunity to get a college education when we otherwise would not have been near a college.

That built our country. That strengthened our foundation. Now we see people, Republicans, who want to make it tougher for people to make a living, tougher for people to get an education, tougher to provide heat for people who desperately need it in the wintertime, tougher to think ahead and say: You know what. I know my children will do better than I have done in my life.

That used to be a truism in our view of life in this country. We don't hear that much anymore because people are unsure, and it does not help to have the Republicans sticking up for the wealthiest among us and turning their backs on working-class families in this country, the middle-class families. It is not right.

I hope the people across this country will say: No. We are going to say no to these Republican policies. I hope our Republican colleagues will disband their millionaires' protection game, stop standing in the way, and start standing up for everyday Americans who need our help.

Help us continue the payroll tax cut for working families. Help us protect the programs that benefit the people who need them most. Help us, friends on the Republican side, to make America even stronger than it is today. We can do that.

Countries are failing all over the globe. America need not to do that. We just have to make sure that while we take care of our expenses, we also make sure we have the revenues to do the job.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF NORMAN L. EISEN TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC

NOMINATION OF MARI CARMEN APONTE TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR

Mr. REID. Madam President, I ask unanimous consent that we now proceed to executive session to consider Calendar Nos. 360 and 501, and I send two cloture motions to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the nominations.

The assistant legislative clerk read the nomination of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

CLOTURE MOTION

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

The assistant 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, do hereby move to bring to a close debate on the nomination of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic:

Harry Reid, Barbara Boxer, Patrick J. Leahy, Patty Murray, Richard J. Durbin, Kent Conrad, John D. Rockefeller IV, Jeff Bingaman, Tim Johnson, Daniel K. Inouye, Debbie Stabenow, Robert P. Casey, Jr., Max Baucus, Charles E. Schumer, John F. Kerry, Mark Udall, Michael F. Bennet.

The assistant legislative clerk read the nomination of Mari Carmen Aponte, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

CLOTURE MOTION

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

The assistant 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, do hereby move to bring to a close debate on the nomination of Mari Carmen Aponte, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador:

Harry Reid, John F. Kerry, Barbara Boxer, Patrick J. Leahy, Patty Murray, Richard J. Durbin, Kent Conrad, John D. Rockefeller IV, Jeff Bingaman, Tim Johnson, Robert Menendez, Daniel K. Inouye, Max Baucus, Charles E. Schumer, Mark Udall, Michael F. Bennet, Al Franken.

Mr. REID. Madam President, I ask unanimous consent the mandatory quorum under rule XXII be waived in each instance; that on Monday, December 12, at 4:30 p.m., the Senate proceed to executive session to consider the following nominations concurrently: Calendar No. 360 and Calendar No. 501; that there be 1 hour of debate, equally divided, in the usual form; that upon the use or yielding back of that time, the Senate proceed without interviewing action or debate to vote on Calendar No. 360; and that if cloture is invoked, the Senate immediately vote on confirmation of the nomination, and following disposition of Calendar No. 360, the Senate proceed to vote on cloture on Calendar No. 501; further, that if cloture is not invoked on Calendar No. 360, the Senate proceed to vote on cloture on Calendar No. 501; that any statements be printed in the RECORD, and the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

TRIBUTE TO JACOB'S TREE

Mr. MCCONNELL. Madam President, I rise today to extend my personal blessing this holiday season to the family of Jacob Akin of Somerset, Kentucky. This year, the town of Somerset has graciously chosen to honor the Akin family by accepting their donation of a 20-foot cherry spruce tree to be displayed in the town's Fountain Square as the county Christmas tree. More important, however, is the solemn but heart-warming story of the tree's origin, and the inspiration it brings to the people of the community. The tree, known as "Jacob's Tree," was planted in remembrance of Jacob Akin, who was tragically killed in a terrible accident on December 6, 1994. Five-year-old Jacob was playing with his older brother, Abraham, in a house when a chimney unexpectedly collapsed on top of him. Thus, the holiday season each year is especially burdensome for his family, as it serves as a constant reminder of the horrific accident that took place 17 years ago.

A year after his death, his family decided to plant a tree to honor young Jacob. Over the years, the tree has helped bring comfort and peace to the family. "We decided to put up the tree in memory of my son," Jacob's mother, Rebecca Buis, says. "I felt like as the tree grew, I could keep up with the

years and somehow see how my son might have grown. It's kind of a reminder, and it helps with the grieving process to plant something in memory of someone you love."

Almost two decades later, Jacob's spirit remains ever-present in the magnificent 20-foot cherry spruce tree that Rebecca hopes will bring a joyful light to the community on Fountain Square. "Over the years, it just grew and grew," she says. "It's a beautiful, well-rounded tree and would make a wonderful Christmas tree."

On December 3, Jacob's Tree was scheduled to be lit for the first time in Fountain Square in a special tree-lighting ceremony during this year's annual Christmas parade. In the spirit of the season, Jacob's family hopes that the community will come together around the tree and share in its joy. "Christmas is a time of giving," Rebecca said.

The story of Jacob's Tree and the selflessness of the Akin family is truly inspirational. I would like to extend my personal blessing to Jacob's mother, Rebecca Buis, his father, David Akin, and his brother, Abraham Akin, this holiday season. And I ask my Senate colleagues to join me in wishing the family a very Merry Christmas and a Happy New Year. It is my hope that the tree brings them comfort, and that it shine especially bright in honor of young Jacob.

The Commonwealth Journal, a Somerset-area publication, recently published an article telling the story of Jacob's Tree. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Commonwealth Journal, Nov. 25, 2011]

'JACOB'S TREE' WILL WARM THE SPIRIT THIS SEASON

(By Chris Harris)

The Christmas season is seen as a time of miracles, a time of redemption for mankind.

This year, one of Somerset's proudest symbols of the Christmas tradition will be its own miracle of sorts—a chance to redeem joy and light out of the clouds of tragedy.

The Christmas tree in the town's Fountain Square is scheduled to be lit in a special ceremony on Saturday, December 3, as is the annual custom.

This year's tree comes from the yard of Rebecca Buis, known to local bank customers as a branch manager and loan officer at First & Farmers National Bank in Somerset.

Anyone who has driven down Denham Street lately has probably noticed the towering cherry spruce standing out with its bold green hue, even as the trees around it have shed their leaves and stand bare and bland.

The tree was planted around the holiday season of 1995—one year after a horrific accident that changed Buis's life forever.

On December 6, 1994, Jacob Akin, Buis's 5-year-old son, was killed in what his mother can only call a "freak accident."

Jacob and his brother Abraham, who was 10 at the time, were playing in a house on Newton Street in Ferguson that their father was in the process of razing.

"(The father, David Akin) did construction work," said Buis. "This wasn't anything that was new to (the children). They were used to playing around that kind of stuff."

This time, however, was different. After Abraham exited the structure to ask his father a question, a chimney crumbled and collapsed on top of young Jacob.

A parent's worst nightmare had come to pass—and during the holiday season meant to be a happy time for families.

The memories remain painful to this day. "They couldn't find my son underneath the bricks," recalled Buis, who still finds herself overcome with emotion when talking about the incident. "They had to pull them off brick by brick until they found him."

According to then-county coroner Alan Stringer, Jacob died of multiple skull fractures as a result of the toppled bricks. Buis noted that Jacob's neck was broken immediately, which meant that death came quickly. This and the fact that Abraham survived provided the only sources of solace in that terrible time.

"My worry was that he suffered, and they told me he had not," said Buis. "I'm lucky in the sense that I felt like God could have taken both my boys that day, playing in the house together. I could have lost them both."

Still, the holiday season was unalterably affected for Buis and her family.

"I wasn't able to focus on Christmas at all," said Buis. "We didn't put up a tree that year."

For one thing, Buis felt like she had to stay strong for her other son's sake. The necessity of putting on a brave face took its own toll on the devastated mother.

"You have to carry on because you have two children," she said. "Kids grieve differently. It's not an easy thing to deal with; kids don't usually tell you, but they feel responsible. I tried hard not to show grief because I didn't want (Abraham) to feel responsible. Nobody could have done anything. It was a freak accident."

Buis recalls Jacob, in kindergarten at Hopkins Elementary at the time, as "a funny little young man," as well as one who was both handsome and intelligent.

"He was a very smart young man," she said. "He understood lots of things, I think."

The calendar pages turned, and soon enough, it was the Christmas season again. Buis decided it would be appropriate to pay some kind of tribute to Jacob, and decided to plant the household Christmas tree, only about five feet tall at the time, in the ground outside their home.

"We decided to put up the tree in memory of my son," she said. "I felt like as the tree grew, I could keep up with the years and somehow see how my son might have grown. Every time I would pull in the driveway, I would see the tree."

"It's kind of a reminder," she added. "It helps with the grieving process to plant something in memory of someone you love."

Today, the majestic tree stands about 20 feet tall. It's "reached its potential," as Buis put it, and has "overgrown the place."

As such, Buis decided it might be the perfect time to inquire about donating "Jacob's Tree," as it's called, to use on the Fountain Square as the county's official Christmas tree. County officials happily obliged.

"Over the years, it just grew and grew," said Buis. "I'd been thinking for some time about (donating it), and just decided, 'You know, it's time to cut the tree down.'"

Buis said she also took Abraham's feelings into consideration. Now 27, still in Pulaski County working in construction, Abraham "thinks it's a good idea," according to Buis, but she wanted to make sure he was okay with the choice to donate the tree given the effect Jacob's death had on him as well.

Much as the tree reached its adult size, Jacob would have been 22 years old this year. However, his legacy has managed to live on in other ways as well.

After Jacob's death, Buis decided to donate his corneas and heart valves to help save the lives of other individuals. "(Christmas) is a time of giving," she said, noting that Jacob's untimely passing was able to give hope to others.

"I received letters telling me that one of Jacob's corneas went to a child who was born with a birth defect, and another went to an older man in his 60s with an eye injury from a work accident," said Buis. "His heart valves also went to adults. I didn't realize how important heart valves were to people who need them (until then)."

"It's a hard decision to make because you have to make it quickly," she added, referring to the decision to donate Jacob's organs. "You can't think about it for days. You have to know at the time of death, and it's a very hard time."

Just as Jacob's body was donated to bring a new light of hope to those in need, his spirit remains in the tree that has now been donated to bring a similarly joyful light to the community.

"It's a beautiful tree," said Buis. "It's well-rounded and would make a wonderful Christmas tree."

Citizens can see "Jacob's Tree" lit for the first time on December 3. The annual Christmas parade, sponsored and organized by the Chamber of Commerce, begins at 5 p.m. with the tree lighting activities set for 7 p.m.

As a Chamber Ambassador, Buis is looking forward to the yearly festivities that are so beloved by locals—but especially since she will get to see that special memorial to her son shining in all its glory.

"I just hope that (those who see it) will enjoy the tree and that it will be beautifully decorated," said Buis. "I hope that people will get a warm feeling from the tree, and know that it's given in a good spirit."

COMPUTER SCIENCE EDUCATION WEEK

Mr. CASEY. Mr. President, I rise today to speak about Computer Science Education Week, which began on December 4, 2011, and continues until December 10, 2011. This celebration includes events in my home State of Pennsylvania that advance the teaching and learning of computer science. These activities help to engage students and build their interest in a field that promises good jobs in a rapidly expanding sector. The week also draws attention to the critical need for strong computer science education in our schools.

E-mails, text messages, financial transactions, cell phone calls and doctor's visits are just a few of the activities that rely on computer science. In the last 20 years, we have undergone a technological revolution that has transformed industry, created entirely new segments of the economy, and transformed our daily lives. Pennsylvania's high-tech industry has played a crucial role in this growth, and we must prepare the next generation to continue innovating. The events of Computer Science Education Week help to build momentum for students to learn computer science.

In Pittsburgh, Carnegie Mellon University, which boasts one of the best

computer science and informatics programs in the country, will host high school students and expose them to the multitude of academic and professional opportunities in computer science. At Emmaus High School in Emmaus, young people will demonstrate programmable robots and hear from alumni who have successfully pursued careers in computer science, all while honoring computing pioneer Grace Hopper with a birthday cake. Even the White House is celebrating Computer Science Education Week by honoring the week's organizers and representatives of the Computer Science Teachers Association as "Champions of Change."

I have introduced S. 1614, the Computer Science Education Act, to help students develop the skills to compete for the growing number of jobs in computer science. Our Nation's economy and security depend upon computing professionals, but the current pipeline of graduates will satisfy only 52 percent of the more than 1.4 million computing job openings expected by 2018. The other 48 percent of these jobs will either go unfilled or move to other countries. America should continue to lead in the high-tech sector by preparing students to take these well-paying jobs. This legislation would strengthen computer science education in elementary and high schools by ensuring that students not only use technology but also learn the technical skills needed to work in computer science and grow our economy.

Computer Science Education Week will help to increase the interest of students who will invent the next mobile technology or start the next technology company. This week was established in 2009 by the Computing in the Core Coalition, a group of organizations, companies, and scientific societies that strive to advocate for computer science as a core academic subject. Computer Science Education Week coincides with the birthday of Grace Murray Hopper, a pioneer in computer science, who was born on December 9, 1906. She rose to the rank of rear admiral in the U.S. Navy, engineered new programming languages and developed standards for computer systems that laid the foundation for many computer science advances.

The economy of the future and the jobs that will accompany it demand that we prepare our students to remain competitive as leaders in the high-tech global marketplace. For that reason, I urge my colleagues to join me in recognizing Computer Science Education Week and to cosponsor the Computer Science Education Act.

HOOPER POWER ALLOCATION ACT

Mrs. FEINSTEIN. Mr. President, I rise today to speak about the importance of the Hoover Power Allocation Act of 2011, of which I am a cosponsor.

This legislation passed the Congress after a multiyear effort led by Senator HARRY REID, the bill's lead author, and I thank him for his work.

Upon enactment, Californians will be able to continue buying Hoover Dam's power at the cost of production for the next 50 years.

The legislation allows the people of southern California whose local governments and utilities signed the 50-year contracts that made building Hoover Dam possible to receive 56 percent of the energy produced by the dam for another five decades.

For the people of my State, the Hoover Dam has been a consistent supply of affordable, pollution-free power for decades. The Hoover Dam is one of the largest power plants in the United States, with a capacity of 2,080 megawatts approximately the size of each of California's nuclear powerplants.

Its average production between 1999 and 2008 was about 4.2 billion kilowatt-hours per year, approximately 2.4 billion kilowatt hours of which goes to southern Californians who buy their power from Southern California Edison, the Los Angeles Department of Water and Power, or members of the Southern California Public Power Agency.

Hoover's power also plays an essential role moving water into parched and populous southern California.

The Metropolitan Water District uses Hoover's power to move its 550,000 acrefeet annual allocation of water from the Colorado River, over five desert mountain ranges, to Los Angeles.

Without Hoover's power, the Metropolitan Water District's cost of moving that water would be inordinately more expensive.

And if California rate payers had to buy that much power at market rates instead of Hoover Dam's 2.5 cents per kilowatt hour cost of production, it would cost approximately \$180 million more each year.

And that power would likely come from dirtier, more distant sources, including coal plants.

Instead, continued access to Hoover's low-cost, renewable hydropower will keep rates low as California's utilities bring on new, more expensive renewable power to comply with the State's 33-percent renewable portfolio standard.

The legislation also sets up a process through which new power recipients in California will be determined by the Western Area Power Administration.

As explained in the House committee report accompanying this bill, Congress expects the agency to conduct an open hearing and review the process to determine power allocations fairly and equitably.

The process should provide the opportunity for irrigation districts, rural electric cooperatives, and other eligible entities to receive allocations.

Congress also expects that Western Area Power Administration will evaluate the relevant power requests of potential new Hoover power recipients in an open, thorough, and transparent

process to assess both the applicants' power needs and the classes of customers they serve.

The agency should make allocation determinations in an impartial, unbiased, and objective manner, consistent with State and Federal preference standards, and in a way that provides the most benefit to the most Californians.

My colleagues and I also expect that the process and analytical results will be documented and made available for review.

Finally, no discussion of Hoover Dam would be complete without acknowledging efforts to protect endangered species.

Hoover contractors have committed to providing more than \$150 million over 50 years to support the Lower Colorado River Multi-Species Conservation Program for the protection of 26 endangered, threatened and sensitive species.

The legislation authorizing the MSCP was enacted in the 111th Congress and signed into law on March 30, 2009.

I thank the parties for reaching this agreement.

The Hoover Dam is an American success story. And it is a renewable energy success story.

During the depths of the Great Depression, Americans stepped forward to help build one of the great engineering marvels of all time.

Between 1931 and 1936, our Nation made a massive effort involving thousands of workers more than 100 of whom lost their lives to build a powerplant unlike anything the world had ever seen.

Many in Congress at the time argued the cost of Hoover Dam was too high.

They argued that government should not be making such large investments in infrastructure.

They opposed efforts to invest in an unproven energy technology like hydropower.

The debate was strikingly similar to debates we are having in this body today.

Luckily for the people of California, believers in American infrastructure and technology won the Hoover Dam debate.

The U.S. Congress provided Federal funds, but only after the Department of the Interior arranged power contracts at prices sufficient to both, No. 1, cover the operating and maintenance charges and, No. 2 repay the capital appropriated by the U.S. Congress within 50 years.

When the communities and utilities of California, led by the City of Los Angeles, stepped forward to sign those contracts, construction began.

As the years have passed, the investment has been repaid and the wisdom of Congress's decision has become apparent.

And now we have enacted a law that continues the legacy of Hoover Dam.

I thank the generations before us for having the foresight to fund the Hoover

Dam, and I hope we can again rekindle the spirit and invest in America.

RECOGNIZING LORELEI SHEPARD

Mrs. FEINSTEIN. Madam President, I rise today to recognize and thank Ms. Lorelei Shepard, who will be retiring from the United States Senate at the end of the year. Lorelei began her career on the Hill in 1993, working for the Secretary of the Senate as an elevator operator in the Capitol. She eventually became a supervisor where she was responsible for managing the weekly schedule of 20 operators and supervising their day to day duties. Her pleasant demeanor and calm nature served her well as she guided and delivered confused visitors and harried staff and Senators to their destinations in the Capitol.

She joined the staff of the Senate Select Committee on Intelligence in 1995, as the Committee's receptionist, where once again her calm and friendly approach and knowledge of the Capitol served her well. In 2000, Lorelei decided to pursue one of her dreams and she moved to a beautiful home in a little town in Vermont. As a Californian, I think it is safe to say that although beautiful, the winters in Vermont leave something to be desired. Thanks to that New England winter, Lorelei decided she needed to thaw out and she soon returned to Washington. Through a combination of good luck and timing, the Committee was able to have Lorelei join the Committee staff again, at the end of 2001.

She has served for the last 10 years on the Committee's staff, including for the last 5 years as our security assistant, making sure that classified documents are logged and distributed appropriately, handling classified correspondence, and keeping track of the secrets entrusted to the Committee.

It is the Intelligence Committee's constitutional responsibility to oversee the intelligence activities of our nation. Through her many years of service on the Committee, Lorelei has made a quiet but critical contribution to this effort. For that, I thank her.

Though Lorelei will be leaving, the Shepard family still remains a part of the Senate community. Lorelei's daughter, Lori, and son, Peter, have followed in their mother's footsteps and both work in the Senate today. This is quite a testament to their family's commitment and dedication to our nation and one for which they should be proud.

I wish Lorelei all the best as she retires and eventually returns to Vermont. I know she will enjoy the new-found time she will have to pursue her love of quilting, writing and the myriad of other talents with which she has been blessed.

On behalf of the Intelligence Committee, many thanks Lorelei, best wishes, and stay warm.

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT

Mr. WHITEHOUSE. Madam President, I rise to speak in support of the Violence Against Women Reauthorization Act of 2011, which I am pleased to cosponsor today. As attorney general of Rhode Island, I saw firsthand the good work the Violence Against Women Act, VAWA, has done to protect victims of domestic violence, to provide crucial services to those in need, and to hold batterers accountable. The VAWA Reauthorization Act builds on that record of success and makes important updates to strengthen the law, while cognizant of the challenging budget circumstances we face. I congratulate Senators LEAHY and CRAPO for their hard work and leadership on this bill.

I am particularly appreciative that Senators LEAHY and CRAPO have included the Saving Money and Reducing Tragedies through Prevention Act of 2011, or the SMART Prevention Act, which I previously introduced, within the Violence Against Women Reauthorization Act.

Far too many teens suffer abuse at the hands of a dating partner. According to the Centers for Disease Control, for example, 1 in 10 teenagers reported being hit or physically hurt on purpose by a boyfriend or girlfriend at least once in the past year. The SMART Prevention Act will support innovative and effective programs to protect our children from this dangerous abuse.

Earlier this year, as chairman of the Senate Judiciary Committee's Subcommittee on Crime and Terrorism, I held a field hearing in my home State on "Preventing Teen Violence: Strategies for Protecting Teens from Dating Violence and Bullying." With hundreds of students from Tolman High School in Pawtucket, RI, in the audience, prominent advocates and experts testified about the importance of educational and community programs in preventing dating violence among teenagers.

The witnesses explained that teen dating violence remains a serious problem, but that we can take important preventive measures. Ann Burke, a leading national advocate, explained that school-based teen dating violence prevention programs, especially those focused on middle schools, have proven effective in changing behaviors. The Lindsay Ann Burke Act, named in memory of Ann's daughter, a victim of dating violence, supports abuse education programs for teens in Rhode Island. Since its passage, physical teen dating violence rates in our State have decreased from 14 percent in 2007 to 10 percent in 2009.

These preventive measures are most effective when part of a community-wide approach. As Kate Reilly, the executive director of the Start Strong Rhode Island Project, explained at the hearing, effective prevention programming should not be limited to schools alone, but should "meet kids where

they live and play." That requires involving parents, coaches, mentors, and teen and community leaders, as well as using new technology and social media in innovative ways.

One group of children needs particular attention: children who have witnessed abuse in their home. Deborah DeBare, the executive director of the Rhode Island Coalition Against Domestic Violence, explained at the hearing that "growing up in a violent home may . . . lead to higher risks of repeating the cycle of abuse as teens and young adults." By supporting robust services for children exposed to domestic violence in the home, we can help break the intergenerational cycle of violence.

The SMART Prevention Act builds on each of these insights. It would create a new grant program within VAWA to support dating violence education programs targeting young people, with a particular focus on middle school students. The bill would also support programs to train those with influence on youth, including parents, teachers, coaches, older teens, and mentors. The new teen dating violence prevention program would be coordinated with existing grant programs focused on prevention, including a program directed at children who have witnessed violence and abuse. By requiring coordination with these programs, and focusing resources on prevention, the SMART Prevention Act is also smart policy fiscally. Abuse that is prevented reduces the strain on our already overburdened health and education systems.

New laws in several States, as well as innovative and hard-working organizations such as the Lindsay Ann Burke Memorial Fund and the Katie Brown Educational Program in New England, have demonstrated how effective such prevention programs can be, so now is the time for Congress to act.

I again thank Senators LEAHY and CRAPO for their leadership in reauthorizing the Violence Against Women Act. I look forward to working with them and other Senators from both sides of the aisle toward a country that is free from dating and domestic violence.

INTERNATIONAL HUMAN RIGHTS DAY

Mr. CARDIN. Madam President, I rise today to mark International Human Rights Day, a day which celebrates the adoption of the Universal Declaration on Human Rights by the UN General Assembly on December 10, 1948.

In the immediate aftermath of World War II, and reacting with revulsion to the horrors of that global war and the Holocaust, the community of nations organized itself with the goal of protecting international peace and security. Although the United Nations founding Charter recognized the protection of human rights as one of the

UN's most basic purposes, it was quickly recognized that it would be necessary to further elaborate these fundamental freedoms in order to ensure their protection. The resulting document—the Universal Declaration of Human Rights—has since served as the foundation upon which all other human rights work at the international level has stood. It remains to this day an enduring guide for human rights advocates around the globe.

This has been an exciting and dramatic year that will be remembered for the triumphs of the Arab Spring. The fall of so many dictators who have been responsible for the deaths, torture, and other atrocities meted out against so many has opened up the exhilarating prospect of real reform and meaningful human rights improvements. But the final chapter of the Arab Spring has not yet been written, and nothing can be taken for granted.

Progress in this field is not necessarily linear. As Ronald Reagan said in his inaugural address, "Freedom is a fragile thing and is never more than one generation away from extinction."

I believe it is especially critical, at this historic moment, for the United States to remain vigilant in the protection and promotion of human rights—abroad and at home.

Overseas, the United States must continue to use our voice to speak on behalf of those silenced by brutal regimes. We must continue to lift up those who cannot stand on their own. And while we must inevitably pursue a multifaceted foreign-policy that advances American goals in a broad range of areas including hard security and the economy, we must never treat human rights as something expendable.

I take particular note of the countries that stand shoulder to shoulder with us in that effort. I welcome Polish Foreign Minister Radek Sikorski's call for a "European endowment for democracy," similar to the National Endowment for Democracy which the United States has supported since 1983. I commend Poland for the leadership it has shown on human rights issues during its presidency of the European Union.

In all of these efforts, the role of civil society remains critical. On the 50th anniversary of the adoption of the Universal Declaration of Human Rights, the United Nations adopted a declaration on the rights of human rights defenders. They are the first line of defense and they often pay the highest price.

There are, unfortunately, too many cases of human rights defenders who are imprisoned, persecuted or worse, for me to raise them all here. But I would like to mention one in particular that maybe emblematic of many others: the case of Evgenii Zhovtis, Kazakhstan's most well-known human rights activist.

Zhovtis is the Director of the Kazakhstan International Bureau for Human Rights and Rule of Law and even a member of the OSCE Office for

Democratic Institutions and Human Rights' panel of experts on freedom of assembly. But he was involved in a tragic car accident in which a pedestrian was killed and, after a trial widely condemned for lacking due process, he was sentenced in 2009 to 4 years in prison.

A year ago, at the OSCE Summit in Astana, civil society activists called for Zhovtis' release. As one NGO participant remarked:

Evgenii is the human rights Everyman. If this can happen to him, it can happen to anyone.

A year later, Evgenii Zhovtis remains in a Siberian penal colony, even as Kazakhstan prepares to host an OSCE election observation mission. In the spirit of the Universal Declaration of Human Rights, I once again urge President Nazarbayev to review his case and to release him.

Thank you.

TRIBUTE TO JOAN MCKINNEY

Ms. LANDRIEU. Madam President, I rise today to pay tribute to Joan McKinney, who has been a beloved and respected mainstay of the Senate Press Gallery for almost 40 years.

Joan retired recently after a decade of service on the Press Gallery staff. Prior to that, she served the people of my home State of Louisiana for 2½ decades as Washington correspondent for the Baton Rouge Advocate.

Joan is originally from Greenville, SC, and is a graduate of Winthrop College. She came to Washington in 1971 to work on the press staff of our dear colleague Senator Fritz Hollings.

As her career advanced, she chose to return to journalism, working first as a reporter for the Greenville News, where her father served as editor, and then for another paper from my home state, the Shreveport Journal.

Joan was hired away by the Advocate when she continually beat the Advocate's reporter—who happened to be the son of the publisher—on stories. I came to know and respect Joan during our many hallway meetings that so often occur between Members and the press. I also had the great fortune of getting to know her as a person and as a friend.

In her tenure as the Advocate's congressional correspondent, Joan came to be well respected by members of the Louisiana delegation from both parties. The Members from my State knew her as fair-handed and tough, and most of all, that there was nothing, nothing that could get by her.

Through her work, Joan became an expert on the intricacies of the Senate and the Supreme Court. She took this knowledge with her into her role as a member of the Senate daily press gallery staff. I know her Senate acumen on the institution and its procedure was of great value to the reporters roaming the gallery who relied on her for deep insight about the Chamber they cover.

Joan, who has won reporting awards from the South Carolina and Louisiana press associations, is a longtime member of the elite Gridiron Club of newspaper writers. She was one of the first women to become a member.

I know that one of Joan's biggest interests is dance, something I am told she plans to be very active with in retirement. Long before "American Idol" and "So You Think You Can Dance," Joan was an excellent competitive dancer. Her specialty is Shag, a regional dance popular in the Carolinas.

This year, Joan won her first national Shag championship. With more time to practice, I am sure more dance titles are on the way.

For those of us who have been fortunate to work with Joan, it is almost impossible to imagine the Press Gallery without her. But I know I join the entire Senate press corps in wishing Joan the best as she embarks on this new adventure in her life.

Joan, thank you for sharing with this institution and our entire country your knowledge, experience and good heart. All of us are better as a result of your service to the best ideals of our democracy.

CROWDFUNDING

Mr. MERKLEY. Mr. President, I rise today to address a promising new idea for investors and small businesses: crowdfunding.

In recent years, small businesses and startup companies have struggled to raise capital. The traditional methods of raising capital have become increasingly out of reach for many startups and small businesses. There is another option, but Congress must act to authorize it and provide for appropriate safeguards.

Low-dollar investments from ordinary Americans may help fill the void, providing a new avenue of funding to the small businesses that are the engine of job creation. The CROWDFUND Act would provide startup companies and other small businesses with a new way to raise capital from ordinary investors in a more transparent and regulated marketplace.

The promise of crowdfunding is that investments in small amounts, made through transparent online forums, can allow the "wisdom of the crowd" to provide funding for small, innovative companies. It allows ordinary Americans to get in on the ground floor of the next big idea. It is American entrepreneurship at its best, which is why it has the support of the President and many in the business community.

That said, there are real risks of investment losses at a rate far beyond ordinary investing. Crowdfunding, if done without proper oversight, provides significant opportunity for fraud. Indeed, it was not too long ago that our financial regulators were doing daily battle with scam artists pitching huge returns on fraudulent schemes through small, unregistered securities.

That is why the CROWDFUND Act will tap the opportunity of crowd-funding while reducing the risks.

The CROWDFUND Act provides a capital-raising alternative for startups and other small businesses, while not undercutting essential investor protections. It allows companies to raise up to \$1 million each year from ordinary Americans. It provides more disclosure, more accountability and accuracy, and limits the exposure of any individual investor.

I thank my colleague Senator BENNET for joining me in this effort, and I hope to partner with more of my colleagues to move this idea forward in the days to come.

TRIBUTE TO CHRISTOPHER L. CUGINI

Mr. THUNE. Madam President, today I recognize Christopher L. Cugini, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Chris is a graduate of Glen Oak High School in Canton, OH. Currently, he is attending the University of Mount Union in Alliance, OH, where he is majoring in communication. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Chris for all of the fine work he has done and wish him continued success in the years to come.

TRIBUTE TO ROBERT CUYLER HASKINS

Mr. THUNE. Madam President, today I recognize Robert Cuyler Haskins, an intern in my Washington, DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Cuyler is a graduate of L.D. Bell High School in Hurst, TX. Currently, he is attending Texas Christian University in Fort Worth, TX, where he is majoring in political science. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Cuyler for all of the fine work he has done and wish him continued success in the years to come.

TRIBUTE TO KATI M. SEYMOUR

Mr. THUNE. Madam President, today I recognize Kati M. Seymour, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Kati is a graduate of Jones County High School in Murdo, SD. This past August, Kati graduated from Sinte Gleska University in Mission, SD,

where she majored in English and American history. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Kati for all of the fine work she has done and wish her continued success in the years to come.

TRIBUTE TO MICHELLE MATTHIES

Mr. THUNE. Madam President, today I recognize Michelle Matthies, an intern in my Sioux Falls, SD, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Michelle is a graduate of Parker High School in Parker, SD. Currently, she is attending Augustana College, where she is majoring in English and secondary education. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Michelle for all of the fine work she has done and wish her continued success in the years to come.

ADDITIONAL STATEMENTS

REMEMBERING ELDEN HUGHES

• Mrs. BOXER. Madam President, last weekend California and the Nation lost one of our great environmental champions when Elden Hughes died at his desert home in Joshua Tree, CA, at age 80.

As a longtime activist with the Sierra Club and former president of its Angeles Chapter, Elden led successful campaigns to protect California's wild rivers and preserve the historic Union Pacific Railroad depot in the desert town of Kelso, CA.

But Elden Hughes is best known and fondly remembered as one of the tireless leaders of the long grassroots effort to enact the 1994 California Desert Protection Act, which created a new national park in the Eastern Mojave Desert and established higher levels of protection for Death Valley, Joshua Tree, and other desert lands.

Elden was born in 1931 in Whittier, CA, the son of cattle farmers from Modoc County. When he was 13, the family moved out of town and bought a ranch where Elden made enough money raising hogs to buy an old car and begin a lifetime of exploring California's wild places. After earning his way through college, he worked in the family plumbing supply business, which he then sold to become the executive vice president of a major computer service company.

Elden's interest in river-running, spelunking, archaeology, nature photography, and the desert led him to join Sierra Club expeditions and gradually become involved in the club's conservation activities. In the early 1980s, he led a grassroots letter-writing cam-

paign that convinced California Senator Pete Wilson to sponsor "wild and scenic" designation for a major stretch of the Tuolumne River. In the late 1980s, Elden led the successful "three rivers campaign" that obtained wild and scenic designations for portions of the Kings, Kern, and Merced Rivers.

Elden worked with Congressman JERRY LEWIS to save the historic Kelso Depot, in what was then the Eastern Mojave National Scenic Area. Showing their usual flair and creativity, Elvin and his wife Patty galvanized public opinion on the depot issue by convincing Amtrak to run a special "Desert Wind" train from Los Angeles to Kelso, where Elden led the crowd in singing railroad songs.

In 1986, as the new chair of the Sierra Club Angeles Chapter, Elden was invited to attend a press conference on the introduction of the first Desert Bill, authored by Senator Alan Cranston. He brought along some of his photos of the Mojave and was soon leading a group of amateur photographers on a 2-year project cataloguing the fragile beauty of this unique natural area.

In 1990, Elden retired from business to become the west coast spokesman for the Desert Bill. He was a natural, and the media loved him. As Frank Wheat noted in his book "California Desert Miracle," Elden was also "knowledgeable, quotable, pleasant to be with, and willing to go to great lengths to show members of the press what the Desert Bill was intended to protect. Soon he was drawing reporters as a lamp draws moths."

Meanwhile, Elden and Patty had adopted a pair of abandoned pet tortoises and successfully bred a new family. When the babies were 5 months old, Elden and Patty took them on a cross-country tour to raise media and public interest in protecting the desert tortoise. Over the years, they made nine trips to Washington, DC, to gain congressional support for the Desert Bill. Once, when an airline security guard told them they couldn't bring pet tortoises on the plane, Patty said, "They aren't pets, they're lobbyists."

Finally, in 1994, Congress passed the California Desert Protection Act, and I was proud to cosponsor this bill with Senator FEINSTEIN. Elden Hughes was instrumental in passing this landmark legislation. Today, the Mojave National Preserve and the Kelso Depot stand as monuments to this joyous, creative, and inexhaustible man who did so much to protect California's priceless natural heritage.

On behalf of the people of California, who have benefitted so much from Elden's life work, I send my deepest gratitude and condolences to his wife Patty; his sons, Mark, Paul, and Charles; and his three grandchildren.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:39 a.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. 1541. An act to revise the Federal charter for the Blue Star Mothers of America, Inc. to reflect a change in eligibility requirements for membership.

S. 1639. An act to amend title 36, United States Code, to authorize the American Legion under its Federal charter to provide guidance and leadership to the individual departments and posts of the American Legion, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10. An act to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

H.R. 944. An act to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes.

H.R. 1254. An act to amend the Controlled Substances Act to place synthetic drugs in Schedule I.

H.R. 1560. An act to amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe.

H.R. 2351. An act to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

H.R. 2360. An act to amend the Outer Continental Shelf Lands Act to extend the Constitution, laws, and jurisdiction of the United States to installations and devices attached to the seabed of the Outer Continental Shelf for the production and support of production of energy from sources other than oil and gas, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 535. An act to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes.

S. 683. An act to provide for the conveyance of certain parcels of land to the town of Mantua, Utah.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 32. Concurrent resolution to authorize the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 470, an Act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

ENROLLED BILLS SIGNED

At 4:40 p.m., a message from the House of Representatives, delivered by

Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 535. An act to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes.

S. 683. An act to provide for the conveyance of certain parcels of land to the town of Mantua, Utah.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

MEASURES REFERRED

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

H.R. 10. An act to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law; to the Committee on Homeland Security and Governmental Affairs.

H.R. 944. An act to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1021. An act to prevent the termination of the temporary office of bankruptcy judges in certain judicial districts; to the Committee on the Judiciary.

H.R. 1254. An act to amend the Controlled Substances Act to place synthetic drugs in Schedule I; to the Committee on the Judiciary.

H.R. 1560. An act to amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe; to the Committee on Indian Affairs.

H.R. 2351. An act to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area; to the Committee on Energy and Natural Resources.

H.R. 2360. An act to amend the Outer Continental Shelf Lands Act to extend the Constitution, laws, and jurisdiction of the United States to installations and devices attached to the seabed of the Outer Continental Shelf for the production and support of production of energy from sources other than oil and gas, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 8, 2011, she had presented to the President of the United States the following enrolled bills:

S. 1541. An act to revise the Federal charter for the Blue Star Mothers of America, Inc. to reflect a change in eligibility requirements for membership.

S. 1639. An act to amend title 36, United States Code, to authorize the American Legion under its Federal charter to provide

guidance and leadership to the individual departments and posts of the American Legion, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1400. A bill to restore the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of Gulf Coast States, to create jobs and revive the economic health of communities adversely affected by the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, and for other purposes (Rept. No. 112-100).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

S. 678. A bill to increase the penalties for economic espionage.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 1886. A bill to prevent trafficking in counterfeit drugs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

*Rebecca M. Blink, of Maryland, to be Deputy Secretary of Commerce.

*Ajit Varadaraj Pal, of Kansas, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2011.

*Jessica Rosenworcel, of Connecticut, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2010.

*Jon D. Leibowitz, of Maryland, to be a Federal Trade Commissioner for a term of seven years *pm September 26, 2010.

*Maureen K. Ohlhausen, of Virginia, to be a Federal Trade Commissioner for a term of seven years from September 26, 2011.

By Mr. LEAHY for the Committee on the Judiciary.

Kathryn Keneally, of New York, to be an Assistant Attorney General.

*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.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. ISAKSON:

S. 1963. A bill to revoke the charters for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation upon resolution of their obligations, to create a new Mortgage Finance Agency for the securitization of single family and multifamily mortgages, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW (for herself and Mr. PORTMAN):

S. 1964. A bill to amend the Internal Revenue Code of 1986 to exempt from the harbor maintenance tax certain commercial cargo loaded or unloaded at United States ports in the Great Lakes Saint Lawrence Seaway System; to the Committee on Finance.

By Mr. MORAN (for himself and Mr. WARNER):

S. 1965. A bill to jump-start economic recovery through the formation and growth of new businesses, and for other purposes; to the Committee on Finance.

By Ms. AYOTTE (for herself, Mr. BEGICH, Mr. VITTER, and Mr. RUBIO):

S. 1966. A bill to direct the Secretary of Homeland Security to reform the process for enrolling, activating, issuing, and renewing Transportation Worker Identification Credentials so that applicants are not required to visit a designated enrollment center more than once; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON of South Dakota (for himself and Mr. COCHRAN):

S. 1967. A bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare Program; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. KIRK):

S. 1968. A bill to require the Secretary of Transportation to establish a pilot program to increase accountability with respect to outcomes of transportation investments, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW (for herself and Mr. MENENDEZ):

S. 1969. A bill to amend title IX of the Social Security Act to improve the quality, health outcomes, and value of maternity care under the Medicaid and CHIP programs by developing a maternity care quality measurement program, evaluating maternity care home models, and supporting maternity care quality collaboratives; to the Committee on Finance.

By Mr. MERKLEY (for himself, Mr. BENNET, and Ms. LANDRIEU):

S. 1970. A bill to amend the securities laws to provide for registration exemptions for certain crowdfunding securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE (for himself and Mr. JOHANNIS):

S. 1971. A bill to provide for the establishment of a committee to assess the effects of certain Federal regulatory mandates and to provide for relief from those mandates, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COATS (for himself and Ms. AYOTTE):

S. 1972. A bill to amend the Food and Drug Administration's mission; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. LAUTENBERG, and Mr. KERRY):

S. 1973. A bill to prevent gun trafficking in the United States; to the Committee on the Judiciary.

By Mr. UDALL of New Mexico (for himself, Mr. HELLER, Mr. BINGAMAN, Mrs. FEINSTEIN, and Mrs. GILLIBRAND):

S. 1974. A bill to amend the Tariff Act of 1930 to clarify the definition of aircraft and the offenses penalized under the aviation smuggling provisions under that Act, and for other purposes; considered and passed.

By Mr. DEMINT (for himself, Mr. CORNYN, Mr. VITTER, Mr. TOOMEY, Mr. RISCH, Ms. AYOTTE, Mr. JOHNSON of

Wisconsin, Mr. LEE, Mr. PAUL, Mr. BLUNT, Mr. HATCH, Mr. BOOZMAN, Mr. GRAHAM, Mr. KYL, Mrs. HUTCHISON, Mr. CRAPO, Mr. INHOFE, Mr. BARRASSO, Mr. CHAMBLISS, Mr. COBURN, Mr. THUNE, Mr. BURR, Mr. HELLER, Mr. RUBIO, Mr. JOHANNIS, and Mr. SESSIONS):

S. 1975. A bill to repeal the authority to provide certain loans to the International Monetary Fund, to prohibit loans to enable the Fund to provide financing for European financial stability and to oppose the provision of such financing, and for other purposes; to the Committee on Foreign Relations.

By Ms. COLLINS (for herself and Mr. COONS):

S. 1976. A bill to authorize educational assistance under the Armed Forces Health Professions Scholarship program for pursuit of advanced degrees in physical therapy and occupational therapy; to the Committee on Armed Services.

By Mr. SANDERS (for himself and Mr. BEGICH):

S.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States to expressly exclude for-profit corporations from the rights given to natural persons by the Constitution of the United States, prohibit corporate spending in all elections, and affirm the authority of Congress and the States to regulate corporations and to regulate and set limits on all election contributions and expenditures; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. VITTER (for himself, Mr. SHELBY, Mr. COCHRAN, and Mr. WICKER):

S. Res. 346. A resolution expressing the sense of the Senate regarding the Government of Antigua and Barbuda and its actions relating to the Stanford Financial Group fraud; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 306

At the request of Mr. WEBB, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 306, a bill to establish the National Criminal Justice Commission.

S. 494

At the request of Mr. LIEBERMAN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 494, a bill to amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal cancer.

S. 506

At the request of Mr. CASEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 506, a bill to amend the Elementary and Secondary Education Act of

1965 to address and take action to prevent bullying and harassment of students.

S. 626

At the request of Ms. CANTWELL, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 626, a bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

S. 752

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 752, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 955

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 955, a bill to provide grants for the renovation, modernization or construction of law enforcement facilities.

S. 985

At the request of Ms. MIKULSKI, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 985, a bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

S. 996

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

S. 1174

At the request of Ms. STABENOW, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1174, a bill to provide predictability and certainty in the tax law, create jobs, and encourage investment.

S. 1175

At the request of Mrs. HAGAN, the names of the Senator from Minnesota (Mr. FRANKEN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1175, a bill to provide, develop, and support 21st century readiness initiatives that assist students in acquiring the skills necessary to think critically and solve problems, be an effective communicator, collaborate with others, and learn to create and innovate.

S. 1440

At the request of Mr. BENNET, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1440, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 1591

At the request of Mr. KIRK, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1629

At the request of Mrs. GILLIBRAND, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1629, a bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

S. 1680

At the request of Mr. CONRAD, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1749

At the request of Mr. WARNER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1749, a bill to establish and operate a National Center for Campus Public Safety.

S. 1866

At the request of Mr. RUBIO, the names of the Senator from Utah (Mr. LEE), the Senator from New York (Mr. SCHUMER) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 1866, a bill to provide incentives for economic growth, and for other purposes.

S. 1872

At the request of Mr. CASEY, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 1872, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer epinephrine at schools.

S. 1896

At the request of Ms. AYOTTE, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1896, a bill to eliminate the automatic inflation increases for discretionary programs built into the baseline projections and require budget estimates to be compared with the prior year's level.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Minnesota

(Mr. FRANKEN), the Senator from New York (Mr. SCHUMER) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1954

At the request of Mrs. HUTCHISON, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1954, a bill to amend title 49, United States Code, to provide for expedited security screenings for members of the Armed Forces.

S. 1959

At the request of Mr. BURR, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S. 1959, a bill to require a report on the designation of the Haqqani Network as a foreign terrorist organization and for other purposes.

S. 1961

At the request of Mr. REED, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1961, a bill to provide level funding for the Low-Income Home Energy Assistance Program.

AMENDMENT NO. 1209

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of amendment No. 1209 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself and Mr. COONS):

S. 1976. A bill to authorize educational assistance under the Armed Forces Health Professions Scholarship program for pursuit of advanced degrees in physical therapy and occupational therapy; to the Committee on Armed Services.

Ms. COLLINS. Mr. President, I rise today to introduce a bill to allow physical and occupational therapists to enroll in the Armed Forces Health Professions Scholarship Program. I am pleased to be joined in this effort by my colleague, Senator COONS of Delaware. Our legislation provides tuition assistance to critical health care professionals in exchange for service as a commissioned medical officer.

Unfortunately, while the need for physical therapists has grown during the last ten years of combat, neither the Department of Defense nor the military services have conducted a separate analysis of the current or future DoD workforce requirements for occupational and physical therapists, even

though such an analysis was required by last year's Defense authorization bill.

This legislation would allow the military services to extend the same kind of educational benefits to physical and occupational therapists that are already afforded to physicians, dentists, physician assistants, and even veterinarians.

Physical and occupational therapists at the military's major medical centers serve approximately 600 wounded warriors every day on their road to recovery. More than 32,000 service members have been wounded in Iraq and Afghanistan, including many who have suffered very serious injuries and amputations. Physical and occupational therapists play a critical role in the prevention of injury, rehabilitation, and recovery of wounded warriors. They not only serve in medical facilities, but are also embedded with combat brigade teams on the battlefield. They use their medical training and skill to overcome impairments, regardless of the cause to enable service members to overcome disability and succeed in all aspects of life.

The idea for this bill came directly from a visit I had with a wounded Marine from Maine at the National Military Medical Center in Bethesda, Maryland in November. He was severely wounded by an IED in Afghanistan. He lost part of one leg and his other leg contains shrapnel wounds. Both of his arms were wounded, and he has a traumatic brain injury as well. In short, he has very serious wounds that are going to require a very lengthy recovery period. But, his spirits are amazingly strong and upbeat.

However, when I asked him if he had any concerns, while he praised the care he was receiving, he said there was a severe shortage of physical therapists and other trained clinical personnel to help him in what is going to be a very long recovery. He is expected to be at Bethesda for another nine months. It troubles me that he believes there are not a sufficient number of physical therapists to help him and the other wounded warriors who are hospitalized at Bethesda.

While the Department of Defense reports that it does not face a shortage in these professions overall, both the Air Force and the Navy report shortages in physical therapists, physical therapy technicians, and occupational therapists. One out of every four physical therapist positions in the active duty Navy is currently unfilled. So including these medical professions in this existing educational program would help meet this need.

This bill is also endorsed by both the American Physical Therapy Association and the American Occupational Therapy Association, who agree this effort will help curtail a possible shortage of these valuable professionals in the future.

I wish to point out, we are not authorizing additional or new funding in

this bill, it is simply an important insurance policy against a shortfall of these medical professions that will help the Navy and the Air Force fill vacancies. After all, it is these talented and committed professionals who are helping our wounded warriors return to living full and independent lives.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

AMERICAN PHYSICAL
THERAPY ASSOCIATION.

Senator SUSAN COLLINS,
*Dirksen Senate Office Building,
Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the more than 77,000 members of the American Physical Therapy Association, I write to thank you for your amendment to the National Defense Authorization Act and your introduction of legislation to include physical therapists in the Health Professions Scholarship Program (HPSP).

APTA commends your efforts to add physical therapists to the HPSP. This legislation will enable more of these highly qualified professionals to help treat our nation's wounded warriors and ensure that there will be no shortage in the future. There should never be any disruption in care for the reason of inadequate personnel.

As you know, physical therapists play a critical role in the prevention of injury, rehabilitation, and recovery of wounded warriors around the world. They not only serve at medical facilities like the Walter Reed National Military Medical Center (WRNMMC), but they are also found on the battlefield with the Army Medical Specialist Corps and are embedded with combat brigade teams. They aid in shortening the recovery time of soldiers so they can return to service, and are a necessary and integral part of the health care structure of the armed forces.

Thank you for your commitment to improving the rehabilitation and well being of our wounded warriors. Please contact Michael Hurlbut, Associate Director of Congressional Affairs, at michaelhurlbut@apta.org or 703-706-3160, if you have any questions or would like any additional information.

Sincerely,

R. SCOTT WARD, PT, PhD,
President.

THE AMERICAN OCCUPATIONAL
THERAPY ASSOCIATION, INC.,
Bethesda, MD, December 7, 2011.

Hon. SUSAN COLLINS,
*U.S. Senate,
Washington, DC.*

DEAR SENATOR COLLINS: On behalf of the American Occupational Therapy Association (AOTA), the national professional association representing the interests of more than over 140,000 occupational therapists, occupational therapy assistants and students of occupational therapy, I am writing to thank you for sponsoring legislation to promote occupational therapy within the United States military. This legislation seeks to authorize educational assistance under the Armed Forces Health Professions Scholarship program for the pursuit of advanced degrees in occupational therapy and physical therapy.

Occupational therapy is a skilled health, wellness and rehabilitation service with the goal of improving function, independence and quality of life so that individuals can lead more productive and rewarding lives.

Occupational therapists work within the military from the frontlines in Combat Stress Control teams throughout the continuum of care to long-term rehabilitation and stateside community reintegration. While occupational therapists are present in every branch of the service the Army has the largest and most prominent role for occupational therapy; using the professions unique focus on overcoming impairments regardless of the cause to enable soldiers to overcome disability and succeed in all aspects of life.

The current wars in Iraq and Afghanistan have dramatically increased the demand for occupational therapy practitioners within the military. The signature injuries of these conflicts include traumatic brain injury, post-traumatic stress disorder, traumatic amputation and poly-trauma. Within both the military and the Veterans Administration occupational therapists work as critical members of the treatment teams to address each of these conditions.

AOTA and our members in the civilian world and the military appreciate your leadership and vision in promoting occupational therapy education and training for service members so that they can go on to meet the needs of fellow soldiers and society as a whole. Both within the military and the private sector, demand for occupational therapy is expected to increase dramatically and your legislation can help meet those needs.

We look forward to working with you and your staff to enact this legislation during this session of Congress so that more occupational therapists are trained to meet the health care, rehabilitation and reintegration needs of our service members.

Sincerely,

TIM NANOF, MSW,
Director of Federal Affairs.

By Mr. SANDERS (for himself and Mr. BEGICH):

S.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States to expressly exclude for-profit corporations from the rights given to natural persons by the Constitution of the United States, prohibit corporate spending in all elections, and affirm the authority of Congress and the States to regulate corporations and to regulate and set limits on all election contributions and expenditures; to the Committee on the Judiciary.

Mr. SANDERS. Mr. President, I am submitting a resolution to amend the U.S. Constitution. I do not do this lightly, nor have I ever done something such as this before. The U.S. Constitution is an extraordinary document which has served our country well for over 200 years and, in my view, it should not be amended often.

But in light of the disastrous Supreme Court's 5-to-4 decision in the Citizens United case, I see no alternative but a constitutional amendment. I should add that a similar resolution has been offered in the House by Congressman TED DEUTCH of Florida. This constitutional amendment is supported by such grassroots organizations as Public Citizen, People for the American Way, and the Center for Media and Democracy.

Let me go on record as strongly as I can, and as clearly as I can, in stating that I strongly disagree with the Supreme Court's Citizens United decision.

In my view, a corporation is not a person. In my view, a corporation does not have first amendment rights to spend as much money as it wants, without disclosure, on a political campaign. In my view, corporations should not be able to go into their treasuries and spend millions and millions of dollars on a campaign in order to buy elections.

I do not believe that is what American democracy is supposed to be about. I do not believe that is what the bravest of the brave from our country, fighting for democracy, fought and died to preserve. Almost 2 years ago, in its now infamous Citizens United decision, the United States Supreme Court upended over a century of precedent, taking a somewhat narrow legal question and using it as an opportunity to radically change our political landscape, unleashing a tsunami of corporate spending on campaign ads that has just begun. Make no mistake, the Citizens United ruling has radically changed the nature of our democracy, further tilting the balance of power toward the rich and the powerful at a time when already the wealthiest people in this country have never had it so good.

In my view, history will record that the Supreme Court's Citizens United decision is one of the worst decisions ever made by a Supreme Court in the history of our country. While there is no way of knowing for sure, since there are no disclosure requirements in place to track what was spent, it is no secret that already in the 2010 midterm elections, corporations and some very wealthy individuals spent a huge and unprecedented amount of money to further their political goals. There is no question this is just the beginning of their efforts. At a time when corporations have over \$2 trillion in cash in their bank accounts and are making recordbreaking profits, the American people should be concerned when the Supreme Court says these corporations have a constitutionally protected right to spend, spend, spend shareholders' money to dominate an election as if they were real live persons. There will be no end to the impact corporate interests can have on our campaigns and our democracy if we do not end this Citizens United decision and its impact on our Nation.

All of us in the Senate share one common characteristic. We all run for elections. We all live in the real political world. Let me speak for a moment what I think many of my colleagues in their heart of hearts know to be true; that is, that while the campaign finance system we had before Citizens United was, in my view, a disaster—there is no question it is a disastrous situation where candidates, Members of the Senate, spend huge amounts of time having to raise money, and I know that is distasteful not just for Democrats, it is distasteful to Republicans, it is distasteful for an Independent; that is what we do—now, as a result of Citizens United, that bad situation has become much worse because

infinitely more money is going to come into the political process through non-disclosed donations suddenly appearing on TV screens in our States.

According to an October 10, 2011, article in *Politico*:

The billionaire industrialist brothers David and Charles Koch plan to steer more than \$200 million—potentially much more—to conservative groups ahead of Election Day [2012].

What do we think? Do we think American democracy is about a couple of wealthy billionaires putting hundreds of millions of dollars into campaigns without disclosure? Is that the democracy Americans fought and died for in war after war? I think not.

It clearly is not just Republican operatives. There will be Democrats doing the same. So more and more money comes into the system. We do not know where it comes from, and in order to defend ourselves candidates are going to have to raise more money and become more and more dependent on big money interests. Does anybody believe that is what American democracy is supposed to be about?

Let's talk about the practical impacts. What happens on the floor of the Senate? The six largest banks on Wall Street have assets equal to over 65 percent of our GDP, over \$9 trillion—six banks. When an issue comes up that impacts Wall Street—some of us, for example, think it might be a good idea to break up these huge banks. Members walk to the desk up there and they have to decide am I going to vote for this, am I going to vote against it—with full knowledge that if they vote against the interests of Wall Street, 2 weeks later, there may be ads coming down into their State attacking them. Every Member of the Senate, every Member of the House, in the back of their minds, will be thinking: Gee, if I cast a vote this way, if I take on some big money interests, am I going to be punished for that? Will a huge amount of money be unleashed in my State?

Everybody here understands that is true. It is not just taking on Wall Street, maybe it is taking on the drug companies, maybe it is taking on the private insurance companies, maybe it is taking on the military-industrial complex. But whatever powerful and wealthy special interest we are prepared to take on, on behalf of the interest of the middle-class and working families of this country, when we walk to that desk and we cast that vote, we know in the back of our mind we may be unleashing a tsunami of money coming into our State, and we are going to think twice about how we cast that vote.

I am a proud sponsor of a number of bills that would respond to Citizens United and begin to get a handle on the problem. I would like to acknowledge them very briefly. One is the Disclose Act, sponsored by Senator SCHUMER, which would force corporations spending money on campaign ads to disclose their identity, as candidates have to do. That is a good thing. I support it.

Another is the Fair Elections Now Act, sponsored by Senator DURBIN, which would move us to publicly financed elections. I think that is a very good idea. I support that.

The third piece of legislation is a recent resolution for a campaign finance constitutional amendment, introduced by Senator TOM UDALL of New Mexico, that would make it clear that Congress and the States have the authority to write laws to regulate campaign spending across the country and make sure our State and Federal elections are about what is right for our democracy, and I support Senator UDALL's resolution. But even these excellent pieces of legislation are not enough.

The Constitution of this country has served us well for more than 200 years. But when the Supreme Court says—for purposes of the first amendment—corporations are people, that writing checks from the company's bank account is constitutionally protected speech, and that even attempts by the Federal Government and States to impose reasonable restrictions on campaign ads are unconstitutional, when that occurs, our democracy is in grave danger. Something more needs to be done. There needs to be something more fundamental and indisputable, something that cannot be turned on its head by a 5-to-4 Supreme Court decision.

We have to send a constitutional amendment to the States that says simply and straightforwardly what everyone—except five members of the U.S. Supreme Court—seems to understand; that is, corporations are not people. Bank of America is not a person. ExxonMobil is not a person.

The resolution I am offering calls for an amendment to be sent to the States that would do that. It would make perfectly clear, No. 1, corporations are not persons with equal constitutional rights as real-life, flesh-and-blood human beings; No. 2, corporations are subject to regulation by the people; No. 3, corporations may not make campaign contributions, which has been the law of the land for the last century; No. 4, Congress and States have the power to regulate campaign finance as Senator UDALL's amendment would also say.

This amendment is cosponsored by Senator BEGICH of Alaska, and I would urge all my colleagues to cosponsor this amendment which, in fact, does what its title suggests, saves American democracy.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 346—EX-PRESSING THE SENSE OF THE SENATE REGARDING THE GOVERNMENT OF ANTIGUA AND BARBUDA AND ITS ACTIONS RELATING TO THE STANFORD FINANCIAL GROUP FRAUD

Mr. VITTER (for himself, Mr. SHELBY, Mr. COCHRAN, and Mr. WICKER)

submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 346

Whereas the Government of Antigua and Barbuda has committed numerous acts against the interests of United States citizens and operated the financial sector and judicial system of Antigua and Barbuda in a manner that is manifestly contrary to the public policy of the United States;

Whereas 20,000 investors, including many United States citizens, lost \$7,200,000,000 in an alleged Ponzi scheme involving fictitious certificates of deposit from Stanford International Bank, an offshore bank chartered in Antigua and Barbuda;

Whereas the Government of Antigua and Barbuda violated the order of the United States District Court for the Northern District of Texas regarding the receivership proceeding initiated at the request of the United States Securities and Exchange Commission (referred to in this preamble as the "Securities and Exchange Commission"), in which the court took exclusive control of all the assets owned by Allen Stanford and Stanford-affiliated entities around the world and documents relating to those assets;

Whereas the Government of Antigua and Barbuda challenged the authority of the United States District Court for the Northern District of Texas by—

(1) initiating a separate and competing liquidation proceeding for Stanford International Bank; and

(2) appointing liquidators who have defied the orders of the court in multiple jurisdictions around the world by litigating for control of hundreds of millions of dollars in bank accounts in the United Kingdom, Switzerland, and Canada;

Whereas the Government of Antigua and Barbuda challenged the authority of the United States Department of Justice by seeking to obtain control of hundreds of millions of dollars in bank accounts in the United Kingdom, Switzerland, and Canada that had been frozen at the request of the Department of Justice in accordance with multilateral criminal asset forfeiture treaties;

Whereas the courts of Antigua and Barbuda have denied recognition of the United States district court-appointed receiver for all assets of Allen Stanford and Stanford-affiliated entities;

Whereas the Stanford International Bank liquidators appointed by the Eastern Caribbean Court of Appeals now seek recognition of the Antigua and Barbuda liquidation proceeding as a foreign insolvency proceeding under chapter 15 of title 11, United States Code, in the United States District Court for the Northern District of Texas;

Whereas the Government of Antigua and Barbuda acknowledged in a statement in March 2010 that—

(1) Stanford International Bank "was operating in Antigua as a transit point and for purposes of registration and regulation"; and

(2) "[t]he business of Stanford International Bank, Ltd. was run from Houston, Texas, and its books maintained in Memphis, Tennessee";

Whereas Allen Stanford, the Stanford Financial Group, and the Government of Antigua and Barbuda enjoyed a mutually beneficial business relationship involving numerous economic development projects and loans to the government of at least \$85,000,000, and forensic accounting reports have identified those loans as having been made from Stanford International Bank certificate of deposit funds;

Whereas, in June 2010, the Securities and Exchange Commission alleged that Allen

Stanford bribed Leroy King, the chief executive officer of the Financial Services Regulatory Commission of Antigua and Barbuda, to persuade Leroy King to—

(1) not investigate Stanford International Bank;

(2) provide Allen Stanford with access to the confidential files of the Financial Services Regulatory Commission;

(3) allow Allen Stanford to dictate the response of the Financial Services Regulatory Commission to inquiries by the Securities and Exchange Commission about Stanford International Bank; and

(4) withhold information from the Securities and Exchange Commission;

Whereas, in June 2010, the United States Department of Justice indicted Leroy King on criminal charges and ordered Leroy King to be extradited to the United States;

Whereas the Government of Antigua and Barbuda has failed to complete the process of extraditing Leroy King to the United States to stand trial;

Whereas Dr. Errol Cort, who served as the Minister of Finance of Antigua and Barbuda from 2004 to 2009, allegedly received more than \$1,000,000 of fraudulently transferred Stanford investor funds either directly or indirectly through his law firm, Cort & Cort;

Whereas Cort & Cort, the law firm of Dr. Errol Cort, served as the official registered agent for Stanford International Bank until June 2009;

Whereas the Government of Antigua and Barbuda, along with the Eastern Caribbean Central Bank—

(1) seized control and possession of the Allen Stanford-owned Bank of Antigua without compensation to the United States district court-appointed receiver;

(2) renamed that bank the “Eastern Caribbean Amalgamated Bank”; and

(3) allocated a 40 percent ownership position to the Government of Antigua and Barbuda and 60 percent ownership to 5 Eastern Caribbean Central Bank member banks;

Whereas, after the fraud that the Stanford Financial Group allegedly perpetrated was made public, the Government of Antigua and Barbuda expropriated numerous Allen Stanford-owned properties in Antigua and Barbuda worth up to several hundred million dollars, and the government has not turned over those properties to the United States district court-appointed receiver;

Whereas the Government of Antigua and Barbuda expropriated without compensation the property known as the Half Moon Bay Resort, which is owned by a group of 12 United States citizens; and

Whereas the Government of Antigua and Barbuda—

(1) has sought and obtained loans from the International Bank for Reconstruction and Development and the International Development Association (commonly known as the “World Bank”) and the International Monetary Fund; and

(2) is the recipient of other direct and indirect aid from the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) provision of all further direct or indirect aid or assistance, including assistance derived from Federal funds, by the United States Government to the Government of Antigua and Barbuda should be suspended until the Government of Antigua and Barbuda provides complete redress of the issues described in the preamble, including through—

(A) the full cooperation of the Government of Antigua and Barbuda and any appointee of that government, including the joint liquidators of Stanford International Bank, with the United States Securities and Exchange

Commission, the United States Department of Justice, the United States district court-appointed receiver, and the United States district court-appointed Stanford Investors Committee, in investigating the Stanford Financial Group fraud and marshaling the assets of Allen Stanford and all Stanford-affiliated entities;

(B) an agreement by the Government of Antigua and Barbuda to be subject to the jurisdiction and bound by the judgment of any United States court that adjudicates the claims relating to the Stanford Financial Group fraud;

(C) the transfer of the assets seized by the Government of Antigua and Barbuda, or obtained by the joint liquidators of Stanford International Bank, to the United States district court-appointed receiver for the benefit of victims of the Stanford Financial Group fraud;

(D) a contribution by the Government of Antigua and Barbuda to the United States receivership estate for the benefit of victims of the Stanford Financial Group fraud, in an amount equal to the amount of any funds that Allen Stanford or any Stanford-affiliated entity provided to the Government or government officials of Antigua and Barbuda;

(E) a contribution by the Government of Antigua and Barbuda to the United States receivership estate for the benefit of victims of the Stanford Financial Group fraud, in an amount equal to any payments that Allen Stanford or the Stanford Financial Group made to Leroy King or any other official of the Government of Antigua and Barbuda for the purpose of subverting regulatory oversight of Stanford International Bank;

(F) the fulfillment by the Government of Antigua and Barbuda of its obligations relating to the expropriation of the Half Moon Bay Resort; and

(G) an agreement by the Government of Antigua and Barbuda to not—

(i) interfere with the receivership commenced by the United States Government; and

(ii) seek control of assets claimed by the United States Government; and

(2) the Secretary of the Treasury should direct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association (commonly known as the “World Bank”) and the International Monetary Fund to use the voice and vote of the United States to ensure that any future loan made by the World Bank or the International Monetary Fund to the Government of Antigua and Barbuda is conditioned on providing complete redress of the matters, and satisfaction of the requirements, described under paragraph (1).

NOTICE OF HEARING

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Thursday, December 15, 2011, at 10 a.m. in SD-430 to conduct a hearing entitled “Prescription Drug Shortages: Examining a Public Health Concern and Potential Solutions.”

For further information regarding this meeting, please contact the committee at (202) 224-7675.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 8, 2011, at 10:00 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, “ICANN’s Expansion of Top Level Domains.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 8, 2011, in the President’s Room, at 10:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. DURBIN. 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 December 8, 2011, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC
WORKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on December 8, 2011, at 9:30 a.m., in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 8, 2011, at 10 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. DURBIN. 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 to conduct a hearing entitled “Tales from the Unemployment Line: Barriers Facing the Long-Term Unemployed” on December 8, 2011, at 9:45 a.m., in room 106 of the Dirksen Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on December 8, 2011, at 2:15 p.m., in

room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 8, 2011, at 10 a.m., in SD-226 of the Dirksen Senate Office Building to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 8, 2011, at 2 p.m.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on December 8, 2011, at 2:30 p.m., in room 366 of the Dirksen Senate Office Building.

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

CONSENT OF CONGRESS TO AN AMENDMENT TO THE COMPACT BETWEEN THE STATES OF MISSOURI AND ILLINOIS

Mr. REID. I ask that the Chair lay before the Senate a message from the House with respect to S.J. Res. 22.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. J. RES. 22

Resolved, That the resolution from the Senate (S.J. Res. 22) entitled "Joint resolution to grant the consent of Congress to an amendment to the compact between the States of Missouri and Illinois providing that bonds issued by the Bi-State Development Agency may mature in not to exceed 40 years," do pass with the following amendment:

Strike out all after the resolving clause and insert:

SECTION 1. CONSENT.

(a) *IN GENERAL.*—The consent of Congress is given to the amendment of the powers conferred on the Bi-State Development Agency by Senate Bill 758, Laws of Missouri 2010 and Public Act 96-1520 (Senate Bill 3342), Laws of Illinois 2010.

(b) *EFFECTIVE DATE.*—The amendment to the powers conferred by the Acts consented to in subsection (a) shall take effect on the date of enactment of this Act.

SEC. 2. APPLICATION OF ACT OF AUGUST 31, 1950.

The provisions of the Act of August 31, 1950 (64 Stat. 568) shall apply to the amendment approved under this joint resolution to the same extent as if such amendment was conferred under the provisions of the compact consented to in such Act.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is expressly reserved.

SEC. 4. RESERVATION OF RIGHTS.

The right is reserved to Congress to require the disclosure and furnishings of such informa-

tion or data by the Bi-State Development Agency as is deemed appropriate by Congress.

Mr. REID. Madam President, I ask unanimous consent that the Senate concur in the House amendment, that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

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

CIVILIAN SERVICE RECOGNITION ACT

Mr. REID. Madam President, I ask unanimous consent that the Homeland Security Committee be discharged from further consideration of H.R. 2061 and the Senate proceed to its consideration.

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

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (H.R. 2061) to authorize the presentation of a United States flag on behalf of Federal civilian employees who die of injuries in connection with their employment.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any related statements be printed in the RECORD.

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

The bill (H.R. 2061) was ordered to be read a third time, was read the third time, and passed.

CORRECTING THE ENROLLMENT OF H. R. 2061

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to consideration of H. Con. Res. 86, which was received from the House.

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

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 86) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 2061.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any related statements be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 86) was agreed to.

ULTRALIGHT AIRCRAFT SMUGGLING PREVENTION ACT OF 2011

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 1974.

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

The legislative clerk read as follows:

A bill (S. 1974) to amend the Tariff Act of 1930 to clarify the definition of aircraft and the offenses penalized under the aviation smuggling provisions under that Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that there be no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 1974) was ordered to be read a third time, was read the third time, and passed as follows:

S. 1974

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 "Ultralight Aircraft Smuggling Prevention Act of 2011".

SEC. 2. CLARIFICATION OF DEFINITION OF AIRCRAFT AND OFFENSES UNDER AVIATION SMUGGLING PROVISIONS OF THE TARIFF ACT OF 1930.

(a) *IN GENERAL.*—Section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) *DEFINITION OF AIRCRAFT.*—In this section, the term 'aircraft'—

"(1) has the meaning given that term in section 40102 of title 49, United States Code; and

"(2) includes a vehicle described in section 103.1 of title 14, Code of Federal Regulations."

(b) *CRIMINAL PENALTIES.*—Subsection (d) of section 590 of the Tariff Act of 1930 (19 U.S.C. 1590(d)) is amended in the matter preceding paragraph (1) by inserting ", or attempts or conspires to commit," after "commits".

(c) *EFFECTIVE DATE.*—The amendments made by this section apply with respect to violations of any provision of section 590 of the Tariff Act of 1930 on or after the 30th day after the date of the enactment of this Act.

SEC. 3. INTERAGENCY COLLABORATION.

(a) *FINDINGS.*—Congress makes the following findings:

(1) The Department of Defense has worked collaboratively with the Department of Homeland Security to identify equipment, technology, and expertise used by the Department of Defense that could be leveraged by the Department of Homeland Security to help fulfill its missions.

(2) As part of that collaborative effort, the Department of Homeland Security has leveraged Department of Defense equipment, technology, and expertise to enhance the ability of U.S. Customs and Border Protection to detect, track, and engage illicit trafficking across the international borders between the United States and Mexico and the United States and Canada.

(3) Leveraging Department of Defense equipment, technology, and expertise is a cost-effective inter-agency approach to enhancing the effectiveness of the Department of Homeland Security to protect the United States against a variety of threats and risks.

(b) *SENSE OF CONGRESS.*—It is the sense of Congress that the Secretary of Defense should—

(1) continue the broad program of cooperation and collaboration with the Secretary of Homeland Security described in subsection (a); and

(2) ensure that the Department of Homeland Security is able to identify equipment and technology used by the Department of Defense that could also be used by U.S. Customs and Border Protection to enhance its efforts to combat illicit trafficking across the international borders between the United States and Mexico and the United States and Canada, including equipment and technology that could be used to detect and track the illicit use of ultralight aircraft.

ORDERS FOR MONDAY, DECEMBER
12, 2011

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, December 12, 2011; that following the prayer and pledge, the Journal of proceedings

be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 4:30 p.m. with Senators permitted to speak for up to 10 minutes each; and that following morning business the Senate proceed to executive session under the previous order.

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

PROGRAM

Mr. REID. Madam President, there will be at least two rollcall votes at 5:30 p.m. on Monday in relation to the Eisen and Aponte nominations. Next week, we have additional nominations we expect to consider, and we have to do either a CR or an omnibus spending

bill—or one of each, which is possible. We have the balanced budget amendments, the payroll tax, we have unemployment insurance, Medicare reimbursement, tax extenders, including the Medicare reimbursement, and, of course, what we are talking about there is the SGR or the doctor fix.

All of these matters are set to expire at the end of the year.

ADJOURNMENT UNTIL MONDAY,
DECEMBER 12, 2011, AT 2 P.M.

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:25 p.m., adjourned until Monday, December 12, 2011, at 2 p.m.