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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 31, 2012, at 12 noon.

Senate

MONDAY, JANUARY 30, 2012

The Senate met at 2 p.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

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

Let us pray.

Eternal Lord God, from whom we come and to whom we belong and in whose service is our peace, may Your kingdom come. Use our lawmakers to do your will on Earth as it is done in Heaven. Create in them courageous hearts that will beat undaunted by fear, unconquered by adversity, and unstained by sin. Give them the wisdom to put themselves in others' places before judging them. Strengthen them to lift downcast, stricken lives.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 30, 2012.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business until 4:30 p.m. this afternoon. Senators will be allowed to speak for up to 10 minutes each. Following morning business, the Senate will resume consideration of the STOCK Act. At 5:30 p.m. there will be a rollcall vote on the motion to invoke cloture on the motion to proceed to the STOCK Act.

BIPARTISAN COOPERATION

Mr. REID. Mr. President, Americans believe Congress is broken, and it is no mystery why. Political divisions in this Chamber are so great they often prevent the Senate from performing even its most fundamental difficulties. Divisions are so great they prevented this body from confirming Presidential nominees, which is a constitutional obligation we have. These days, it is no longer enough to be a qualified nominee. It is no longer enough to have bipartisan support. And in the case of judicial nominees, it is no longer enough to be reported unanimously out of the committee.

Last year, my Republican colleagues blocked or delayed scores—scores of outstanding nominees. Why? Because they want to defeat President Obama. They said so. That was their No. 1 goal. And it is he who made these nominations. So that is the No. 1 goal, to go after him any way they can. At the end of last year, Republicans refused to allow votes on 16 judicial nominees who were reported out of the committee unanimously—Democrats and Republicans.

Unfortunately, this year may bring more of the same. Already this year—the last few weeks—some Republicans have come to the floor and threatened to drag out the confirmation process for every nominee for the rest of the year. This Republican obstructionism is supposedly retribution for President Obama's recess appointment of Richard Cordray. No one questions his qualifications—no one. He was called upon by the President to head the Consumer Financial Protection Bureau. If we have a qualified leader at the helm, this Bureau will be able to effectively protest things that are wrong and protect middle-class families from the greed and excess of big Wall Street banks. It will not impact smaller financial service firms that help Americans

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

who do not want to use banks, and it will not impact the banks or nonbanks that deal fairly with consumers, but it will deal severely with foreign nonbanks that are ripping off customers. This Bureau will serve as a watchdog against the kinds of abuses that nearly collapsed our financial system in 2008.

President Obama is right to recess-appoint Mr. Cordray. It is protected in the Constitution. That is a constitutional obligation and benefit President Obama has—or any President has. It is in the Constitution. President Bush had the same right to make recess appointments even though Democrats kept the Senate in pro forma session. Bush did not exercise that right or challenge the pro forma sessions in court because Democrats worked with him to confirm hundreds of his nominees. Unfortunately, Republicans have refused to work with President Obama as we did with President Bush. Instead, they are threatening political payback and more delays.

This brand of obstructionism is the reason Americans are disillusioned with Congress. They believe Congress cannot get anything done. It will take cooperation between Democrats and Republicans to turn that perception around. So we should show the American people that, with cooperation—we know it works, cooperation between the two parties—this body can accomplish great things.

STOCK ACT

Mr. REID. Mr. President, as to the STOCK Act, I am glad to see that spirit of cooperation is alive as we move forward. At least I hope so. It is bipartisan legislation. Members of Congress and their staff have a duty to the American people. They may not use privileged information they get on the job to personally profit. But the perception remains that a few Members of Congress are using their positions as public servants to serve themselves instead.

Insider trading laws were created to level the playing field and stop Wall Street excesses. And Members of Congress are not above the law. We must play by the same rules by which every other American plays. The STOCK Act will clear up any perception that it is acceptable for Members of Congress to profit from insider training. It will end any confusion over whether Members of Congress can be prosecuted for their serious crime. They can be.

I am really disappointed that I had to file cloture to stop a Republican filibuster on this worthy legislation, but I did. Rather than let us move to this, we had to file cloture to stop this filibuster. So when we get on this bill—and we will get on this bill—we are going to have an open amendment process. It is my wish that Republicans will not abuse the comity that should be here in the Senate, and I hope these amendments that are offered will not be nongermane, nonrelevant. I hope we can legislate on issues that are in the context of this legislation. I repeat, it is sure too bad we had to file cloture.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

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

The legislative clerk proceeded to call the roll.

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

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

REELECTION CAMPAIGN

Mr. KYL. Mr. President, President Obama is campaigning for reelection on a ''soak the rich'' kind of platform. He argues that income inequality and economic fairness are the defining issues of our time. In his narrative, the more prosperous and fair society requires more balance or redistribution.

Unfortunately, for the President, polls suggest Americans aren't lining up behind this politics of resentment. For example, a Gallup poll reports that just 2 percent of Americans rank the divide between rich and poor as the most pressing economic issue facing our country, that Americans are now less likely to view U.S. society as divided between the haves and have-nots than in 2008, and that only 46 percent believe reducing the wealth gap is extremely or very important; whereas, 82 percent say that about accelerating economic growth.

Despite the class-warfare rhetoric they hear on a daily basis, most Americans instinctively understand that adopting progrowth policies to boost mobility is wiser than adopting antigrowth policies to curb inequality. They realize if Washington increases tax rates, for example, and the size of government to achieve greater economic balance, the result will be less job creation and less opportunity for everyone.

Americans don't want the Federal Government to penalize success. They want the Federal Government to make it easier for them to succeed on their own. As American Enterprise Institute President Arthur Brooks wrote in his book, ''The Battle,'' earned success is the key to true human happiness and flourishing. Here is how he put it:

> If we know we have the possibility of earning success, we know we can improve our lives and our lot.

Most Americans, he notes, support principles that aim to ''stimulate true prosperity, not treat poverty.''

If we are looking to expand opportunities for earned success and prosperity, the best place to start is with a sweeping overhaul of our very inefficient Tax Code. Progrowth tax reforms would make the system fairer and simpler. Right now, it functions as a mechanism to deliver wealth to favored constituencies rather than a means to pay for government. In fact, syndicated columnist George Will recently noted the Tax Code has been tweaked 4,500 times in the last 10 years. Most of these tweaks, he wrote, have benefited ''interests sufficiently strong and sophisticated to practice rent-seeking.'' In other words, to get special benefits for themselves.

A fairer and more growth-oriented Tax Code would feature permanently lower rates—rates that would flatter but still be progressive. Such a Tax Code would benefit small business owners and entrepreneurs, who are America's biggest job creators. Many small businesses currently have the cash to invest, to innovate, to expand, and to create jobs, but they are sitting on the cash because of the threat of higher taxes.

Cutting the corporate tax rate would also fuel stronger growth and greater mobility. The statutory U.S. rate is now the second highest among advanced economies, and it has damaged American competitiveness while holding down wages. Indeed, the most recent Global Competitiveness Index from the World Economic Forum ranked the United States now fifth, behind Finland, Sweden, Singapore, and Switzerland. In 2008, America had the top ranking.

Coca-Cola's CEO Muhtar Kent recently underscored this development when he said China now has a more business-friendly environment than America. Kent cited tax policy as a particularly large hindrance. His experience may be different from a lot of others, but even for a major CEO to talk in these terms suggests we have more to do at home.

Beyond tax reform, policymakers must also stop shackling entrepreneurs with more and more regulations. The explosion of new highly complex rules over the last 3 years has spawned a new class of bureaucrats entrusted with decoding and enforcing thousands of regulations that will affect American businesses.

My Republican Senate colleague SUSAN COLLINS of Maine has introduced a bill I have cosponsored that would impose a temporary moratorium on new regulations that adversely affect jobs and the economy. It would also help if we could repeal the Obama administration's two signature laws, the Affordable Care Act and the Dodd-

Frank Act, both of which have dramatically increased regulatory uncertainty and created new economic distortions.

Obviously, Republicans are not against all regulations, and we support a strong social safety net. But we are against economically damaging regulations that fail a simple cost-benefit test. Both the ACA and Dodd-Frank would fail such a test, as would the 2002 Sarbanes-Oxley law. In late 2008 and early 2009, the Securities and Exchange Commission surveyed publicly traded firms affected by section 404 of Sarbanes-Oxley and it found that ''a majority felt that the costs of compliance outweighed the benefits. This was especially true among smaller companies.''

While President Obama pays lipservice to economic growth on the campaign trail, many of his policies have undermined that goal. It is hard to create jobs at the bottom when you are obsessed with attacking people at the top.

The case for growth and success-oriented policies is not just practical, it is moral. The biggest economic favor policymakers can do for Americans is to support policies that make more opportunity, mobility, and the possibility of earned success.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

HONORING OUR ARMED FORCES

STAFF SERGEANT PERNELL HERRERA

Mr. UDALL of New Mexico. Mr. President, I rise today as we enter a new year to honor a brave young soldier who, sadly, did not see this new year. Army SSG Pernell Herrera died December 31, 2011, while serving in Afghanistan. He was 33 years old.

At times like this, words of elected officials seem so inadequate. Words will not ease the profound loss of Staff Sergeant Herrera's family. Words will not fully express our gratitude for Staff Sergeant Herrera's service to our Nation. But the death of a young soldier like Staff Sergeant Herrera demands our attention. It demands our respect, and it demands that we remember.

Pernell Herrera just wanted to serve his country. He enlisted in the New Mexico National Guard in 2006. He was assigned to C Company, 1st Battalion, 171st Aviation Regiment, and he served honorably over the last 5½ years. His journey ended in the course of that service. We are forever in his debt.

When we talk about our fallen soldiers, we honor their sacrifices and we also honor their lives. Pernell Herrera was born in Los Alamos. He grew up in Espanola and graduated from Espanola High School. He leaves behind a son Julian and a daughter Alicia.

Pernell wrote about himself on his Facebook page the following description:

I am a very easygoing dad of one son, and one daughter. They are the biggest joys of my life. I enjoy spending my free time with my mom, and brother, family and friends. I'm currently in Afghanistan with the United States Army. I have served in the military for 5 years.

In the decade that our military has been fighting in Afghanistan, thousands of our fellow citizens have volunteered in service to our country. They have put their own safety at risk to protect the safety of others—in defense of the ideals we hold so dear. Some of these brave warriors, such as Staff Sergeant Herrera, tragically, do not come home.

To Staff Sergeant Herrera's family, I offer my deepest sympathies. We mourn your loss while we also honor his dedication to our country, and we are thankful for his service.

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

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

The legislative clerk proceeded to call the roll.

Mr. HOEVEN. 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. HOEVEN. I thank the Chair.

(The remarks of Mr. HOEVEN pertaining to the introduction of S. 2041 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

The legislative clerk proceeded to call the roll.

Mr. LEVIN. 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.

THE STOCK ACT

Mr. LEVIN. Mr. President, the lifeblood of our democratic government is the contract between the people and their elected representatives—a contract that must be based on trust that elected officials will act for the good of our Nation and in the interests of their constituents and not for personal gain. To ensure that we maintain that trust, our Nation has laws and our Congress has rules that establish clearly the responsibilities of government officials, Members of Congress, and their staffs and that provide for the enforcement of violations. The legislation that will be before us is, in a way, preventive maintenance to protect that trust. It is a tightening of our legal and ethical guidelines as part of what must be a constant effort to ensure that the interests of our Nation and our constituents come first. Our constituents must have confidence that Members of Congress and our staffs will not use our positions for our personal financial benefit.

There should be no doubt that regardless of our action on this legislation, the STOCK Act, it is a violation of the trust our constituents placed in us, a violation of the democratic process, a violation of the securities laws, and a violation of congressional ethics rules for Members of Congress or their employees to engage in insider trading—the use of information not available to the public to make investment decisions.

Insider trading is and will remain prohibited for Members of this body to seek private profit through their public responsibilities, no matter the fate of this bill. But questions have been raised about insider trading by Members of Congress. The legislation before us today is designed to ensure that those questions are answered. It removes any doubt that insider trading by Members and employees of Congress is against the law and against congressional rules. It is important to remove that doubt because any appearance of a breach in trust between Congress and our constituents is so corrosive to honest, open, and effective government.

Back in December, the Homeland Security and Governmental Affairs Committee held extensive discussions on the need to preserve that trust, including a very productive hearing on December 1. Later in December, the committee held a markup and approved the Stop Trading on Congressional Knowledge Act, or the STOCK Act. I commend Chairman Senator LIEBERMAN and our ranking member, Senator COLLINS, for their leadership and the many members of the committee, Democratic and Republican, who made contributions to that process.

Two things became clear during our hearings and markup. First, there was consensus that we should remove any uncertainty about the prohibition on insider trading. The second thing that became clear was that there was a significant bipartisan desire to avoid any unintended consequences as we sought to remove any uncertainty. We reported out the legislation because of widespread agreement on our goals, but their remained concerns about the means, and it was understood that we would attempt to address those concerns before this bill came to the floor. So a number of us have worked in the weeks since to make sure our goals and our means are in concert. The revised legislation, which will be before us, meets that objective. It should remove any uncertainty over the prohibition on insider trading, and it avoids unintended, harmful consequences that concerned some of us.

I will point to two provisions that I believe are important to achieving those goals. The first reassures the American people that there are no barriers to prosecuting Members and employees of Congress for insider trading. It does so through language establishing that Members and employees of Congress have a duty arising from ''a relationship of trust and confidence''

with the Congress, the government, and, most important, with the American people. Establishing such a duty removes any doubt as to whether insider trading prohibitions apply to Congress. It is also important that the bill language makes clear that in offering this new language, it does not in any way prevent enforcement of the anti-insider trading provisions contained in current law. Again, I am confident that, under current law, Members of Congress and our staffs are prohibited from insider trading. This bill will ensure that the current prohibition is unambiguous and thereby strengthened.

The second major provision of the legislation instructs the ethics committees of both Chambers to issue clear guidance to Members and staffs on the prohibition on profiting from inside information. This guidance will clarify that existing rules in both Chambers relative to gifts and conflicts of interest also prohibit the use of nonpublic information gained in the conduct of official duties for private profit.

Finally, one other provision I will briefly mention, which is unrelated to insider trading but nonetheless an important step forward in terms of gaining the confidence of our constituents. As one of the originators of the Lobbying Disclosure Act of 1995, I am well aware of the value of transparency in government. The bill before us improves congressional transparency by requiring that personal financial disclosure filings required of Members and certain staff are made available electronically to the public. I commend Senators BEGICH and TESTER for offering a measure that improves that transparent governance.

Mr. President, it is important we pass this legislation, that we clarify and strengthen our rules and our laws and end any uncertainty about insider trading by Members of Congress. I hope we can promptly pass this legislation.

Again, I commend our chairman and ranking member and all the members of our committee for the work they have put into this bill.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

STOP TRADING ON CONGRESSIONAL KNOWLEDGE ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2038, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of S. 2038, a bill to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5:30 p.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I want to begin debate, and I do so with gratitude that the distinguished ranking member Senator COLLINS is here, as well as Senator BROWN of Massachusetts, whose original legislation, along with Senator GILLIBRAND, forms the basis of this proposal that comes out of our committee.

I want to go back to the beginning, to President Washington, whose Farewell Address seems to take on more relevance as time goes by, although it is obviously more than 200 years old now. Washington said in his Farewell Address that ''virtue or morality is a necessary spring of popular government'' and that we cannot ''look with indifference'' at anything that shakes that foundation or, continuing his metaphor, dries the spring.

I think we have to say in the long proud course of American history since then there have been very few times where the springs of trust in popular government have been more dry than they are in our time.

I am grateful my colleague Senator MCCAIN is not on the Senate floor now because when we get to this subject, he usually says: When you look at the public opinion polls on Congress, the numbers of people who have a favorable impression of this body are so low we are down to close relatives and paid staff. Usually, when I am with him, I add: I'm not so sure about all the paid staff.

But, in any case, we have an opportunity with this piece of legislation to take a small step forward toward rebuilding public trust in Congress and to restoring those necessary springs of popular government—the trust of the people in us. This goes back just to last fall and early winter. A book appeared by an author named Peter Schweizer who was then interviewed on ''60 Minutes.'' He made allegations that some Members of Congress and their staffs have used information gained on their jobs to enrich themselves with timely investments, particularly in the stock market. Those allegations, as Washington might have said, certainly dried the springs of trust that we should have with the American people, even more than they already are.

So today I am proud to rise to bring before the Senate the STOCK Act, which stands for Stop Trading on Congressional Knowledge Act of 2012. This piece of legislation puts into law language and reporting requirements that will make it clear to the American people we understand being a Member of Congress means we have a responsibility to the public, a public trust, and any Member of Congress or staff member here who violates that trust will be punished.

This bill was reported as an original bill out of the Committee on Homeland Security and Governmental Affairs on December 14 with a bipartisan vote of 7 to 2. In advancing this bill, as I have said, Senator COLLINS and I worked closely with Senators GILLIBRAND and BROWN of Massachusetts, both of whom sponsored versions of the STOCK Act. Senator LEVIN, who has just spoken, worked closely with us on the substitute amendment that will be filed, and I thank them all for their contributions on this piece of legislation. I also thank the Senate majority leader, Senator REID, for deciding this important piece of legislation would be one of the first items we take up in Congress this year.

The specific rules making insider trading illegal are found in a large body of Securities and Exchange Commission regulatory activities pursuant to section 10(b) of the Securities Exchange Act of 1934 and court decisions interpreting those activities. Our Committee on Homeland Security and Governmental Affairs held a hearing on this topic in December, and the Securities and Exchange Commission actually filed a statement with us for the record declaring its belief that currently there is authority in the law to investigate and prosecute congressional insider trading cases. The chief enforcement officer of the SEC said:

Trading by congressional members or their staffs is not exempt from the Federal securities laws, including the insider trading prohibitions.

But other witnesses at that hearing, including Georgetown University Law Professor Donald Langevoort and Columbia Law School Professor John Coffee told us that while the SEC might be technically right, in their opinion there was ambiguity in the law and they couldn't be sure how a court would rule if there was a challenge to the SEC's authority to bring an insider trading case against a Member of Congress or a staff member.

That is because, as the professors explained, a person may be found to have violated insider trading laws only if he or she breaks a fiduciary duty, a duty of trust and confidence owed to somebody—typically to the shareholders of a company or to the source of the nonpublic information. They argued it is possible a judge might decide that Members of Congress do not have a fiduciary duty—in the way in which it has normally been interpreted—to anyone with respect to the nonpublic information that we receive while carrying out our duties.

Now, I must say that I find it hard to see it that way. It seems to me self-evident that a public office is a public trust and that Members of Congress have a duty to the institution of Congress, of course to the government as a whole, and ultimately, most importantly, to the American people not to use information gained during their time in Congress—and unavailable to the public—to make investments for personal benefit. But the fact is there

are some very experienced and intelligent legal experts who told our committee they couldn't certify a judge would see it exactly that way.

That is the first purpose of this act, the STOCK Act: to clarify the ambiguity of securities law by explicitly stating that Members of Congress and our staffs have a duty of trust to the institution of Congress, to the United States Government, and to the American people—a duty that Members of Congress violate if we trade on nonpublic information we gain by virtue of our public position.

The bill also requires the ethics committees of both Houses of Congress to issue guidance to clarify that Members and staff may not use nonpublic information derived from their positions in Congress to make a private profit.

Besides these changes—and this is different and important—our committee decided the STOCK Act should require Members of Congress and their staffs to file public reports on our purchases or sale of stocks, bonds, commodities, futures, or other financial transactions exceeding $1,000 in value within 30 days of the transaction. Right now, as the Acting President of the Senate knows, these trades are reported once a year in our annual disclosure statements. This proposal would change that to within 30 days of the trade.

More timely reporting of this kind will allow not just the SEC but the public to assess whether there is anything suspicious or wrong about the timing of the trade and conduct in the Senate. That kind of real transparency will be an additional deterrent to unethical or illegal behavior.

The bill also contains another important provision offered in committee by Senators JON TESTER and MARK BEGICH that will require the financial disclosure forms filed by Members and staff to be filed electronically and perhaps even more significantly, therefore, be available online for public review. The fact is, our reports are now available for public review. But people have to go to the Office of the Secretary of the Senate and ask for copies of them. There is no sensible reason to make someone physically come to the House or Senate to see a copy of one of our financial disclosure forms. They are public records and they ought to be easily available to the public online, and this proposal will make sure that happens.

Those are the three major provisions of the proposal, as I see it: to affirm a clear fiduciary duty under the insider trading law so it is clear Members of Congress and our staffs are covered by them; secondly, to require disclosure of trades in excess of $1,000 within 30 days; and, third, that those trades and our annual financial report will be electronically filed and, therefore, be available online.

May I say, as we begin the second session of the 112th session of Congress, we begin with so much distrust of our Federal Government that I think passing the STOCK Act could have a positive effect on how we are being perceived, and particularly if, as I hope, we pass it on a bipartisan basis. The STOCK Act was passed out of our committee in exactly that way. I believe it has the support of Members and leaders of both parties in the House and Senate, and President Obama has promised to sign it as soon as it comes to his desk.

So let me end by quoting again from our first President, this time from his Inaugural Address, where he set the ideals for the new government that our country would have. He said:

> The foundations of our national policy will be laid in the pure and immutable principles of private morality . . . and the preeminence of free government [will] be exemplified by all the attributes which can win the affections of its citizens and command the respect of the world.

Enacting this proposal into law will say to our disappointed, our skeptical, our troubled constituents that we understand and accept Washington's wisdom.

I thank the Chair, and at this time I yield to my dear friend, the distinguished ranking member of our committee, Senator COLLINS.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to join today the chairman of our committee, Senator LIEBERMAN, and the sponsor of this bill, Senator SCOTT BROWN, in urging our colleagues to begin consideration of what is known as the STOCK Act.

This legislation is based on a bill that was first introduced in the Senate by Senator SCOTT BROWN and a similar one introduced by Senator GILLIBRAND. Put simply, the STOCK Act is intended to ensure that Members of Congress do not profit from trading on insider information.

As a cosponsor of Senator BROWN's bill, I wish to commend him for his leadership in this area. I also wish to recognize Chairman LIEBERMAN for moving this important bill forward in such an expeditious manner.

Press reports on ''60 Minutes'' and elsewhere have raised questions about whether lawmakers have been exempt, either legally or practically, from the reach of our laws prohibiting insider trading. At a time when polls show record low public confidence in Congress, there is a strong desire on our part to address the concerns that underpin the public's skepticism and assure the American people that we are putting their interests ahead of our own.

The STOCK Act is intended to affirm that Members of Congress are not exempt from our laws prohibiting insider trading. While several of the witnesses who appeared before our committee's hearing on this bill testified that there is no legal exemption for Members of Congress, confusion and uncertainty nevertheless persists. For example, on the eve of our markup, the Wall Street Journal published an op-ed by a Yale law professor who wrote that ''the Securities and Exchange Commission has determined that insider trading laws do not apply to Members of Congress or their staff.''

This, however, is directly contradicted by the statement for the record submitted to the committee by the SEC's Enforcement Director who said: ''There is no reason why trading by Members of Congress or their staff members should be considered exempt from the Federal securities laws, including trading prohibitions.''

I ask unanimous consent to have printed in the RECORD the SEC statement at the conclusion of my comments.

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

(See exhibit 1.)

Ms. COLLINS. Mr. President, to me, this illustrates the confusion over this issue. So I am pleased the committee not only reported Senator BROWN's bill but unanimously adopted an amendment I offered with Chairman LIEBERMAN that states clearly that Members and their staff are not exempt from insider trading laws.

The need for this unambiguous statement can likely be traced back to the nature of the insider trading laws. As our committee has learned, our Nation's insider trading laws are not, generally speaking, based on statutes passed by Congress but rather on court precedents. As one of our witnesses, law professor Donna Nagy from Indiana University, pointed out during our hearing:

> Congress has never enacted a Federal securities statute that explicitly prohibits anyone from insider trading. . . . The explicit statutory ban on insider trading . . . is entirely absent in U.S. securities law.

Rather, the SEC pursues insider trading cases under the general antifraud provisions of the Federal securities laws, most commonly section 10B of the Securities Exchange Act of 1934 and rule 10b5, a broad antifraud rule promulgated by the Commission. Therefore, what constitutes insider trading has largely been determined by the courts, including the Supreme Court, on a case-by-case basis.

Under the case law, two different types or theories of insider trading violations have developed; one where the defendant is a classic corporate insider using nonpublic information to trade on the company's stock and a second where the defendant has misappropriated inside information in violation of a duty owed to the source of the information, such as a lawyer who trades on advanced notice of a business transaction. Both types of cases, however, share common elements:

There must be a breach of a duty, such as a traditional fiduciary duty or a duty of trust and confidence; the breach must involve material information, which is the type of information a reasonable investor would consider important in making a decision to buy or

sell stock; the information must be nonpublic; and the defendant must receive a personal benefit, which the Supreme Court has said may include not only financial gain but also reputational benefits.

As the Supreme Court has held, under section 10B, the chargeable conduct must involve a deceptive device or contrivance used in connection with the purchase or sale of securities. In criminal prosecutions for insider trading, under rule 10b5, the government must prove that a person willfully violated the provision with culpable intent.

Although the witnesses who came before the committee generally agreed that Congress enjoys no exemption from insider trading laws, they also stressed the need to clarify the relevant duty that applies to Members.

The bill reported by the committee, in language refined by Senator LEVIN, addressed this issue by affirming a duty arising from the relationship of trust and confidence already owed by Members and their staff to the Congress, the U.S. Government, and the citizens we serve. At our markup, we clarified that this does not create a new fiduciary duty, in the traditional sense, but rather recognizes or affirms our existing duty.

As reported, the bill would also have amended the Congressional Accountability Act to prohibit Members and staff from using nonpublic information gained through the performance of their official duties for personal benefit. This proposed prohibition, however, was not limited to the trading context or otherwise tethered to financial transactions. Because it was not anchored in financial transactions, I expressed some concerns about the potential breadth of this term and the potential for unintended consequences.

These concerns were echoed by several members of the committee during our consideration of the bill. Therefore, following the markup, we continued to refine the bill while adhering to the fundamental principle that Members of Congress should be subject to the same insider trading laws as other Americans. I believe we have come up with a solution that addresses the potential problem that troubles all of us; that is, public officials using public office for private gain. We need, however, to make sure that in doing so, we do not inhibit our ability to gather information so we can serve our constituents to the best of our ability.

The proposed substitute offered by Senator REID, Senator BROWN, and Senator LIEBERMAN reflects the work of our committee members as well as other bill sponsors. It would require the Senate Ethics Committee and the House Committee on Standards of Official Conduct to issue guidance on the relevant rules of each Chamber, clarifying that Members and staff may not use nonpublic information derived from their positions in Congress to make a personal profit. This would cover insider trading matters, as well as land deals and other financial transactions where nonpublic information could be wrongly converted into a private gain.

Similar to the reported bill, the substitute includes a straightforward statement making clear that Members and their staff are not exempt from insider trading prohibitions arising from the securities laws.

In keeping with an amendment that Senator PAUL successfully offered at our markup, the substitute applies the same framework—clarification of the prohibition against using nonpublic information for private profit and the affirmation of existing duty that we have—to the employees of the executive and judicial branches, as well as the legislative branch. Similar to the reported bill, the substitute includes earlier deadlines for financial reporting requirements and greater transparency for financial disclosure statements, as the chairman mentioned, by requiring that they be available online and in a searchable format.

I believe we need to reassure a skeptical public that we understand that elective office is a place for public service, not private gain; that it is an honor and a trust we have been given by the people we represent. Underscoring that important message is clearly the intent of this bill, and that is why I support it.

I urge my colleagues to vote yes to vote to invoke cloture on the motion to proceed.

EXHIBIT 1

[From U.S. Securities and Exchange Commission, Dec. 1, 2011]

STATEMENT ON THE APPLICATION OF INSIDER TRADING LAW TO TRADING BY MEMBERS OF CONGRESS AND THEIR STAFFS, BEFORE THE UNITED STATES SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

(By Robert Khuzami)

Chairman Lieberman, Ranking Member Collins, and Members of the Committee:

Thank you for the opportunity to provide a statement for the record on behalf of the U.S. Securities and Exchange Commission on the subject of insider trading.

Insider trading threatens the integrity of our markets, depriving investors of the fundamental fairness of a level playing field. To deter this conduct and to hold accountable those who fail to play by the rules, the detection and prosecution of those who engage in insider trading remains one of the Division of Enforcement's highest priorities.

My statement provides a summary of the Division of Enforcement's recent work in the area of insider trading, an overview of the law of insider trading as developed through our enforcement program and judicial precedent, and a description of how the current law of insider trading applies to securities trading by Members of Congress and their staffs.

ENFORCEMENT'S INSIDER TRADING PROGRAM

Insider trading has long been a high priority for the Commission. Approximately eight percent of the 650 average annual number of enforcement cases filed by the Commission in the past decade have been for insider trading violations. In the past two years, the Commission has been particularly active in this area. In fiscal year 2010, the SEC brought 53 insider trading cases against 138 individuals and entities, a 43 percent increase in the number of filed cases from the prior fiscal year. This past fiscal year, the Commission filed 57 actions against 124 individuals and entities, a nearly 8 percent increase over the number of filed cases in fiscal year 2010.

The increased number of insider trading cases has been matched by an increase in the quality and significance of our recent cases. In fiscal year 2011 and the early part of fiscal year 2012, the SEC obtained judgments in 18 actions arising out of its investigation of Galleon hedge fund founder Raj Rajaratnam, including a record $92.8 million civil penalty against Rajaratnam personally. The SEC also discovered and developed information that ultimately led to criminal convictions of Rajaratnam and others, including corporate executives and hedge fund managers, for rampant insider trading. In addition, we recently filed an insider trading action against Rajat Gupta, a former director of both Goldman Sachs and Procter & Gamble, whom we allege provided confidential Board information about both companies' quarterly earnings and about an impending $5 billion Berkshire Hathaway investment in Goldman Sachs to Rajaratnam, who traded on that information.

Among others charged in SEC insider trading cases in the past fiscal year were various hedge fund managers and traders involved in a $30 million expert networking trading scheme, a former Nasdaq Managing Director, a former Major League Baseball player, a Food and Drug Administration chemist, and a former corporate attorney and a Wall Street trader who traded in advance of mergers involving clients of the attorney's law firm. The SEC also brought insider trading cases charging a Goldman Sachs employee and his father with trading on confidential information learned by the employee on the firm's ETF desk, and charging a corporate board member of a major energy company and his son for trading on confidential information about the impending takeover of the company.

The Division also has targeted non-traditional cases involving the misuse or mishandling of material, non-public information. This past fiscal year, the Commission charged Merrill Lynch, Pierce, Fenner & Smith with fraud for improperly accessing and misusing customer order information for the firm's own benefit. The Commission also censured broker-dealer Janney Montgomery Scott LLC for failing to enforce its own policies and procedures designed to prevent the misuse of material, nonpublic information. Charles Schwab Investment Management was charged for failing to have appropriate information barriers for nonpublic and potentially material information concerning an ultra-short bond fund that suffered significant declines during the financial crises. This deficiency gave other Schwab-related funds an unfair advantage over other investors by allowing the funds to redeem their own investments in the ultra short-bond fund during its decline. The Commission also charged Office Depot, Inc. and two of its executives for violating Regulation FD by selectively disclosing to certain analysts and institutional investors that the company would not meet its earnings.

To respond to emerging risks, the Enforcement Division has developed several new initiatives targeted at ferreting out insider trading, which have enhanced our effectiveness in this area. During our recent reorganization, the Division established a Market Abuse Unit, with an emphasis on various abusive market strategies and practices, including complex insider trading schemes.

The Market Abuse Unit has spearheaded the Division's Automated Bluesheet Analysis Project, an innovative investigative tool that utilizes the ''bluesheet'' database of more than one billion electronic equities and options trading records obtained by the Commission in the course of insider trading investigations over the past 20 years. Using newly developed templates, Enforcement staff are able to search across this database to recognize suspicious trading patterns and identify relationships and connections among multiple traders and across multiple securities, generating significant enforcement leads and investigative entry points. While still in its early stages of development, this new data analytic approach already has led to significant insider trading enforcement actions that were not the subject of an SRO referral, informant tip, investor complaint, media report, or other external source.

As part of the reorganization, the Division also established a cooperation program to encourage key fact witnesses to provide valuable information. Insider trading investigations are extremely fact-intensive. Enforcement staff undertake the often painstaking work of collecting and analyzing trading data across equity and options markets, analyzing communications (email, telephone calls and instant messages, among others) and analyzing market-moving events (e.g., announcements of corporate earnings, product development, and acquisitions and mergers) to identify persons who may have engaged in insider trading or who may have information about such activity. Our new cooperation program is a valuable tool that can help us break open an insider trading investigation earlier in the process, thereby preserving resources. We are already seeing the effectiveness of the cooperation program in our insider trading cases and expect this trend to continue as more cooperators come forward in our investigations.

With an aggressive investigative approach that includes early coordination with the FBI, Department of Justice, and other law enforcement agencies, we have been able to identify potential cooperators who may assist criminal authorities with their covert investigative techniques, helping amass critical evidence in numerous insider trading investigations. Our work with certain SROs has provided valuable early tips, helping us mitigate the harm from insider trading schemes by freezing the illicit proceeds before funds are moved to offshore jurisdictions.

LAW OF INSIDER TRADING

There is no express statutory definition of the offense of insider trading in securities. The SEC prosecutes insider trading under the general antifraud provisions of the Federal securities laws, most commonly Section 10(b) of the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 10b–5, a broad anti-fraud rule promulgated by the SEC under Section 10(b). Section 10(b) declares it unlawful ''[t]o use or employ, in connection with the purchase or sale of any security . . . any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.'' Rule 10b–5 broadly prohibits fraud and deception in connection with the purchase and sale of securities. As the Supreme Court has stated, ''Section 10(b) and Rule 10b–5 prohibit all fraudulent schemes in connection with the purchase or sale of securities, whether the artifices employed involve a garden type variety of fraud, or present a unique form of deception,'' because ''[n]ovel or atypical methods should not provide immunity from the securities laws.''

There are two principal theories under which the SEC prosecutes insider trading cases under Section 10(b) and Rule 10b–5. The ''classical theory'' applies to corporate insiders—officers, directors, and employees of a corporation, as well as ''temporary'' insiders, such as attorneys, accountants, and consultants to the corporation. Under the ''classical theory'' of insider trading liability, a corporate insider violates Section 10(b) and Rule 10b–5 when he or she trades in the securities of the corporation on the basis of material, nonpublic information. Trading on such information qualifies as a ''deceptive device'' under Section 10(b), because ''a relationship of trust and confidence [exists] between the shareholders of a corporation and those insiders who have obtained confidential information by reason of their position with that corporation.'' That relationship ''gives rise to a duty to disclose [or to abstain from trading] because of the 'necessity of preventing a corporate insider from . . . tak[ing] unfair advantage of . . . uninformed . . . stockholders.'''

The Supreme Court has recognized that corporate ''outsiders'' can also be liable for insider trading under the ''misappropriation theory.'' Under this theory, a person commits fraud ''in connection with'' a securities transaction, and thereby violates Section 10(b) and Rule 10b–5, when he or she misappropriates confidential and material information for securities trading purposes, in breach of a duty owed to the source of the information. This is because ''a fiduciary's undisclosed, self-serving use of a principal's information to purchase or sell securities, in breach of a duty of loyalty and confidentiality, defrauds the principal of the exclusive use of that information.'' The misappropriation theory thus ''premises liability on a fiduciary-turned-trader's deception of those who entrusted him with access to confidential information.'' Under either the classical or misappropriation theory, a person can also be held liable for ''tipping'' material, nonpublic information to others who trade, and a ''tippee'' can be held liable for trading on such information.

A common law principle is that employees owe a fiduciary duty of loyalty and confidence to their employers. In addition, employees often take on contractual duties of trust or confidence as a condition of their employment or by agreeing to comply with a corporate policy. Accordingly, employees have frequently been held liable under the misappropriation theory for trading or tipping on the basis of material non-public information obtained during the course of their employment. This includes prosecution of federal employees who, in breach of a duty to their employer, the federal government, trade or tip on the basis of information they obtained in the course of their employment. For example, the SEC recently brought insider trading charges against a Food and Drug Administration employee alleging that he violated a duty of trust and confidence owed to the federal government under certain governmental rules of conduct when he traded in advance of confidential FDA drug approval announcements.

In light of existing precedent regarding the liability of employees—including federal employees—for insider trading, any statutory changes in this area should be carefully calibrated to ensure that they do not narrow current law and thereby make it more difficult to bring future insider trading actions against any such persons.

APPLICATION OF INSIDER TRADING LAW TO TRADING BY MEMBERS OF CONGRESS AND THEIR STAFF

The general legal principles described above apply to all trading within the scope of Section 10(b) and Rule 10b–5. There is no reason why trading by Members of Congress or their staff members would be considered ''exempt'' from the federal securities laws, including the insider trading prohibitions, though the application of these principles to such trading, particularly in the case of Members of Congress, is without direct precedent and may present some unique issues.

Just as in any other insider trading inquiry, there are several fact-intensive questions—including the existence and nature of the duty being breached and both the materiality and nonpublic nature of the information—that would drive the analysis of whether securities trading (or tipping) by a Member of Congress or staff member based on information learned in an official capacity violates Section 10(b) and Rule 10b–5.

The first question is whether the trading, or communicating the information to someone else, breached a duty owed by the Member or staff. Although there is no direct precedent for Congressional staff, there is case law from other employment contexts regarding misappropriation of information gained through an employment relationship. This precedent is consistent with a claim that Congressional staff, as employees, owe a duty of trust and confidence to their employer and that a Congressional staff member who trades on the basis of material nonpublic information obtained through his or her employment is potentially liable for insider trading under the misappropriation theory, like any other non-governmental employee.

The question of duty is more novel for Members of Congress. There does not appear to be any case law that addresses the duty of a Member with respect to trading on the basis of information the Member learns in an official capacity. However, in a variety of other contexts, courts have held that ''[a] public official stands in a fiduciary relationship with the United States, through those by whom he is appointed or elected.'' Commenters have differed on whether securities trading by a Member based on information learned in his or her capacity as a Member of Congress violates the fiduciary duty he or she owes to the United States and its citizens, or to the Federal Government as his or her employer.

Existing Congressional ethics rules also may be relevant to the analysis of duty for both Members and their staff. For example, Paragraph 8 of the Code of Ethics for Government Service provides that ''Any person in Government service should . . . [n]ever use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.''

The second question is whether the information on which the Member or staff trades (or tips) is ''material''—that is, is there ''a substantial likelihood'' that a reasonable investor ''would consider it important'' in making an investment decision? Materiality is a mixed question of fact and law that depends on all the relevant circumstances. In some scenarios, it may be relatively clear that an upcoming Congressional action would be material to a particular issuer or group of issuers, while in others it may be more challenging to establish that.

The third critical question is whether the information on which the Member or staff traded (or tipped) is ''nonpublic.'' The Commission has stated that ''[i]nformation is nonpublic when it has not been disseminated in a manner making it available to investors generally.'' Whether information is ''nonpublic'' would likely depend on the circumstances under which the Member or staff learned the information and the extent to which the information had been disseminated to the public.

As with all issues of liability with regard to insider trading and other claims under Section 10(b), the conduct at issue must be intentional or reckless. Since all of these issues are inherently fact-specific, it is difficult to generalize about the likely outcome of any particular scenario. However, trading by Congressional Members or their staffs is not exempt from the federal securities laws, including the insider trading prohibitions.

APPLICATION OF TIPPER AND TIPPEE LIABILITY THEORIES TO MEMBERS OF CONGRESS AND THEIR STAFF

Communication of nonpublic information to others who either trade on the information themselves or share it with others for securities trading purposes, could be analyzed under the case law relating to tipper and tippee liability and also would turn on the specific facts of the case.

A person can be liable as a tipper where he or she discloses information in breach of a fiduciary duty or other similar duty of trust or confidence and the tippee trades on the basis of that information. The same duty requirement described above is applicable in the tipper context, as are the requirements that the tipped information be nonpublic and material. In addition, a court may require a showing that the Member of Congress or staff member personally benefited from providing the tip.

A person who trades on the basis of material, nonpublic information conveyed by a Member or staff member in breach of a duty also could be liable for illegal insider trading as a tippee. An additional element of liability is that the tippee knew or should have known of the tipper's breach of duty in disclosing the information.

Investigations into potential trading or tipping by Members of Congress or their staff could pose some unique issues, including those that may arise from the Constitutional privilege provided to Congress under the Speech or Debate Clause, U.S. Const. art. I, §6, cl.1. The Supreme Court has stated that ''[t]he Speech or Debate Clause was designed to assure a co-equal branch of the government wide freedom of speech, debate, and deliberation without intimidation or threats from the Executive Branch.'' The Clause ''protects Members against prosecutions that directly impinge or threaten the legislative process.'' While the ''heart'' of the privilege is speech or debate in Congress, courts have extended the privilege to matters beyond pure speech and debate in certain circumstances. There may be circumstances in which communication of nonpublic information regarding legislative activity to a third party falls ''within the 'sphere of legitimate legislative activity,'\'' and thus may be protected by the privilege.

CONCLUSION

The SEC's continued focus on insider trading and innovative investigative techniques demonstrates our commitment to pursuing potentially suspicious trading in a variety of contexts. While recent innovations in the Division of Enforcement are enhancing our ability to obtain that evidence, to establish liability we must satisfy each of the elements of an insider trading violation, including the materiality of the information, the nonpublic nature of the information, the presence of scienter, and a fiduciary or other duty of trust and confidence that was violated by the trading or tipping. While trading by Members of Congress or their staff is not exempt from the federal securities laws, including the insider trading prohibitions, there are distinct legal and factual issues that may arise in any investigations or prosecutions of such cases. Any statutory changes in this area should be carefully calibrated to ensure that they do not narrow current law and thereby make it more difficult to bring future insider trading actions against individuals outside of Congress.

Ms. COLLINS. I now yield the floor to the sponsor of the bill, Senator BROWN.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I wish to thank Ranking Member COLLINS and Chairman LIEBERMAN for doing something very unusual around here, which is to get something out in a very short period of time, having it not only come up and being filed by Senator GILLIBRAND—her bill and even my bill—and then you both working together to move it forward for a hearing. That hearing going very well and coming out so quickly is unheard of, and I wish to thank you for that.

I also wish to thank Leader REID for bringing this bill to the floor today as well as, as I said, Chairman LIEBERMAN, Ranking Member COLLINS, and Senator GILLIBRAND. We have worked together to draft a bipartisan version of the STOCK Act, an act that passed out of committee by an overwhelming margin. That is appropriate because this isn't a partisan or ideological issue. It is about cleaning up Washington.

Abraham Lincoln spoke at Gettysburg of fighting to preserve ''government of the people, by the people, and for the people.'' I think that if the approval ratings are any indication, the American people have lost faith that we are living up to Lincoln's ideal, and we need to do it better. They have lost faith that Congress works for them. They believe too many Members of Congress have come to Washington to make themselves rich or to do other things instead of taking care of the people's business and that Congress only steps in to bail out the people with the most money or the most lobbying power, and that is not right.

With the bill before us today, we can take a small step to reestablishing the trust between the American people and Congress. If we can pass the STOCK Act this week, it will send a very strong and unified message to the American people that Congress does not consider itself to be above the law. We can start to finally address that deficit of trust that the President referenced in his State of the Union Address. Members of Congress must live by the same rules that govern every other American citizen.

As you may recall from a ''60 Minutes'' investigation only 2 months ago, we learned that Members of Congress, their staff, as well as other Federal employees, may be using material nonpublic information for their personal gain, either through stock trades, real estate deals or other financial activity. Everyone agrees this should be illegal or it already is, as referenced by the ranking member and her very thorough explanation of the law and the problems with it. But somehow, despite all the evidence, there has never been a single Member of Congress or congressional staffer charged with insider trading.

I have to admit, similar to you and many others, I was shocked by this report. I think we all were. As a result, I filed my version of the STOCK Act, which would prohibit Members and employees of Congress from using material nonpublic information for their personal benefit.

When Homeland Security and Governmental Affairs Committee held a hearing on the state of insider trading law as it applies to Congress, one thing was very clear. Although, as Ranking Member COLLINS said, the SEC theoretically has the ability to prosecute Members, there has been no precedent for it, and the state of law at this point is very unsettled. To remove any and all doubt, we need to act, and we need to act now. In addition to clarifying that insider trading is indeed a criminal offense, we are increasing the transparency of Members' trading activity to make sure our investment decisions are out there for everyone to see as plain as day. As President Ronald Reagan liked to say: Trust but verify.

In conclusion, I wish to say that Senator COBURN has a phrase that I think is very accurate in this context. He talks about all the earmarks and contracts and Washington spending that end up in the hands of those people he calls well-heeled and well-connected. In my opinion, no one is more well-connected, with more access to a wide range of privileged, nonpublic information, than Members of Congress, their friends, employees or family members.

At a time when our economy is struggling and the average American family has to make hard economic choices, congressional Members and staff should not be lining their pockets on insider information. Serving our country is a privilege, one I cherish very much. I believe we must level the playing field and show the American people that the people in Congress do not consider themselves to be above the laws we expect everyone else across the country to obey.

I believe it is time to listen to our constituents and remember that every seat in this room is the people's seat.

I yield the floor.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator from New York.

Mrs. GILLIBRAND. I thank my colleague from Massachusetts for his strong advocacy on such an important issue. I would like to recognize Chairman LIEBERMAN and Ranking Member COLLINS for their leadership and advocacy and their work on getting this out of the committee so quickly.

I urge my colleagues to vote yes on cloture tonight on this bipartisan bill to ensure clearly and unambiguously that all Members of Congress, their staffs, and Federal employees play by the exact same rules as all the American people. The American people deserve the right to know their lawmaker's only interest is what is best

for the country, not their own financial interests. Members of Congress and their families and staff should not be able to gain personal profit from information to which they have access that everyday middle-class Americans do not. It is simply not right. Nobody should be above the rules. I introduced a bipartisan bill in the Senate with 28 of our colleagues from both sides of the aisle to close this loophole.

The STOCK Act legislation is very similar to the legislation introduced by my friends in the House of Representatives, Congresswoman LOUISE SLAUGHTER and Congressman TIM WALZ. I thank them for their longstanding advocacy and dedication to this important cause. I again thank Chairman LIEBERMAN, Ranking Member COLLINS, and all the committee members for their work in acting swiftly to move this bipartisan, commonsense bill to the floor for a vote. I also thank Leader REID for his leadership in moving this body forward to this important debate and an up-or-down vote that the American people deserve.

Our bill, which has received the support of at least seven good-government groups, covers two important principles:

First, Members of Congress, their families, and their staff should be barred from buying or selling securities on the basis of knowledge gained through their congressional service or from using the knowledge to tip off anyone else. The SEC and the CFTC must be empowered to investigate these cases. To provide additional teeth, such acts should also be in violation of Congress's own rules, to make it clear that the activity is inappropriate.

Second, Members should be required to disclose transactions within 30 days, to make this information available online for their constituents to see, providing dramatically improved oversight and accountability from the current annual hard copy reporting.

I am pleased that the final product that passed with bipartisan support out of the committee is a strong bill with teeth and includes measures such as ensuring that Members of Congress cannot tip off others with nonpublic information gained through their duties and ensuring that trading with this information would be a violation of Congress's own ethics rules.

Some critics have said this bill is unnecessary and is already covered under current statutes. I have spoken with experts tasked in the past with investigations of this nature, and they strongly disagree. We must make it unambiguous that this kind of behavior is illegal.

My home State newspaper, the Buffalo News, noted:

> . . . the STOCK Act would ensure that it is the people's business being attended to.

President Obama said in his State of the Union—send him the bill and he will sign it right away.

We should not delay. It is time to act. I urge my colleagues to vote yes tonight for cloture so we can pass this bill without delay. Let's take this step to begin rebuilding the trust necessary in Congress.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, today the Senate will be given the opportunity to ban insider trading by Members of Congress and their staff. Insider trading is illegal for everyone in America, and there is no doubt about that. But when it comes to the information that folks in Congress learn before the general public learns it, there are no clear-cut rules, and that is unacceptable. Folks in Congress clearly have advanced knowledge of which bills and issues Congress will consider. They know how those bills will affect basic goods and services, and often the legislation we pass impacts how well a company does on the stock market.

Good men and women work for Congress, and I have the deepest respect for my colleagues. I would say all come to the Senate with good intentions and carry out their daily responsibilities without thinking about using information they learn for personal financial gain. That is why banning insider trading should be an easy lift. The fact that Members of Congress and their staffs are allowed to buy and sell stocks based on privileged information is incredible to me.

Congress has historically low approval ratings from the American people. They believe many in Congress do not represent them and have forgotten what it means to be a normal American. Most folks would assume Congressmen and Senators already cannot trade stocks based on information they get in their jobs, but it turns out this may not be true. That is just one more example of why the American people have lost faith in this institution.

As elected officials, it is our duty to regain the trust of the American people. We have an obligation to be as transparent and as accountable as possible. That is why I was the first Member of Congress to post my public schedule online for everybody to see. My constituents can look at my schedule every day to see with whom I meet and which hearings I attend.

Now we have the opportunity to help regain trust in this body by bringing our own rules in line with the rest of America. By adding transparency and accountability, the American people will know we are working on their behalf without considering personal financial gains.

This bill contains a provision Senator BEGICH and I sponsored to ensure that the annual financial disclosure forms filed by Members of Congress are available electronically. As with most transparency, full transparency means the public has the right and the ability to see our records. In the 21st century, there is no reason we can't do it right away. Letting those disclosures sit in a filing cabinet somewhere in the Capitol Complex is not transparency; putting the files online in a searchable format is.

At a time of hyperpartisanship, this is an opportunity for both sides to work together on a bill we sorely need. There is not a Democratic or Republican angle to this. Every elected official should want to make sure the rules we are held to are consistent and transparent and in line with the rest of the Nation. In fact, this is as nonpartisan a bill as can be, with ideas from Senator GILLIBRAND and Senator SCOTT BROWN but carried by Senator LIEBERMAN. This bill covers each section of the political spectrum. It is a straightforward bill that is long overdue. The STOCK Act will be a step toward ensuring that when people run for Congress or come to work for Congress, they are doing so because they want to work on behalf of the American people and not for their own personal benefit.

I call on my colleagues on both sides of the aisle to vote yes on this act so we can restore faith in Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I failed to reference—I was hopeful I could have Nathaniel Hoopes participate in the legislative process and participate on the floor in this debate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I was going to reserve the right to object to Mr. BROWN's motion on behalf of Mr. Hoopes because I was about to that say the above-mentioned Mr. Hoopes got his start in my office and I was looking for an opportunity to say that.

We have about 20 minutes until the vote on the motion occurs. Obviously, we are all here together—Senator COLLINS, Senator BROWN, Senator GILLIBRAND, Senator TESTER, and I—to urge Members to vote for cloture, to take up this measure. It would be a ray of light—warm light—if we pass this measure, this cloture vote, overwhelmingly. Then we could go on to debate it.

Some people may have amendments—obviously, I presume they will—they want to offer. I hope that in considering amendments, our colleagues will focus on the problem that stimulated this legislation, that led Senator BROWN and Senator GILLIBRAND to introduce it and led our committee to pass it out on a bipartisan vote, which was the concern that Members of the Congress and our staffs are not covered by insider trading laws. This legislation makes clear that we are covered by insider trading laws and therefore can be investigated and prosecuted for violation of those laws, both by the SEC and the Justice Department, but we have also asked the ethics committees of both Houses of Congress to issue interpretive guidance, making clear that insider trading is also a violation of the ethics rules of both Chambers.

I am sure there are a lot of different aspects that Members of Congress, including ourselves on our committee who worked on this bill, might have in mind to also correct problems that exist, perhaps to also try to help rebuild public confidence in the institution of Congress, but I really appeal to our colleagues not to do so in a way that will make it more difficult or at worst impossible to fix the wrong, the problem that motivated this legislation, which is fear that Members of Congress and our staffs are not covered by insider trading laws.

I have talked to Senator COLLINS about this. Members have other ideas. Please introduce them as legislation. To the extent they are forwarded to our committee, we will give them hearings and due consideration and try to approach them thoughtfully and then follow the will of the majority of members of our committee. In other words, let's try to not make this measure so sweet or so good that it cannot pass.

I say to my colleagues, I just had a very unusual metaphor come to mind. I go to Dr. Seuss, one my favorite Dr. Seuss books I have not read in a while, ''Thidwick the Big-Hearted Moose.'' I don't know if you remember Thidwick, but he was a very good-natured moose. One by one through the pages of the book as Dr. Seuss records it, other animals in the forest want to lodge in his enormous antlers. He welcomes them until finally there is too much there and his antlers fall off and they all fall to the ground. We don't want this wonderful bill, which really does accomplish some very important things, to be so loaded that it falls to the wayside like Thidwick's antlers and does not pass.

I urge my colleagues to join us in a spirited debate, but let's exercise the kind of restraint, on a bipartisan basis, that will allow us to have a significant, bipartisan, good-government accomplishment here at the beginning of this session of Congress.

I listened to a conversation a while ago where somebody was asked, why is the public opinion of Congress so bad? And the answer was that it is because Congress has been so bad. This has not been a time in the history of this great institution that I think any of us feel good about. This is an opportunity to do something real that we can not only feel good about but, more important, that our constituents can feel good about.

I hope we will have a resounding vote at 5:30.

I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I concur, and I have always felt one good deed begets another good deed, and so on and so forth. This is a measure the American people are clamoring for. We need to reestablish the trust with the American people, and this is the first step in doing that very thing.

Once again, I thank the chairman for referencing something I failed to reference as well. I would encourage my colleagues on my side of the aisle and my friends on the other side of the aisle to keep all amendments germane. We need to make sure we move for cloture, get cloture, and then have a free, fair, and spirited debate on the issues that concern them but don't get sidetracked to the point where the bill gets killed or pulled. I think that would be a travesty and a mistake. So I am going to encourage my colleagues to make sure if they have a concern, let's air it out and take a full and fair vote on it and move forward.

I love hearing the Senator's stories. I am reading his book because of his knowledge and history and the way he can weave things back and forth. That is a very good analogy.

I too have concerns. We have referenced many times that there may be forces beyond us who want to make sure this doesn't come out of this Chamber and go next door and then ultimately be signed by the President. I am not one of them. I want to make sure—as the Senator from Connecticut, the Senator from Maine, and many of the other Members and the cosponsors—that this bill comes out in a good and fair form.

We are here for a very specific reason, to address a very specific issue that affects people, quite frankly, in a manner that I never thought was possible. If there are other concerns, I commend the chairman for publicly stating to bring them up in a separate matter on a separate bill and address them if there are issues we have missed. I have a fear—and I hope I am wrong—that by making it, as the Senator from Connecticut referenced, too perfect or too sweet, it could fail, and I don't want to see that. I want to make sure we have a laser-sharp bill that addresses a very specific issue, and if we do it together and work in a true bipartisan manner, we have an opportunity right now in this moment in our history of this country to do something special.

I was sent here to do the people's business, and I do it each and every day by working across party lines with good people and good Democrats like the Senator from Connecticut and others. I take that role very seriously. We have an opportunity right now to send a very powerful message for which the American people are yearning. They want us to do well. They want us to be good. They want us to be better than we have been representing ourselves right now.

So I am encouraging—just to reference and take it a step further—my colleagues to do the same thing. Let's put our party differences aside. Let's put the inner party differences aside and push this legislation through in a thoughtful, methodical, respectful, and responsible manner that will make the American people say: OK, it is a good first step. What is next, Congress? Are we going to do the postal bill and try to save the postal bill? I hope that is the next issue. We need to work in a truly bipartisan manner.

Once again, who is here? It is me, Senator LIEBERMAN, Senator COLLINS, and Senator COCHRAN who are pushing to try to save the post office. That should be the next issue. What is after that? We need to address our fiscal and financial issues so we can come out of this 3-year recession in a lean-and-mean manner so we can be a better country and be able to compete on a global basis. We need to start putting the American people's interests first instead of everybody else's.

I usually get in trouble when I go off like this, but I think it is critically important to let the people know that one good deed begets another good deed, and this is the first step in this new calendar year to do just that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I appreciate the comments.

Mr. President, I am pleased to report that I just received notice that within the hour the administration put out the Statement of Administration Policy—the so-called SAP—strongly endorsing this legislation, S. 2038, and we appreciate that very much. It is a very strong statement of support for the principles and exactly the kinds of things Senator COLLINS, Senator BROWN, Senator GILLIBRAND, Senator TESTER, and I have been saying.

As the President said in his State of the Union speech, if we can get this bill to his desk—and the sooner the better—he will sign it as soon as he possibly can.

If there is no one else who wishes to speak at this time, I would 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. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CLOTURE MOTION

Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

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, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 301, S. 2038, the Stop Trading on Congressional Knowledge Act:

Harry Reid, Joseph I. Lieberman, Sherrod Brown, Joe Manchin III, Tom Udall, Mark Begich, Herb Kohl, Bill Nelson, Frank R. Lautenberg, Jeanne Shaheen, Richard Blumenthal, Benjamin L. Cardin, Christopher A. Coons, Dianne Feinstein, Patrick J. Leahy,

Richard J. Durbin, Patty Murray, and Charles E. Schumer.

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

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S. 2038, a bill to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes, be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON), the Senator from Illinois (Mr. KIRK), and the Senator from Mississippi (Mr. WICKER).

The yeas and nays resulted—yeas 93, nays 2, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—93

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

NAYS—2

Burr	Coburn

NOT VOTING—5

Isakson	Landrieu	Wicker
Kirk	Menendez	

The PRESIDING OFFICER. On this vote, the yeas are 93, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Connecticut.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each, and that Senator GRASSLEY be recognized to speak for up to 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. LIEBERMAN. Mr. President, on behalf of the majority leader, he has asked me to announce there will be no more votes tonight.

If I may say, on my own behalf, we will go to the STOCK Act, S. 2038, tomorrow morning and hope anyone who has a relevant amendment will come to the floor and offer it.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Iowa.

ORDER OF PROCEDURE

Mr. GRASSLEY. Madam President, I have been asked by Senator BROWN of Ohio if he could be recognized immediately after me.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECESS APPOINTMENTS

Mr. GRASSLEY. Madam President, one week ago today, I addressed the Senate on President Obama's decision to bypass the Senate, and the Constitution as well, by making four ''recess'' appointments at a time when the President's recess appointment power did not apply.

I explained in detail why the legal memo released by the Obama administration attempting to justify President Obama's actions did not hold legal water.

Last Thursday, I laid out the case that this is not an isolated incident or a technical legal squabble. Rather, the President's recent actions are part of a pattern of disregard for the constitutional system of checks and balances.

Today, I will address why such criticisms are justified and why such criticisms are necessary.

First, is it legitimate for a U.S. Senator to criticize a legal opinion issued by the Office of Legal Counsel and the Senate-confirmed head of that office?

I have no doubt Senators may criticize such opinions and, when the facts warrant, ask whether that office and its head are exercising the independence that is required for the Constitution to be upheld. Recently, we read some in the media apparently disagreed with this. They say it is wrong for a Senator to ever criticize a Senate-confirmed official's independence and judgment. They say that all a Senator can do is criticize the official's substantive arguments.

I say nonsense. When the media makes these claims, it merely seeks to divert attention from the weakness of the opinion's actual conclusions and reasoning. In my statement last week, I laid out my disagreement with the contents of the Office of Legal Counsel. Of course, Senators and administration officials can reach different conclusions on the law; each can have a reasonable point of view; but that is not the case here.

If the Office of Legal Counsel is to be ''the Constitutional conscience of the administration'' that some in the media characterize it to be, it must exercise a certain level of independence, as I mentioned in my statement.

When a President who takes an expansive view of his power asks the Justice Department officials, who owe their job to him, whether he has the constitutional or legal authority to take such action, there is always the chance that pressure will overtake their responsibilities to provide their best legal judgment.

That is why at Ms. Seitz' confirmation hearing and in a followup communication, we took very painstaking efforts to give her the opportunity to state on the record her commitment to providing independent legal advice, to make sure she would place loyalty to the law and loyalty to the Constitution above her loyalty to the President. That was our purpose. Ms. Seitz promised to act independently. She promised not to stand idly by if she thought the Constitution was being violated.

The only way to tell whether the office has given independent advice, the only way to tell whether pressure has been resisted, is to review the arguments and the reasoning the Office of Legal Counsel provides.

The media cannot address criticism of whether the head of that office is independent and has used good judgment without such a review. It is not enough that the media might agree with her conclusions. In this case, the analysis in the Office of Legal Counsel opinion was so poor as to raise legitimate questions concerning judgment and independence.

The Office of Legal Counsel is supposed to give the President objective legal advice before that person acts. It is not supposed to provide a weakly thought-out rationalization for a Presidential decision to act that has already been made.

Here, the arguments in the opinion are so weak that a fair-minded person can question the independence and judgment of the opinion's author. For instance, the opinion is internally inconsistent. It correctly recognizes that a President's ability to make recess appointments turns on the capacity of the Senate to conduct business. But in determining whether the pro forma sessions constitute a recess, the opinion does not consider at all the capacity of the Senate to conduct business and what it could do. Rather, it relies upon what individual Senators said, not what the institution said or can do, and it ignores not only what theoretically the capacity of the Senate had to act but even its actual actions.

Similarly, the established meaning of the word ''recess'' is the same each

time it appears in the Constitution. Giving the term the same meaning means that the President can make recess appointments, but that this is a limited power.

The Office of Legal Counsel, contrary to clearly established precedent, inconsistently defines the term ''recess'' differently when it was used in different parts of the Constitution. But we cannot do that. The only thing consistent in the opinion is that it interprets recess each time in a way that expands the power of the President to make recess appointments and in such a way as to leave open the question of whether that power is limited in any meaningful way.

Former Federal Circuit Judge Michael McConnell, himself a former Justice Department lawyer who has defended Presidential power, found the arguments in the Office of Legal Counsel opinion to be so implausible—those are his words—that ''it is difficult to escape the conclusion that the Office of Legal Counsel is simply fashioning rules to reach the outcome that it wishes.''

Since the outcome that the Office of Legal Counsel wishes is to expand Presidential power contrary to the text of the Constitution, and also many decades of historical practice, it is quite fair to question the independence, the judgment, and the adherence to statements made during the confirmation process by the head of that office.

The media again focused more on personalities than on substance, and they will say the Bush administration reached a similar conclusion, so how can Ms. Seitz be criticized. That is where the media is coming from.

There are three points to be made that set the record straight for the newspaper.

First, President Bush did not make recess appointments when the Senate was in pro forma session. Secondly, President Bush did not even claim he could make such recess appointments while declining to do so. Third, his Office of Legal Counsel did not issue any opinion that would be binding on future Justice Department advice.

Unlike the public actions of the Senate-confirmed head of OLC, a lower level official in the previous administration, the Bush administration, apparently wrote a secret memorandum to the file on this subject.

The existence of such a memorandum was not known until the Office of Legal Counsel's opinion referred to it and sought to rely on it. It is not possible to evaluate the reasoning of that memorandum because the Department of Justice has not agreed to release it, despite my request that they do release it.

If the Office of Legal Counsel is to exercise the independent judgment that is necessary for it to properly perform its functions, it cannot rely on some sort of secret memo or memos from lower level officials. That approach creates incentives for the Office of Legal Counsel heads to avoid accountability. An incentive is created for the preparation of secret memoranda that make outlandish claims of Presidential power if they cannot be reviewed by anybody. No one knows of the memo. So its arguments do not face the transparency of public scrutiny. The President and Office of Legal Counsel take no responsibility for its conclusions.

Then the Office of Legal Counsel later issues a public opinion on the subject. To bolster very weak arguments, it cites earlier memos. But it avoids transparency as well by keeping the memoranda secret, so no one can see that the opinion's weak arguments may be supported by only other weak arguments. It avoids accountability by suggesting that this question was already decided by an earlier Office of Legal Counsel memorandum.

Instantly, the number of administrations that support expanded Presidential power goes from zero to two, neither one of which is said to be responsible for that expansion. That bootstrapping can never lead to a reasoned, objective analysis of Presidential power.

It cannot produce the independent OLC that Ms. Seitz promised the Senate she would provide at her confirmation. The media has also made the strange argument that Ms. Seitz' opinion must be professional and her judgment and independence cannot be questioned because of her high professional reputation.

Is that not a little bit backward? The legitimacy of the argument contained in a legal opinion is not established by the reputation of the person who wrote it. Reputations are not steady. They are established by the quality of the professional work, not the other way around.

In the past, a prominent Democratic Senator called for a judge to resign because of his legal work as Office of Legal Counsel head. The Washington Post, in an earlier editorial, criticized the opinions of other Bush administration OLC lawyers as displaying ''the logic of criminal regimes'' and ''bringing shame to the American democracy.''

If the Post truly believes that criticizing Office of Legal Counsel lawyers is beyond the pale, they should retract their earlier opinions and condemn the far harsher rhetoric that was hurled against Bush OLC lawyers.

While explaining what is wrong with the newspapers, I now go to explain why my criticisms were not just legitimate but they were absolutely necessary. Last Thursday, I laid out in great detail a long series of abuses of executive authority and usurpation of legislative authority by President Obama and his administration.

In fact, he made his willingness to bypass Congress a campaign issue with slogans such as ''We can't wait for Congress,'' and those headlines and slogans were splashed all across the White House website. President Obama has made the decision to run for reelection not on his record, for obvious reasons, but against Congress. In doing so, he is daring Congress to defend its role as representatives of Americans from each of the 50 States in the face of his unilateral agenda.

Some have suggested this is a clever political trap laid by President Obama; that if Congress resists the President's power grabs, it will validate his slogans and play into his electoral strategy. This may or may not be true. However, the stakes are greater than the next Presidential election, and the implications of the President's actions will be felt well beyond any short-term political gain.

The Framers of the Constitution foresaw the temptation by one branch of government to try to usurp the powers of the other branches. In Federalist 51, James Madison explained how the Constitution was designed to prevent power grabs through an ingenious system of checks and balances.

He wrote this long quote:

> But the great security against a gradual concentration of several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.
>
> The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition.

Of course, this assumes a desire on the part of each branch to guard its constitutionally granted powers.

If some Members of Congress are not willing to resist an encroachment because they place party loyalty above constitutional responsibilities or if members are reluctant to push back for fear of political consequences, then the system of checks and balances will not work as intended by our Constitution writers.

All Members of Congress swore an oath to support and defend the Constitution. That is our first obligation. I want to be clear that this is not an argument about constitutional semantics; it is one of fundamental principle.

As Madison explains in Federalist 51: The ''separate and distinct exercises of the different powers of government'' is ''essential to the preservation of liberty.''

This also goes beyond an argument about the ends to which President Obama has used the new powers he now claims. His agenda is controversial, to be sure, or he would not have had to bypass Congress.

Still, even those who support this President's policies should not be so quick to look the other way. Once the walls separating the powers allotted to each branch of government are eroded, they are very difficult walls to rebuild.

The most eloquent expression of the philosophy on which our Nation was founded is, of course, the Declaration of Independence. I quote the all familiar:

> We hold these truths to be self-evident, that all men are created equal, that they are

endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. . . .

Based on these fundamental principles, the Constitution laid out a form of government designed to protect individual rights by resisting the concentration of power. This can be frustrating to those who would like a more activist government. Still, these features of our Constitution perform a very important role in preventing one faction of Americans from dominating another faction of Americans.

I am sure President Obama is convinced his agenda is what is best for the country and that the ends justify the means in pursuing that agenda. But that is not the Machiavellian ideas that any of our Constitution writers had.

Naturally, he doesn't see any danger in concentrating power in the Presidency because he believes he will use that power very wisely. Moreover, he has gone out of his way to identify himself with the school of thought that the constitutional separation of powers is an outdated barrier to change.

Last month, President Obama gave a speech in Kansas in which he sought to link his agenda to Teddy Roosevelt's famous ''New Nationalism'' speech at the same place in 1910. The original speech marked the beginning of Roosevelt's break with many of his past policies and with the incumbent Republican President, William Howard Taft.

Roosevelt then went on to challenge Taft in the 1912 election, heading up the Progressive Party ticket. You know that both Roosevelt and Taft lost.

In that 1910 speech to which President Obama paid tribute, Roosevelt described his new nationalism as ''impatient of the impotence which springs from overdivision of governmental power.''

This philosophy seeks to fundamentally transform the United States from a nation founded on the principle that protecting the unalienable natural rights of each citizen is the paramount goal of government to one that empowers an enlightened elite to take whatever actions they deem necessary to correct perceived wrongs in society. In other words, throw the Constitution out the door. This may start out with very good intentions, but there is no guarantee that once our constitutional protections are gone, future leaders will always act in the most enlightened way. In fact, the single-minded pursuit of a better society at the expense of individual rights has led to some of history's worst tyrannies.

Moreover, not only is the concentration of power in the executive branch contrary to the founding principles of our Nation, it is foreign to the realities of American civic life. With a country as large and as diverse as ours, no individual can claim to speak on behalf of all Americans. Our constitutional system, based on federalism, separation of powers, and checks and balances helps ensure that each American has the opportunity to live their life as they see fit.

I return to the words of James Madison:

It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of society against the injustice of the other part.

The voices of all Americans deserve to be heard through the elected representatives of the people. That is what is at stake. Those of us who were elected to represent the people of our States should do just that or we deserve not to be here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I want to take 60 or 90 seconds to discuss the subject that the Senator from Iowa discussed; that is, the appointment of Richard Cordray to the Consumer Protection Bureau. I checked with the Senator's story earlier during this move through the Banking Committee on which the Presiding Officer sits. Never in history has anybody in one party blocked even a vote of a Presidential nominee who is admittedly qualified only because they don't like the agency.

That would be a little like, as Senator REED from Rhode Island said, refusing to confirm an appointee to run the FDA until the Congress weakens food safety laws. It runs counter to everything we believe. I wasn't insisting that my Senate colleagues all support Richard Cordray, former attorney general from Ohio, who is eminently qualified for this job. We were saying to just let it come to an up-or-down vote.

Instead, the minority party filibustered, stopped that, and the President had no choice but to act because the agency simply could not do its job. Only 2 years ago, this agency was created, this consumer bureau, to have a consumer cop on the beat to keep Wall Street banks and payday lenders and everybody in between honest. It took 60 votes in the Senate, including the Presiding Officer and me, and 58 others, to say this agency should be created and the consumer bureau should be in effect. That is the history of that.

RECOGNIZING BRANDON MOORE

Mr. BROWN of Ohio. Madam President, I rise today to honor Detective Brandon Moore, of the Morrow County, OH, Sheriff's Department and Ohio's first recipient of the Congressional Badge of Bravery.

Established in 2008, the Congressional Badge of Bravery is an annual award from the U.S. Attorney General to public safety officers who display bravery in the line of duty.

Earlier this month, Congressman JIM JORDAN and I had the honor of presenting the award to Detective Moore, along with Morrow County Sheriff Steven Brenneman and sheriffs and law enforcement officers from across central Ohio.

It was an honor to meet Detective Moore—to hear his story of heroism and to see his humility firsthand.

In October 2010, Detective Moore was shot multiple times and nearly killed in the line of duty during an ambush and firefight.

When you hear about what happened, you can imagine the scene.

Then-Deputy Sheriff Moore received a report of neighbors engaged in a property dispute.

He traveled to the scene. But in the course of the investigation, he suspected criminal drug activity in one of the homes.

The story quickly turned to the unimaginable.

One of the neighbors came out of his house with an assault rifle and started firing.

Detective Moore was shot in the groin, leg, foot, and abdomen.

As Detective Moore has described it, the normal reaction of fear, shock, doubt, and panic was overwhelmed by a calmness that only highly-skilled police training could provide.

Severely wounded and laying on the ground—Detective Moore first used his belt to create a tourniquet on his leg. He then shot and disabled his assailant from more than 50 yards away.

In doing so, he saved himself, three civilians, and other officers.

Yet his injuries were so life-threatening that he made the unimaginable call to his wife—Diandra, his high school sweetheart—explaining what happened, wanting her to know how much he loved her and their children, Alec and Andrew.

Fortunately, help quickly arrived to the scene.

Detective Moore was airlifted to the hospital for multiple surgeries and where he stayed for a month.

Law enforcement from across central Ohio visited the hospital to show their support—speaking volumes of the solidarity of a sacred brotherhood and sisterhood.

Today, Detective Moore is on the road to recovery—well ahead of schedule.

He was told it could take two or three years before he could return to duty. Detective Moore thinks he'll do it in 18 months.

He recently hit one of his goals of running a quarter of a mile without stopping. Before April, his goal is to run half a mile.

And as difficult as the recovery has been for him—he remains grounded by humility and faith, and the love of his family.

Diandra has been with him on every step of the highs and lows of rehabilitation.

To their children, Alec and Andrew, when you're older, you'll understand more than most people, the meaning of duty, love, and faith.

I had the honor of meeting Detective Moore's parents, who raised him and his siblings near my hometown of Mansfield, OH.

His parents—mother Tommie and father Jim—still live there.

Jim is also a police officer—the sense of duty and faith runs deep in the family.

And it's not just for a father seeing a son follow his footsteps—it's also for a mother seeing both her husband and son put on a uniform to protect the public.

Like much of our great State, Mansfield is a place where you grow up with the values of hard work and fair play—service, community, and faith.

Detective Moore's story illustrates those values as clearly as any.

We ask a great deal from our law enforcement officials—to risk their lives each day and each night.

And while we may never guarantee their safety, in honoring their service we give meaning to their sacrifice.

That's what the Congressional Badge of Bravery reflects—the very character of our Nation that honors those who serve us.

We ask. And as he says himself, guided by faith in God, family, and his fellow officers, Detective Moore gave. And we're all humbled by that service.

Thank you, Detective Brandon Moore. A proud State and grateful Nation continue to offer our prayers and well wishes for you and your family.

I yield the floor.

TRIBUTE TO COMMISSIONER MICHAEL COPPS

Mr. ROCKEFELLER. Madam President, I rise to honor Dr. Michael Copps. At the end of last year, Dr. Copps retired from public service—though not from public life.

For those of you who do not know him, I want to take this opportunity to tell you about him, the life he has led, what he has done for this country—and what he has done for all of us.

After earning a doctorate in U.S. history from the University of North Carolina, Dr. Copps headed south to the Big Easy. He taught history at Loyola University in New Orleans. It was there that he met his wife Beth.

Academe had its pull. But so did Washington. So in 1970, he convinced his wife to pack up their life and move north to the capital. He heard the call of policy and politics and told her that after he got it out of his system, he would head back to university life.

He never did head back to the halls of the academy. But his keen mind, calm demeanor, and dedication to the public interest have taught all of us about what it is to lead an honorable life in public service.

He started in Washington in the office of Senator Fritz Hollings. He eventually served for over a dozen years as Senator Hollings' chief of staff. He is well known and well loved by so many who served in the office of the South Carolina Senator. I know that Fritz Hollings too is proud to call him a colleague and friend.

From the Halls of the Senate, he headed on to industry. He took on policy operations in Washington for a Fortune 500 manufacturing company. He also worked at a major trade association.

With the election of President Clinton, however, he again heard the call of government service. He first served as Deputy Assistant Secretary at the U.S. Department of Commerce. During his tenure, he fostered public sector and private sector cooperation to strengthen American industry. He led the U.S.-Russia Business Development Committee's oil and gas working group. In this role, he pushed successfully for the removal of an export tax for U.S. companies shipping oil out of Russia. He negotiated power, chemical, and automotive policies with China. He built partnerships involving forest products, agriculture products, and electrical power in Russia, Ukraine, and Turkey. He assisted generously with global automotive negotiations and trade promotion initiatives.

Five years later, he was nominated and confirmed by this body, for Assistant Secretary for Trade Development at the U.S Department of Commerce. Again, he served nobly. He worked with the private sector to expand commercial opportunities for U.S. businesses in the global economy. He oversaw a reorganization of trade development within the Department, creating a new office focused on information technologies industries. He also advocated internationally for the creation of independent telecommunications regulatory regimes, transparent legal authority for telecommunications, and investor-friendly climates for information technology.

He did all of these things at the Department of Commerce with his characteristic force, impressive analytical skills, and customary grace.

But it was only sometime after his tenure at the Department of Commerce that I really came to know Dr. Copps. That was when, in 2001, he was first nominated, and later confirmed, for the role of Commissioner at the Federal Communications Commission. He brought to the role the same energy and enthusiasm that he displayed at the Department of Commerce. He brought the same sense of conviction, and he brought the same belief that through expanding the stakeholders in any dialogue, we can enrich our conversation, grow our economy, and enhance our public life.

His accomplishments over the course of his two terms at the agency are too numerous to mention. So I will dwell only on a few.

First, as the Acting Chairman of the agency he led the national transition to digital television. He was the man in charge of keeping the television on, as our Nation's broadcasters ceased sending signals in analog form. His calm, clear focus, and ability to marshal public and private efforts to manage the transition kept millions and millions of households with access to television news, emergency information, and entertainment.

Second, he called early and often for policies to support broadband, understanding well before others that broadband is the great infrastructure challenge of our age. It was here that his eye for history served him especially well, as he analogized between broadband networks and the railroads that criss-crossed our country more than a century before; between opening ports to new markets and opening communities through new communications networks; and between the need for our interstate highway system and the need for new broadband byways. He called for a national broadband plan well before it was popular to do so. He reminded us that rural Americans must not be left on the wrong side of the digital divide. In fact, he tirelessly pressured to expand service to the historically underserved—from rural areas, to Indian Country, to those with disabilities, and more—believing that access to communications technologies strengthens our economy and our democracy.

Third, he was an early champion of the open and free Internet. As our lives migrated online, he saw the risks posed by the control of both connectivity and content. He gave early voice to basic concepts that grew to become network neutrality.

Fourth, and finally—he has emerged as an important voice on media policy. He has never shied from asking the hard questions about our media institutions. He has criticized media concentration for diluting the diversity, localism, and competition we need in our information sources. He has worried for all of us that with the shuttering of newspapers and thinning of journalism's ranks, we are doing great harm to the public's need to know. He was not blind to the great informational promise of the Internet, but instead a realist about its near-term journalistic limitations. Without an informed citizenry, he reminded us over and over again, we risk what is essential for democracy. His zeal for this issue was anything but academic. He took to the road and held countless hearings outside of Washington—giving thousands of people across the country the opportunity to speak about the changes in our media landscape, and the information they need in their communities.

As part of this, he also pressed for less indecency in the media, and less coarse content on our airwaves. His media policies had fans and also detractors. But both uniformly respected how he took on these issues and how deeply committed he was to his cause.

Simply put, they do not make men like Michael Copps anymore. He represents the best in public service. So as Dr. Copps turns in his badge and turns

to spending more time with Beth and their family of five children, I wanted to come to the floor and congratulate him on his accomplishments. His has set an example for all of us. This one-time history professor has earned his place in history. I know I am grateful for his service to this country. I am also grateful to call him a friend.

TRIBUTE TO THE DICK FAMILY

Mr. MCCONNELL. Madam President, I rise today to honor a family of entrepreneurs who have been loyal and persistent in contributing to the economy of the Commonwealth, the Dick family of Science Hill, KY. The late brothers Arl and Carl Dick opened two separate general stores over 60 years ago which are still open for business and family operated today. In the midst of an economy where small businesses commonly struggle, it is inspiring that Kentucky's very own Pulaski County has two successful family-run businesses that have withstood the test of time.

The brothers Carl and Arl were Kentucky natives, but were living in Ohio when they decided to return to their Pulaski County roots and open a general store that would become a backbone in the local economy. At the beginning of 1952, there were a total of three general stores in the downtown area of Science Hill; one owned by local businessman Ed Gibson and the other two belonging to the Dick brothers. The stores were ahead of their time; they not only carried a full line of groceries but were supplied with items such as shoes, clothes, and hardware as well.

None of the three stores were necessarily in competition with each other because each store specialized in carrying a different supply of items. Carl's grandson James Dick, who grew up working in the family business, started out as a delivery boy. If a customer requested an item that a particular store did not have in stock, James would run from store to store to find the item and make sure it was delivered to the customer.

Carl's son Russell Dick remembers the generosity his father showed to customers on a daily basis. Carl initiated a local system of credit so farmers could obtain the items they needed with an agreement that they would pay for the items as soon as their crops were sold. Carl was also notorious for investing in the local economy. He would lend money to farmers who wished to purchase new farm equipment and entrepreneurs who were interested in starting local businesses, all of which was paid back to him in full.

For the past half century, the general stores of downtown Science Hill have provided a family atmosphere for customers and have established a reputation for caring about their community. Carl Dick's General Store—now run by Carl's son and daughter-in-law Russell and Hazel Thurman Dick—and Science Hill Market, now run by Arl's widow Ruth Elliot Dick, still value friendly, caring customer service above all else. This devotion to the local customer has led to the long-lasting success of this small Kentucky business in today's modern economy.

The Pulaski County-area publication the Commonwealth Journal recently published an article that illustrates the impact three generations of the Dick family and their businesses have made on the community of Science Hill. 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, June 19, 2011]

CARL DICK'S GENERAL STORE: A SCIENCE HILL TRADITION

(By Don White)

Wal-Mart would have had a tough time competing with the Science Hill of yesteryear.

Three general merchandise stores once operated downtown, all within a few feet of each other, carrying items ranging from shoes and clothing, paints, wallpaper, and flooring, to a full line of groceries.

Brothers Arl and Carl Dick each opened his own store at about the same time, and both remain in business.

Arl's widow, Ruth Elliot Dick, is owner/manager of Science Hill Market, and across the way is Carl Dick's General Store, where his son and daughter-in-law Russell and Hazel Thurman Dick hold down the fort, often assisted by their son, James.

The Pulaski County natives opened their stores in 1948 and 1952 after returning home from living in Ohio.

''Arl's is the oldest, and the other store in town was operated by Ed Gibson,'' says James. ''They were so close together, it was almost like they were under the same roof,'' notes the former delivery boy/floor sweeper/stocker, and cashier who grew up in the business.

James supplemented the $5 per week paid for working in the store with such chores as delivering mail, watering flowers for residents at a nickel per job, and mowing lawns.

''I was so young when I started mowing my customers had to start the mower for me,'' he says laughingly.

Often, when things were extra busy in the store, James welcomed the opportunity to make deliveries and figures he went to every house in town, either by walking, riding a bike, motorcycle or driving a golf cart.

''When our store didn't have something a customer wanted, chances were pretty good one of the others would, so I did the running from store to store picking up and delivering the items.''

The 45-year-old bachelor and 1984 Somerset High graduate remains on the run, currently serving as president and CEO of Morris & Hislope and Pulaski Funeral homes, in addition to being a licensed funeral director. Life lessons learned in the store are given credit for the success he enjoys today in the world of business and helping people.

He learned about credit due to a big portion of the customers purchasing items with an agreement to pay when their crops were sold.

When adults would gather around the coal stove in the center of the building and swap stories and words of wisdom, James tried to stay within hearing distance.

''Adults were always talking, and I was listening, picking up lots of good advice along the way.''

His papaw stressed the value in remaining humble throughout life, saying . . . ''If you've got a quarter in your pocket, be sure and make people think it's a nickel,'' and to always be thrifty.

''I once ended up with $25 at the end of a month of working, and they took me to Roses to pick out toys. I bought all quality toys. Ended up with a basket full and plenty of change left over.''

Well versed in local history, James says his pawpaw's store was called Four Brothers and operated by the Randall brothers when Carl took over.

Arl purchased his store from Millard Roy.

''All the stores stayed extremely busy, and there was never a feeling of one being in competition with the other because each was known for certain items.

''We specialized in shoes, feed and clothing,'' says James.

''I can remember selling bibbed overalls for $2.98 per pair,'' says Russell, also widely known as a used car dealer from 45 years with two lots in Science Hill.

James has always been aware of the respect people in the area have had throughout three generations of service for Dick family members.

''I have all good memories of growing up in Science Hill, a really close-knit community that's a great place to live and work.

''It's been a pleasure to see all the progress, like watching Charles Hall (former superintendent for the Science Hill Independent School System) build that school into one of the best in the state.''

At the visitation for his papaw, he heard from dozens of people about the things he had done for them, including lending money for the buying of farm equipment.

''Vernon Merrick told me that papaw took a dollar off every pair of shoes he bought his children, and that meant a lot.''

Coming to town to ''do your tradin'' '' at the three stores was a big deal.

''I seldom meet an area family who didn't shop downtown,'' he says.

And the best thing about the good ol' days is that they aren't over yet in Science Hill, Kentucky.

Carl Dick's General Store is open Monday through Saturday from 8 A.M. until 5 P.M., still selling everything from delicious baloney sandwiches to diamond rings.

Even old-fashioned candy is still sold by the pound at Christmas time.

In fact, the shelves are still stacked high with so much merchandise, the walkways are passable, but very narrow.

''Chances are, if you want it, we've got it, if we can find it,'' says Hazel.

ADDITIONAL STATEMENTS

TRIBUTE TO JAMIE KAMAILANI BOYD

• Mr. AKAKA. Madam President, I wish to congratulate an innovative educator and health care professional from my State, Jamie Kamailani Boyd, from Kaneohe, HI, on receiving the Robert Wood Johnson Foundation 2011 Community Health Leaders Award. The award was presented at a ceremony last November in Baltimore.

This award was given to ten individuals throughout the Nation who have overcome challenges to improve health and quality of life in disadvantaged or

underserved communities. The award provides $20,000 to each recipient for personal development and another $105,000 to the project with which the awardee is affiliated. I am confident that this funding will be put to good use in Dr. Boyd's hands.

Dr. Boyd is a nursing assistant professor and a health programs coordinator for the University of Hawaii's Windward Community College, WCC. She is the first Native Hawaiian faculty member at the University of Hawaii to have earned a Ph.D. while also being a registered nurse. Carrying on a family tradition of nursing learned from her grandmother, she set out to better the health care system in Hawaii by improving nurse training and patient care.

To help achieve those goals, Dr. Boyd created the Pathway out of Poverty program at WCC. The program is founded on Native Hawaiian cultural values and seeks to encourage and train Native Hawaiian and disadvantaged students pursuing careers in nursing. She aims to reduce poverty, increase the number of Native Hawaiian nurses, and improve the quality of nursing care by producing more empathetic and culturally competent providers. Today, Dr. Boyd trains about 50 nurse's aides a year with approximately one-quarter of them going on to pursue an RN degree.

As an educator and former principal, I know firsthand about the countless hours that go into creating curricula and reaching out to students. It makes me proud to see outstanding educators receive well-deserved national recognition for their hard work. Dr. Boyd's dedication to her field and to the people of Hawaii is undeniable. I applaud her for earning this outstanding recognition, and I wish her much continued success in her future endeavors.●

100TH ANNIVERSARY OF NEW MEXICO'S STATEHOOD

● Mr. BINGAMAN. Madam President, this month marked the 100th anniversary of New Mexico's statehood. In recognition of this occasion, the Senate Historian, Donald Ritchie, wrote a wonderful piece highlighting the political and ethnic issues surrounding New Mexico's efforts to become a State. I thought it would be nice to share this historical note with the public by including it in the CONGRESSIONAL RECORD.

Mr. President, I ask that Mr. Ritchie's Senate Historical Minute, titled ''New Mexico Enters the Union,'' be printed in the RECORD.

The material follows.

SENATE HISTORICAL MINUTE—JANUARY 6, 1912

NEW MEXICO ENTERS THE UNION

A century ago, on January 6, 1912, New Mexico entered the Union as a State. This ended a 64-year effort to achieve statehood, stalled by a combination of political and ethnic prejudice.

In 1848, the United States acquired vast territories in the Southwest under the Treaty of Guadalupe-Hidalgo, which ended the Mexican War. The problem was how to organize this territory without inflaming tensions between the North and South over the spread of slavery. The treaty had provided that inhabitants of the territories would become citizens and would be admitted into the Union as States ''at the proper time (to be judged by the Congress of the United States).'' President Zachary Taylor thought that sectional tensions might be eased if New Mexico and California immediately applied for statehood and avoided territorial status. The Compromise of 1850 admitted California but ignored New Mexico's application for statehood.

Over the next six decades, other Western States were admitted ahead of New Mexico. Congress at that time was often divided between a Democratic majority in the House and a Republican majority in the Senate. Each party tried to block the admission of a new State that might give the other party two more Senators. Because New Mexico was viewed as a potentially Democratic state, the Republican Senate thwarted its admission. In 1888, Republican majorities in both houses passed an omnibus statehood bill that enabled North and South Dakota, Washington, and Montana to move towards statehood, but omitted New Mexico.

Besides politics, New Mexico met resistance from Senators who questioned whether its largely Spanish-speaking, Catholic population was capable of self-government ''in the Anglo-Saxon sense.'' Senator Albert Beveridge, who chaired the Committee on Territories, traveled through New Mexico and Arizona in 1902 and came back convinced that neither was ready for statehood. President Theodore Roosevelt, however, was anxious to settle the issue, and to break the log-jam he proposed combining the territories of New Mexico and Arizona into a single State. Its capital would be in Sante Fe, but it would take the name Arizona. When submitted to the voters, New Mexico passed the proposal, but Arizona soundly defeated it.

In his last annual message to Congress, President Roosevelt abandoned the idea of a combined territory and proposed that each should gain statehood. Senator Beveridge continued to fight statehood, but in 1910 Congress adopted the Enabling Act to admit both New Mexico and Arizona. New Mexico immediately submitted an acceptable constitution, but objections were raised against Arizona's more progressive constitution. As a result, New Mexico's admission was blocked by a Senate filibuster until Arizona's constitution was also approved. New Mexico at last became a State on January 6, 1912, and Arizona followed a month later.●

TRIBUTE TO SHERIFF PAUL LANEY

● Mr. CONRAD. Madam President, I wanted to say a few words today about Paul Laney, who is the Sheriff of Cass County, ND. Sheriff Laney has just been named the Sheriff of the Year for 2011 by the National Sheriff's Association, and I can tell you that it is a well-deserved honor.

Sheriff Laney has long been known for his tireless, diligent and innovative efforts on behalf of the people of Cass County. He is always out in public putting the best face on the Sheriff's Department and working hard to strengthen community bonds in that part of the Red River Valley. Last year he received the 9–1-1 Government Leader Award from the E9–1-1 Institute for his work in helping create the Fargo-Moorhead regional dispatch center, which was the first in the nation to integrate services across State lines.

Sheriff Laney also played a strong and pivotal role in coordinating response to major flooding in both 2009 and 2010 in Cass County. The flooding in 2009 was the worst ever seen in the region, and his leadership made a major difference in a situation that many thought would end in catastrophic loss.

I congratulate Sheriff Laney for being named Sheriff of the Year. I know the citizens of Cass County, like me, greatly appreciate all he has done on their behalf.●

VERMONT STUDENTS' ESSAYS

● Mr. SANDERS. Madam President, I ask to have printed in the RECORD these essays written by Vermont High School students as part of the Second Annual ''What is the State of the Union?'' essay contest conducted by my office. The following essays were selected as ''Honorable Mentions.''

The Statements follow.

HANNAH APFELBAUM, CHAMPLAIN VALLEY UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

America is not living up to its full potential. We have one of the highest child poverty rates in the Western world, a high unemployment rate, and test very low in math and science compared to other developed countries. And that's not all—we also face environmental challenges and the decline of the middle class. We must use our differences to unite us by tackling all aspects of the issues we face. But America is asking how, specifically, do we solve these problems?

First, we need to decide what problems not to solve. Iraq and Afghanistan are not in ideal condition. This does not mean, however, that we should be pouring all of our money into military efforts there. Instead, we need to make more money available for the most pressing issues in our own country.

One way to make more money available is to stop giving the wealthiest people the biggest tax cuts. It is understandable that politicians are concerned about backlash from these influential citizens, but the majority of people in this country—the middle class—needs to be taken into account. With the national debt becoming greater and greater, these tax cuts simply are not sustainable.

So where should our money go? The first priority should be education. Successful experiences in the early years of school make children much less likely to drop out or end up in prison—an entity that tax dollars pay for, with less than stellar results. Investment in public elementary schools benefits both the children and the general public. We also need to spend money on college financial aid programs. The most successful students who cannot pay their own tuition deserve to have this opportunity, and will most likely make a large contribution to society in their adult lives. All contributions to education will help make Americans qualified to obtain jobs that will provide them with comfortable wages, and stimulate the economy.

We also need to spend money on healthcare. Every American has the right to ''life, liberty, and the pursuit of happiness.'' Life, especially, is very hard to maintain without adequate healthcare. The right to be safe is something that needs to be provided

to all citizens. It is simply not acceptable for a child in need of a treatment such as chemotherapy to not be able to access it. It is time that we live up to this responsibility. And in providing safety, a clean environment is also essential. Clean air helps reduce our risk of cancer, lung disease and numerous other health issues.

America—now is the time to make choices for the benefit of our national community. We need to fund education. We need to fund healthcare. We need to take environmental action. It is time for each of us to advocate and actively work for these policies so that America can reach its full potential.

ERIN CLAUSS, CHAMPLAIN VALLEY UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

My fellow Americans, as we move into 2012, there are serious issues that must be resolved. The American middle class is in crisis. Hard-working Americans are losing their jobs, and are unable to care for and provide for their families. This nation is drowning in debt. Americans are unable to pay for basic needs, like healthcare.

The Occupy Wall Street movement has brought to all of our attention how important fixing the economy is. As of November 2011, 7.6 million Americans have lost their jobs during this recession. The unemployment rate is declining, but there is still much work to be done. These people want to be able to support themselves. They don't want to be living off food stamps and have their homes foreclosed on. They want to work. They want to be able to afford to give their children a college education. The United States has the most expensive college tuition in the world, leaving young adults struggling with debt. They have difficulty paying off that debt when they are unable to find a decent job after graduation.

Part of the solution must be to raise taxes on America's wealthiest citizens. This isn't about class warfare. It's about saving the American economy. Those who can afford to pay more have the responsibility to do so. To be able to pay off our debt and bring back the so-called ''American dream,'' we desperately need to raise revenue, and this is the clear solution.

Due to this recession, many Americans cannot afford to buy health care. They are uninsured and unprotected. Over 44 million Americans do not have health insurance. This is an outrage. Health care is a basic right that should be guaranteed for everyone. If, in the Declaration of Independence, we, as a nation, claim to guarantee the rights to life, liberty, and the pursuit of happiness, we must do so. By allowing insurance companies to deny our people adequate medical care, we are taking away their right to life. This must be remedied.

What we really need now is compromise. Nothing can or will be achieved if the leaders of our nation, the representatives of the people, refuse to compromise and work together towards the betterment of our country. This crisis is not unsolvable. We have the tools to fix the situation in our nation today, but only if both sides are willing to make concessions to help us move forward into the future as a powerful nation.

Thank you.

YAMUNA DAHAL, WINOOSKI HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

The United States of America is country of opportunity and success. We believe in our country and our confidence. We believe that we would eventually succeed overcoming any obstacles. We never fear to try something new. We are always trying to show the world our power of unity and diversity. We got the best entrepreneurs in this country whose continues hard work and confidence made our country the best among the world, we do have some issues that need to be fixed.

Our parliament system is based on equality and liberty. Our democratic governmental system enhances the public voice to be heard. Anyone, who is capable and willing of leading this country, could be elected freely regardless of their ethnicity, race or social background.

For the last decade, our country is facing many problems. The average income for the American family is falling down. Many of our American families are losing their jobs because companies outsourced their jobs to foreign land. Companies and rich peoples are getting richer whereas the average income families are falling towards the poverty line. There are others concerns like illegal immigration, and increasing crime. There are also issues such as recovery of hurricane Katrina at New Orleans, Oil spill at the Gulf of Mexico and California fire. I could go on and on and never finish mentioning our problems.

However, for our generation increasing college tuition is a matter of headache. Our parents' incomes are spent paying their college loans and home mortgages. Today 'saving for the children's college' is rarely heard from average income family parents. Today, it's very hard to get accepted for scholarship at colleges and university so the only way to go to college is to 'take a loan.' However, in this economy, many of our college graduates are jobless and are under the debt of more than 100K dollars. And the numbers of those college graduates are increasing along with their debts. Many students get frosted about their college loans and choose to go to community college. Universities and research centers are beyond their imagination. It is decreasing our confidence and our hope for the better future. As a young high school student, I myself have to start thinking about college and my future jobs as early as my eighth grade.

To prevent ruining our future the government should put a limit for private colleges and universities tuition. There should be more scholarships available for needy students. High school students should get opportunity to take college courses during summer to reduce their semesters when they actually go to college. They should be properly trained about money management and time management. The government should increase and improve community colleges and government state universities and reduce the price. The number of colleges and universities should be increased in the remote site of the country and make it more accessible for everybody.

JULIENNE DEVITA, CHAMPLAIN VALLEY UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

Dear Fellow Americans: Today, I stand before this great nation, to speak to the concerned, hardworking Americans, with the intent of bettering the state of this country. I would like to bring to your attention three of the most pressing issues which I feel need to be addressed in 2012 in order for the United States of America to reach it's full potential; the environment, our economy, and college education costs.

This past year, after 10 years of war, and frustration, the United States Military Forces found and defeated a key leader of the Al Quaida movement; Osama Bin Laden. This brought relief and feelings of security back to Iraqi and American citizens. We ended a war and are bringing our troops back home. Now however, it is the time for our government to focus on domestic issues, three important things that need to get done in our country.

Firstly, fossil Fuels are a finite commodity in our world today, and whose dwindling supply has lead our country to face the unavoidable subject of Global Warming. We need to focus the public's attention not only on the devastating effects of the environment, but ultimately what will happen to human life on this planet. There needs to be more public awareness of the long-term disastrous affects that global warming will inevitably bring to our world. We need to commission scientists to create more practical and affordable solutions to this problem.

Another issue that is of paramount importance is the state of our economy. We must invest in America; American jobs, American-made products, and the American people. Companies need to be rooted in this country so that more jobs can be made available to the 8.6 percent of unemployed Americans. Financial incentives must be available for businesses to stay in the U.S. and employ the American workers.

America needs to close the vast gap between rich and poor in this country. Actions that progress the wealth down through the middle and lower class are essential. Since 1978, the cost of college tuition has increased more than 900 percent. Costs of a college education have to be more affordable for our young adults who are planning and investing in their futures.

As we reach towards these goals, our country's leaders have to come together and put aside their religion, skin color, or the fact that they are a Democrat or Republican in order to address these issues and find solutions. We must put aside our differences and compromise towards the common good. Individually we are not as strong as when we all work together.

We are a country rich of talent, knowledge, and resources. By vowing to work together on the issues of the environment, our economy, and college education costs, we will be ensuring a better future for all Americans. Let's make our future one to look forward to.

ALDEN FLETCHER, CHAMPLAIN VALLEY UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

Our union is a union of people, a people who recently have been vocal about the state in which they find themselves. From the tea party to Occupy Wall Street, everywhere there is a movement rising up, demanding similar changes to a broken system. The people are hurting, they have lost their jobs, they are dealing with a harsh economic recession and thus far our government has failed them.

Our government has proven itself incapable of effectively dealing with the diverse and complicated problems currently threatening this nation. Our legislative body is crippled by partisan gridlock, the executive branch has been lenient in its duty to protect the American people and their rights, and, the power of common citizens in politics is being marginalized in favor of the interests of the wealthy. The need for reform is evident.

First the influence of special interests in government must be diminished; legislators should be motivated by a desire to ensure public good, not a job at a lobbying firm. In addition, the effects of Fec v. Citizens United must be reversed, and new restrictions must be established that limit an organization's media power and its access into the political system.

Second, we must be certain that the federal government is vigorous in its regulatory capacity. Whistblowers, people who report

nefarious or negligent activity against the public, must be protected to the utmost; further initiatives need to be taken that increase accountability within the government bureaucracy. This will guarantee that the federal government does not abuse its power in the same manner as it has with national security.

Our country is a democracy, and it is the citizens' prerogative to keep government in check. However, many states have instituted laws that place unnecessary burdens upon voting rights. In order for a democracy to function it requires popular participation and it should be the imperative of government to encourage all those who are eligible, to vote. Through the means of a constitutional amendment, the federal government must be granted increased jurisdiction over national elections. Thus the government can create standardized voting requirements, implement automatic voter registration and facilitate absentee balloting, all of which are vital steps to giving underrepresented groups, for instance young people, more of a say in the national debate.

Finally there must be a new a sentiment of cooperation and compromise in Washington if there is to be progress. A government that continually threatens to shut down due to petty disputes does little to serve the people. Changing the way this nation is governed will allow us to tackle issues from climate change to inequality, from the rising cost of college education to promoting human rights across the globe. However, if no action is taken we can accomplish nothing, and it is our responsibility to be an educated and vigilant electorate, to ensure that this does not happen.

JACK DU PRE, VERGENNES UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

The state of this nation is declining. It has become an age where men and women of higher education status can't find work and an age where the natural order of employment has been shaken by a decline in productivity and availability of jobs. Teens, like me, cannot find work due to the fact that many ''white collar'' workers have no choice but to take jobs that they would normally not consider. At a resort near my school, the common denominator of the wait staff this summer was that most held Masters Degrees and two held PhD level educations. Waiting tables was what they could find for work.

From our youngest days in school we are charged to go to college and further our education. We are taught that the American dream is alive, well and available for those diligent and hard working. The present realities make that seem more like a fairy tale and the realities of the current economic situation more of a harsh reality. America is in need of a direct approach to stimulate the economy. The answer is not pouring more money into the economy, but deciding what will be made here and made with precision, passion and pride. The economy is stagnant because of lack of direction and focus.

In conclusion, the mending needs to come from three places. It needs to come from a Congress joined by a common interest—America and not divided by partisan rhetoric and a current state of blaming the other side. It needs to come from American corporations who decide to invest in America and in American ingenuity. Lastly, it needs to come from the people who are mired in frustration and apathy. If all three forces face the future and address the issue of what America truly needs, then the country can begin to live as it has in the past, as a beacon for other countries as a place where dreams can come true.

EMMA HAMILTON, CHAMPLAIN VALLEY UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

At the dawn of 2012, the United States is facing a multitude of pressing issues. Currently, the U.S. poverty rate is 15.1 percent, the highest since 1993; the unemployment rate is 8.6 percent; and an unprecedented string of natural disasters has overcome our country in 2011. Compounding all these problems is our divided Congress, which has proven to be largely ineffective in addressing these daunting issues in a concerted and resolute manner. In this critical time, it is imperative that change comes soon.

The root of many of our country's problems originates with our degraded education system. There is a great gap in opportunities for early education, which is in large measure based on income. Studies have proven that a quality early education is essential for a successful future. Re-building and strengthening our early education system must become a top priority if the country wants to see future positive change.

When American children are born, they are told that if they follow the rules: go to school, work hard, and attend college, then they will be rewarded with a promising future. Nowadays, graduates fresh out of college find that even though they followed the rules, they struggle to find the promising future that they were led to believe would be there. America needs to find a way to put our educated people back to work with jobs that will build our economy, community, and country.

This past year extreme tornadoes ripped through the southeast. Hurricanes and tropical storms flooded communities along the eastern seaboard. Furthermore, the summer of 2011 was the hottest ever in Texas, New Mexico and Oklahoma, causing heat waves and record droughts. This extreme weather has cost our country over $35 billion dollars. Most can agree that the climate is drastically changing at unprecedented rates. The time has come that the human race faces the effects it has on Mother Earth. The United States emits more than 5,425 million tons of carbon dioxide every year, ranking it second highest worldwide. We must join together as a nation to find quick solutions to this ever-growing problem before it is too late.

In 2011, Congress proved to be one of the most divided and uncompromising Congresses the American public has ever seen. In a time of crisis, America needs congressional leadership with creative solutions and a willingness to work together to get things done. It is vital that Congress moves forward without partisan bickering and focuses on making positive change.

During a time of high unemployment, living with a degrading education system, and increasing environmental catastrophes, our country cannot afford to wait anymore. The time has come for Americans to come together to solve the problems we are facing. Although we are confronted with many issues, there is hope for a brighter future. America has repeatedly shown it is strong and can and will restore itself to become the thriving and great nation it is capable of being.

ZACH HOLMAN, CHAMPLAIN VALLEY UNION HIGH SCHOOL, (HONORABLE MENTION)

[January 23, 2012]

I stand before our great nation to address the current state of the nation. 2011 was a struggle for many people, students were ending college carriers thousands of dollars in debt, scraping every last penny to cover medical bills because health insurance is too costly, or many were just not able to find a job whether he or she was an adult or teenager. 2011 is behind us and 2012 is here, things will improve. For this year there are three crucial changes our government must make to make America truly great again and fully prosperous we must get people working, enact a one-payer healthcare system that ensures coverage to all, and a higher education program that makes college affordable for levels of income and status.

The past few years have led to the demise of the middle class. This is due to the fact higher paying positions do not exist and no one is hiring. Everyone from the age of 16 to 65 is under pressure to find work and yet most cannot. This year, 2012, it will change. At the end of the 2011 the unemployment rate dropped to 8.6 percent, an improvement, not a solution. We must make it so those able to and willing to work can. My plan is to start programs that train a work force for different skilled positions that there is a demand for. Then I will make sure that these positions are available. If this means subsidizing certain industries to increase demand and promote hiring, I see that it happens. It is time to get America working again whether you are a teenager or elderly adult jobs will be available.

This country has attempted to tackle the healthcare problem, and each time it does not succeed in the way most hope. It is time to throw away the old system and start new; it is a new year and a time for new ideas. The only way to bring quality healthcare to all Americans is through a one-payer system. A system that makes sure no citizen goes uncared for. To make this possible we must de-privatize insurance companies and give coverage to all. Life is not a luxury only people of certain socioeconomic statuses deserve, it is a basic human right and a one-payer system is the only way to make it possible.

Education is my last topic for the night. Today only students in dire need of financial aid receive it to attend college. This is not right and does not work. Middle class families barely can afford the outrageous price of tuition for one child let alone two or more. We must enact new forms of aid that make college affordable for all and give everyone an equal opportunity.

The country needs help, but with a few small changes success is possible. God bless you and God bless the United States of America.

KATIE LEAVITT, WOODSTOCK UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

Crises encourage friendships. They force people to act as a community and work together, especially when they involve those that they care about. They create situations that bring out the good in people who would otherwise never step up to lend a hand.

The town of Woodstock has lived through a crisis this past fall: Hurricane Irene. In the months and weeks afterward, the town saw first hand that people come together and do the right thing when they need to. Community members recognized that friends and relatives who were dear to them were in trouble, so they stepped up to help make a change, because in light of a crisis, they cared. When a tree lay across my road after taking out a power line, everyone in my neighborhood helped those who weren't able to get to their homes by providing them with food, showers, and shelter. My family even created a path through our field to allow people to drive through to the other side. Crises involving family, friends, and neighbors force people into action, and they create a better environment through a sense of urgency and caring.

A major issue in our country today is the poverty crisis. One cannot enter a city without passing someone with all their belongings in a bag, asking for any money to help alleviate their situation. The majority will walk by and do nothing. The whole country begs for change: an end to poverty, yet they walk right by when a person in need asks for help. The only feeling in walking by is guilt that you have more than they, and can relieve the guilt by handing them a dollar or two. However, this does nothing to solve the problem as a whole; it only gives one temporary peace of mind. They do nothing to truly help because there is no intrinsic pull to help them, just a sudden guilt. They feel no real sense of urgency to do anything, as they have no connection to the person. It is the sense of caring for this person and the urgency to alleviate their situation that they lack.

The solution to the crisis of poverty is to replicate this feeling. To find a way to make people truly care about those that they walk by in the street everyday to get to work. Organize committees to issue government grants to motivated groups of people who will find a way to engender the feeling of community in their own hometowns and cities. Grant them the money for them to create ways for the poor and wealthy alike to become friends, and begin to form a community. That's all it takes: when you know someone, and you realize they are having a crisis, you go out of your way to help fix the problem, because that's the way it always works: absolute neediness from people you care about brings everyone together. The wealthier people will begin to look around and realize that their new friends are deep in the middle of a crisis, and they will do something about it. Trust me. I've seen it.

THEOPHILA LEE, SOUTH BURLINGTON HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

As a nation, the most pressing concern we currently face is our current education system. An issue of vital important to the next generation of this country, and therefore to the nation itself, I am dismayed by the lack of progress our nation seems to be making in this area. Instead of further sensationalizing the statistics of the abysmal standards of U.S. students in comparison with their international cohorts, I have decided instead to give some practical suggestions.

The change has to come from all levels—from the students, the teachers, the schools, and the communities. At the basic levels, subjects should be taught in a more integrated way. History, literature, and art should be interwoven and studied together. This ability to reach across traditional disciplines and explore their relationships will develop increasing well-roundedness in student. It will force pupils to make interdisciplinary connections, an educational experience that I believe ultimately makes a better informed, creative, and open-minded student. Collaboration should be encouraged more often. For teachers, teaching skills should be continually sharpened, with time to take courses, attend conferences, and share lessons and tips with other teachers, online and in person. Should school districts want to explore the option of merit pay, they should base it on the above criteria, certainly not test scores of a teacher's students. Additionally, schools (with the assistance of the community at large) should require that students complete various internships with businesses, government agencies, etc. This allows students to explore their passions and expose them to the world of work through school-to-career programs and internships.

Finally, I find it appalling that lowering the cost of college tuition while still maintaining the quality of our higher education system is still not a high enough priority.

Our higher education system is something America should be proud of; every year, the Ivy League and top liberal arts colleges receive an increasing number of international applicants, all who recognize the superiority of a U.S. education. However, the price tag is an entirely different issue. While it's understandable that cutting costs will inevitably create conflict, couldn't college presidents be held more accountable for the rising costs? This previous semester, a Stanford professor tried an experiment where he opened up his class to anyone online—for free. Expecting to get only 10,000 people, he instead found that by the end of his course, 140,000 pupils from all around the world had enrolled. Perhaps the government should encourage top colleges to explore technology in higher education through government subsidies. More paying students would lead to lower prices. It would also reduce the frenzy of high-school seniors as we find ourselves competing with as many as 10 other students for a place in our top choice college. I believe this would be a win-win situation for both parties involved.

GIOVANINA MIER, ST. JOHNSBURY ACADEMY (HONORABLE MENTION)

[January 23, 2012]

In the eternal words of our country's Preamble of the Constitution, it is stated that the purpose of the United States is ''to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for all''. Today, over 224 years later, these words may seem distant and unreachable. However, they still remain the foundation of our government and ideals that we, as the American people, should strive to achieve.

In recent years, our government and political systems have become increasingly polarized and radical. While this is not inherently unfortunate, it has led to the inability of groups of differing opinions to compromise. Without compromise, democracy cannot function. In order for the people to exercise their sovereignty in such a way as to spark change and improvement in both our country and the world, we must first be able to express the will of the majority. With two equally unbending political parties pitted against each other, our government has become stagnant. This effects even minor problems, but is especially crucial in the economic recovery that is the desire of every American. With the inability to come to agreements on smaller negotiations, how can we expect to solve the larger problems of our staggering debt, unemployment, and inflation? The economic recession has injured every American, from the college student unable to find a job with a Master's degree in their field to the small business that must close its doors.

These problems facing the American people cannot be solved by simply holding fast to one's beliefs. While it is valuable to have those in government that adequately and accurately represent the ideas, morals, and beliefs of the American public, compromise does not mean that one has to entirely renounce everything they hold to be right and true. Instead, compromise asks that we come to a place at which both parties can agree upon one idea or principle. Does that seem so much to ask? Of course, compromise in practice is more difficult than in theory, but by striving for this ideal, we can create a foundation upon which compromise becomes possible. The intensive media coverage extended to the extreme ends of the political spectrum drowns out the rest of the American public; yet listening to the less heard voices of the moderate American people is one of many ways in which we can begin to meet the challenges of compromise.

To restore our country to prosperity and success that will extend to all Americans, we must listen to both the minority and majority. We must not allow the media to create entertainment and triviality out of such serious matters of government and politics that affect all of us so greatly. We must overcome our differences and disparities to become a more unified nation truly built upon compromise, and achieve the dreams articulated in the Preamble of our Constitution.

TRAVIS KENT REED, VERGENNES UNION HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

In the past our country has been a world leader in freedom and democracy, but this unfortunately is no longer true. When I was little, I remember my father explaining to me that in places like Soviet Russia and Nazi Germany if people were suspected of opposing the government or expressing a divergent viewpoint, they would simply disappear. Today the United States government has made moves toward emulating its past enemies and even such fictional totalitarian states as ''The Party'' from the book *1984*, by passing bills that designates the world as a battlefield and allowing the indefinite detention of any person suspected of terrorism, including American citizens, without trial or other Constitutional rights.

Recently Occupy Wall Street protestors have been labeled in the same vein as domestic terrorists and the United States military has been mobilized to stop these protestors who are being attacked and brutalized for attempting to carry out their rights to peaceable assembly guaranteed in the Bill of Rights. Just recently a bill was sent to committee to be discussed. Called ''Stop Online Piracy Act'', it was introduced by Representative Lamar Smith of Texas. This bill is one that would seriously engender freedom of speech on the Internet by allowing for copyright holders to take down any website with a copyright claim against it. For sites like YouTube, and Reddit that had previously been protected by the Digital Millennium Copyright Act of 1996, this would mean death. What is the terrifying thing about this bill is that it isn't the only one like it. In the Senate there is a bill called Protect IP ACT, introduced by Senator Patrick Leahy which will perform the same function as the SOPA. These bills have been introduced into a nation that has long criticized countries like China for censorship and the suppression of human rights.

Our nation has long prided itself on how it treats its citizens and how the rights of the individual are the backbone of our democracy. It seems today our country is going away from this model and the value placed on the citizen is less and less important. While the wars of terrorism are being fought, a greater threat is looming, and the rights of the American people are slipping away, quietly and with deliberate purpose.

DAHLIA SOMERS, SOUTH BURLINGTON HIGH SCHOOL (HONORABLE MENTION)

[January 23, 2012]

America has been able to spread her objectives of freedom and democracy throughout the world. Together we have overcome one difficulty after another and now we face a new challenge: to create an even greater and more progressive America. To remain a world leader change is inevitable: otherwise our country will take a back burner to rising super powers. We will always be a great nation, but to remain an important one the

issues of economy, education, healthcare, and environment must be addressed.

Currently we are in debt to China for over $15 trillion; this means our population of roughly 311 million citizens has a debt share of around $49 thousand each. East Asian countries and European countries surpass us in education—especially in the academic subjects of math and science. Japan has a universal health care system and an average population life expectancy of 82.25. Germany understands that our environment has a finite supply of resources and imposes an environmental tax on its citizens.

Focusing on the economy, we need to generate more jobs and discontinue outsourcing. It is time for heavy regulation, and an end to the laissez-faire relationship with big businesses. This is evident in the Wall Street bailout, the outraged 99 percent, and the unacceptable (though declining) unemployment rate of 8.5 percent. The warfare against the middle classes must be addressed, and the lower classes must be bolstered.

Education is success. The focus of education should be aimed at life achievement rather than standardized tests. The problem now is that schools don't have a large enough budget: if teachers had larger salaries more competition would be created and our children would be taught by the best qualified. Parents, when they motivate and assist their children, can become invaluable components in this exciting process.

Our healthcare system is a painful topic. America has the most expensive healthcare system without the better results of less expensive European systems. We should follow the European models. Well, at least all children, seniors, and disabled should have assured healthcare. Vermont is an innovator in healthcare, and if we are successful the rest of America might follow our example.

The environmental issue is not to be taken lightly. Global warming is real and we perpetuate the harm caused to our planet. It is our responsibility to work with other powerful countries to limit our ecological footprints and conserve the world's natural resources. Steps must be taken not only on a political level but on a cultural one as well. It must become part of our culture to consume less extravagantly and recycle more diligently.

To make these ideals a reality our government must find harmony between the Democrats and the Republicans. We need to remember that this is not an issue of which party is most correct, but what can be compromised to create a better America. We still haven't seen all America can be, she is still growing and we, the present and the future, must guide her to the best outcome.

KIDDER SPILLANE, CVU, (HONORABLE MENTION)

[January 23, 2012]

Dear Fellow Americans, I am reporting to you as the New Year is starting I would like to inform the state in which the country is in and in which subjects we are going to push our efforts toward.

I believe the most important subject to address first is our problem with oil. We depend a lot on Middle Eastern countries for their foreign oil. The oil is running out and we need to put a lot of our efforts into alternative energy sources including solar, wind and even hydroelectricity. We can't just make this happen overnight it's going to take a lot of time and effort; this can be looked upon as a positive. This brings me to my next subject, if we create more alternative energy productions this will open a lot more opportunities for job creation. In November of 2011 the unemployment rate dropped to 8.4 percent from 9 percent. There are still over 13 million American without a job, and these alternative energy products can reduce that number significantly.

The next subject I would like to address is healthcare. Healthcare is a necessity that I feel every American should be able to have with no cost. Healthcare shouldn't be something people have to worry about, our country should provide universal healthcare across the nation it is our right to get the treatment they need to survive.

The country is in debt, that's the truth we are in a deficit of $1.48 trillion. This is a cause of overspending by the U.S. simply just raising the taxes for everyone is not the answer. I believe the way people should be taxed is the answer if a wealthier individual has the money to be able to pay more in taxes than he is doing than he should be paying more than somebody who is working a middle class job living in the suburbs. There needs to be a higher minimum tax payment on the less wealthy citizens. Not just a low percentage of somebody's income.

I also believe we need to support student loan reforms. In the future almost 60 percent of future jobs will require more than a high school diploma. We want every American to have the opportunity, and the ability to get a college diploma. People shouldn't have to be in so much debt from their loans. We need to help the people that aren't able to pay for college by themselves. The interest rate on student loans will be lowered.

Thank you fellow Americans. It is not just congresses job to make this happen we need to unite as a nation everybody needs to be a part of the action of strengthening our nation. This is a tough time right now with the economy it's going to take effort from all Americans. Thank you for your time America. God bless you and may god bless the United States of America.●

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:02 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:

H.R. 3800. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

H.R. 3801. An act 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.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2041. A bill to approve the Keystone XL pipeline project and provide for environmental protection and government oversight.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4678. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report relative to the Board's competitive sourcing efforts for fiscal year 2011; to the Committee on Commerce, Science, and Transportation.

EC–4679. A communication from the Administrator, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, a report relative to the National 911 Program; to the Committee on Commerce, Science, and Transportation.

EC–4680. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the awarding of funding made available by the American Recovery and Reinvestment Act of 2009; to the Committee on Commerce, Science, and Transportation.

EC–4681. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report entitled ''NASA: Key Controls NASA Employs to Guide Use and Management of Funded Space Act Agreements are Generally Sufficient, but Some Could Be Strengthened and Clarified''; to the Committee on Commerce, Science, and Transportation.

EC–4682. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relative to the Do-Not-Call Registry Fee Extension Act of 2007; to the Committee on Commerce, Science, and Transportation.

EC–4683. A communication from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Direct Investment Surveys: BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2012'' (RIN0691–AA80) received during adjournment of the Senate in the Office of the President of the Senate on January 6, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4684. A communication from the Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Miscellaneous Amendments; Response to Appeals; Corrections'' (RIN2137–AE84) received during adjournment of the Senate in the Office of the President of the Senate on December 30, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4685. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hours of Service of Drivers'' (RIN2126–AB26) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4686. A communication from the Deputy Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''911 Service, Phase II Accuracy'' (FCC 11–107) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4687. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Milford, Utah)'' (MB Docket No. 11–64, RM–11598) received during adjournment of the Senate in

the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4688. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, Third Report and Order'' (MB Docket No. 09–52, RM–11528) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4689. A communication from the Deputy Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''911 Service, Phase II Accuracy'' (FCC 10–176) received during adjournment of the Senate in the Office of the President of the Senate on December 19, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4690. A communication from the Chief of the Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 2 and 95 of the Commission's Rules to Provide Additional Spectrum for the Medical Device Radiocommunication Service in the 413–457 MHz Band'' (FCC 11–176) received during adjournment of the Senate in the Office of the President of the Senate on December 30, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4691. A communication from the General Counsel of the Department of Commerce, transmitting, proposed legislation entitled ''Port State Measures Agreement Act of 2011''; to the Committee on Commerce, Science, and Transportation.

EC–4692. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Fayette, AL'' ((RIN2120–AA66) (Docket No. FAA–2011–0559)) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4693. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Winters, TX'' ((RIN2120–AA66) (Docket No. FAA–2011–0608)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4694. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Alice, TX'' ((RIN2120–AA66) (Docket No. FAA–2011–0498)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4695. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Ardmore, OK'' ((RIN2120–AA66) (Docket No. FAA–2011–0851)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4696. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Emmonak, AK'' ((RIN2120–AA66) (Docket No. FAA–2011–0880)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4697. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Tatitlek, AK'' ((RIN2120–AA66) (Docket No. FAA–2011–0757)) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4698. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Nashville, AR'' ((RIN2120–AA66) (Docket No. FAA–2011–0497)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4699. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Danville Airport, PA'' ((RIN2120–AA66) (Docket No. FAA–2011–0766)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4700. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D and Amendment of Class E Airspace; Los Angeles, CA'' ((RIN2120–AA66) (Docket No. FAA–2011–0496)) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4701. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class E Airspace; Umiat, AK'' ((RIN2120–AA66) (Docket No. FAA–2011–0750)) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4702. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Dalles, OR'' ((RIN2120–AA66) (Docket No. FAA–2011–0893)) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4703. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Blythe, CA'' ((RIN2120–AA66) (Docket No. FAA–2011–0585)) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4704. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class B Airspace; Seattle, WA'' ((RIN2120–AA66) (Docket No. FAA–2011–0232)) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4705. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (77); Amdt. No. 3451'' (RIN2120–AA65) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4706. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (77); Amdt. No. 3450'' (RIN2120–AA65) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4707. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (4); Amdt. No. 497'' (RIN2120–AA63) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4708. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Flightcrew Member Duty and Rest Requirements'' (RIN2120–AJ58) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4709. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment and Establishment of Air Traffic Service Routes; Northeast United States'' ((RIN2120–AA66) (Docket No. FAA–2011–0376)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4710. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Harmonization of Airworthiness Standards for Transport Category Airplanes—Landing Gear Retracting Mechanisms and Pilot Compartment View'' (RIN 2120–AJ80) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4711. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Pilot, Flight Instructor, Ground Instructor, and Pilot School Rules (Part 61)'' ((RIN2120–AI86) (Docket No. FAA–2006–26661)) received during adjournment of the Senate in the Office of

the President of the Senate on December 30, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4712. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pilot, Flight Instructor, and Pilot School Certification; Technical Amendment'' ((RIN2120–AI86) (Docket No. FAA–2006–26661)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4713. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (34); Amdt. No. 3457'' (RIN2120–AA65) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4714. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (98); Amdt. No. 3456'' (RIN2120–AA65) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4715. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–1256)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4716. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Honeywell International, Inc. Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–1261)) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4717. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–1252)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4718. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Quest Aircraft Design, LLC Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–1328)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4719. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model EC 120B Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–1)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4720. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BRP-Powertrain GmbH and Co. KG Reciprocating Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–1299)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4721. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 737–200, –200C, –300, –400, and –500 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0914)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4722. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0720)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4723. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, C, D, and D1; and AS355E, F, F1, F2, N, and NP Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–1158)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4724. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 and 440) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0648)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4725. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Piaggio Aero Industries S.p.A. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0954)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4726. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Corporation Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–1206)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4727. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Gulfstream Aerospace Corporation Model GV and GV–SP Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0572)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4728. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney Division (PW) PW4000 Series Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–0733)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4729. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Aircraft Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2007–27747) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4730. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Deutschland Ltd and Co KG (RRD) BR700–710 Series Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–0684)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4731. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Continental Motors, Inc. (CMI) Reciprocating Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–1341)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4732. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney Canada Turboprop Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–1298)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4733. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney Canada PT6A–15AG, –27, –28, –34, –34AG, –34B, and –36 Series Turboprop Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–1038)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4734. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of

a rule entitled ''Airworthiness Directives; Learjet Inc. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0651)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4735. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Honeywell International, Inc. TPE331 Model Turboprop Engines'' ((RIN2120–AA64) (Docket No. FAA–2011–0935)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4736. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Authorization to Use Lower Than Standard Takeoff, Approach and Landing Minimums at Military and Foreign Airports'' (RIN2120–AK02) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4737. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A, 205A–1, 205B, 210, 212, 412, 412CF, 412EP Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–1041)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4738. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Erickson Air-Crane Incorporated Model S–64F Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2010–0909)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4739. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France (Eurocopter) Model EC225LP Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–1074)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4740. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S–92A Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–0792)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4741. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France (Eurocopter) Model EC225LP Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–1033)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4742. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–215–1A10, CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–1096)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4743. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France (Eurocopter) Model AS332C, AS332L, AS332L1, and AS332L2 Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–0939)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4744. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0650)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4745. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0255)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4746. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 777–200, –200LR, –300, and –300ER Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–1317)) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4747. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries in the Eastern Pacific Ocean; Pelagic Fisheries; Vessel Identification Requirements'' (RIN0648–BA49) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4748. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 11'' (RIN0648–AX05) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4749. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Bluefish Fishery; Quota Transfer'' (RIN0648–XA825) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4750. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 10'' (RIN0648–AY72) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4751. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 13 to the Coastal Pelagic Species Fishery Management Plan; Annual Catch Limits'' (RIN0648–BA68) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4752. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning (PSP)'' (RIN0648–BB59) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4753. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Interim 2012 Summer Flounder, Scup, and Black Sea Bass Specifications; 2012 Research Set Aside Projects'' (RIN0648–XA795) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4754. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Ecosystem-Based Amendment 2 for the South Atlantic Region'' (RIN0648–BB26) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4755. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

''International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions for Bigeye Tuna and Yellowfin Tuna in Purse Seine Fisheries for 2012'' (RIN0648–BB73) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4756. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 16 to the Salmon Fishery Management Plan'' (RIN0648–BB55) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4757. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Amendment 18'' (RIN0648–BB33) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4758. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Amendment 88'' (RIN0648–BA97) received during adjournment of the Senate in the Office of the President of the Senate on January 11, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4759. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Removal of Standardized Bycatch Reporting Methodology Regulations'' (RIN0648–BB52) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4760. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Recreational Accountability Measures'' (RIN0648–BB66) received during adjournment of the Senate in the Office of the President of the Senate on January 13, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4761. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2011 and 2012 Harvest Specifications for Groundfish'' (RIN0648–XA855) received during adjournment of the Senate in the Office of the President of the Senate on January 20, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4762. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendments to the Queen Conch and Reef Fish Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands'' (RIN0648–AY55) received during adjournment of the Senate in the Office of the President of the Senate on January 20, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4763. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico'' (RIN0648–AY22) received during adjournment of the Senate in the Office of the President of the Senate on January 20, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4764. A communication from the Acting Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Allocations in the Gulf of Alaska; Amendment 83'' (RIN0648–AY53) received during adjournment of the Senate in the Office of the President of the Senate on December 19, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4765. A communication from the Acting Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Vessel Monitoring Systems'' (RIN0648–BA64) received during adjournment of the Senate in the Office of the President of the Senate on December 19, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4766. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments'' (RIN0648–BB65) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4767. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries'' (RIN0648–XA842) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4768. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA858) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4769. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Sculpins in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA857) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4770. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; 'Other Flatfish' in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA834) received during adjournment of the Senate in the Office of the President of the Senate on December 21, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4771. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyazofamid; Pesticide Tolerances for Emergency Exemptions'' (FRL No. 9332–5) received in the Office of the President of the Senate on January 30, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4772. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Etoxazole; Pesticide Tolerances'' (FRL No. 9334–9) received in the Office of the President of the Senate on January 24, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4773. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Rimsulfuron; Pesticide Tolerances'' (FRL No. 9332–1) received in the Office of the President of the Senate on January 24, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4774. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Net Worth and Equity Ratio'' (RIN3133–AD87) received in the Office of the President of the Senate on January 23, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC–4775. A communication from the Secretary, Division of Trading and Markets, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Covered Securities of Bats Exchange, Inc.'' (RIN3235–AL20) received in the Office of the President of the Senate on January 23, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC–4776. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13348 relative to the former Liberian regime of Charles Taylor; to the Committee on Banking, Housing, and Urban Affairs.

EC–4777. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket No. FEMA–2011–0002)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC–4778. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''New Mexico Regulatory Program'' (Docket No. NM–048–

FOR) received in the Office of the President of the Senate on January 25, 2012; to the Committee on Energy and Natural Resources.

EC–4779. A communication from the Director of Congressional Affairs, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Protection Against Turbine Missiles'' (Regulatory Guide 1.115, Revision 2) received in the Office of the President of the Senate on January 23, 2012; to the Committee on Environment and Public Works.

EC–4780. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Infrastructure Requirements for 1997 8-Hour Ozone and the 1997 and 2006 PM2.5NAAQS'' (FRL No. 9622–5) received in the Office of the President of the Senate on January 24, 2012; to the Committee on Environment and Public Works.

EC–4781. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Consumer and Commercial Products'' (FRL No. 9620–9) received in the Office of the President of the Senate on January 24, 2012; to the Committee on Environment and Public Works.

EC–4782. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; North Carolina; Approval of Section 110(a) (1) Maintenance Plan for Greensboro-Winston-Salem-High Point 1-Hour Ozone Maintenance Area to Maintain the 1997 8-Hour Ozone Standards'' (FRL No. 9621–8) received in the Office of the President of the Senate on January 24, 2012; to the Committee on Environment and Public Works.

EC–4783. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, State of West Virginia; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator Unites, Plan Revisions'' (FRL No. 9620–6) received in the Office of the President of the Senate on January 24, 2012; to the Committee on Environment and Public Works.

EC–4784. A communication from the Secretary of the Army, transmitting, pursuant to law, a report relative to the Gravesite Accountability Study Findings at Arlington National Cemetery; to the Committee on Veterans' Affairs.

EC–4785. A communication from the Director of the Office of Management and Budget (OMB), Executive Office of the President, transmitting, pursuant to law, the ''OMB Final Sequestration Update Report for Fiscal Year 2012'', referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; the Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Health, Education, Labor, and Pensions; Homeland Security and Governmental Affairs; the Judiciary; Rules and Administration; Small Business and Entrepreneurship; and Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1401. A bill to conserve wild Pacific salmon, and for other purposes (Rept. No. 112–140).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1657. A bill to amend the provisions of law relating to sport fish restoration and recreational boating safety, and for other purposes (Rept. No. 112–141).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 890, a bill to establish the supplemental fraud fighting account, and for other purposes (Rept. No. 112–142).

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. HOEVEN (for himself, Mr. LUGAR, Mr. VITTER, Mr. MCCONNELL, Mr. JOHANNS, Mr. PORTMAN, Mr. BARRASSO, Mr. MCCAIN, Mr. CORNYN, Mrs. HUTCHISON, Mr. THUNE, Mr. SESSIONS, Mr. ALEXANDER, Mr. MORAN, Ms. AYOTTE, Mr. BOOZMAN, Mr. DEMINT, Mr. PAUL, Ms. MURKOWSKI, Mr. KYL, Mr. MANCHIN, Mr. LEE, Mr. BLUNT, Mr. INHOFE, Mr. TOOMEY, Mr. HATCH, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. CORKER, Mr. COBURN, Mr. COCHRAN, Mr. CRAPO, Mr. GRAHAM, Mr. ENZI, Mr. GRASSLEY, Mr. HELLER, Mr. ISAKSON, Mr. JOHNSON of Wisconsin, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SHELBY, Mr. WICKER, and Mr. BROWN of Massachusetts):

S. 2041. A bill to approve the Keystone XL pipeline project and provide for environmental protection and government oversight; read the first time.

By Mr. TESTER:

S. 2042. A bill to reinstate the reporting provision relating to fees and expenses awarded to prevailing parties in civil actions involving the United States; to the Committee on the Judiciary.

By Mr. RUBIO:

S. 2043. A bill to amend title XXVII of the Public Health Service Act to provide religious conscience protections for individuals and organizations; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. FEINSTEIN (for herself, Mr. LIEBERMAN, Mr. RUBIO, Mrs. BOXER, Mr. DURBIN, Mr. MCCAIN, Mr. WEBB, and Mr. UDALL of Colorado):

S. Res. 356. A resolution expressing support for the people of Tibet; to the Committee on Foreign Relations.

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

S. Res. 357. A resolution commemorating the 150th anniversary of the Battle of Mill Springs and the significance of the battle to the Civil War; considered and agreed to.

By Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mr. KERRY, Mr. LEAHY, Mr. BEGICH, Ms. KLOBUCHAR, Mr. UDALL of New Mexico, Mr. PRYOR, and Mrs. BOXER):

S. Res. 358. A resolution expressing support for the designation of January 28, 2012, as ''National Data Privacy Day''; considered and agreed to.

By Mr. RUBIO (for himself, Mr. LIEBERMAN, Mr. LUGAR, Mr. KYL, Mr. CASEY, Mr. CARDIN, Mr. INHOFE, Mr. MENENDEZ, Mrs. FEINSTEIN, Mr. DURBIN, Mr. BARRASSO, Mr. CORNYN, Mr. NELSON of Florida, Mrs. SHAHEEN, Mr. ISAKSON, Mr. MCCAIN, and Mr. GRAHAM):

S. Con. Res. 34. A concurrent resolution expressing the sense of Congress in honor of the life and legacy of Vaclav Havel; considered and agreed to.

ADDITIONAL COSPONSORS

S. 296

At the request of Ms. KLOBUCHAR, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 362

At the request of Mr. WHITEHOUSE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 362, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 414

At the request of Mr. DURBIN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 593

At the request of Mr. SCHUMER, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 593, a bill to amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations.

S. 598

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 598, a bill to repeal the Defense of Marriage Act and ensure respect for State regulation of marriage.

S. 704

At the request of Mr. WYDEN, the names of the Senator from Missouri (Mr. BLUNT) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 704, a bill to provide for duty-free treatment of certain recreational performance outerwear, and for other purposes.

S. 738

At the request of Ms. STABENOW, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 738, a bill to amend title

XVIII of the Social Security Act to provide for Medicare coverage of comprehensive Alzheimer's disease and related dementia diagnosis and services in order to improve care and outcomes for Americans living with Alzheimer's disease and related dementias by improving detection, diagnosis, and care planning.

S. 750

At the request of Mr. DURBIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 750, a bill to reform the financing of Senate elections, and for other purposes.

S. 816

At the request of Mr. BROWN of Ohio, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 816, a bill to facilitate nationwide availability of volunteer income tax assistance for low-income and underserved populations, and for other purposes.

S. 835

At the request of Mr. CRAPO, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 835, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearms laws and regulations, protect the community from criminals, and for other purposes.

S. 1023

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1023, a bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1106

At the request of Mr. KOHL, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1106, a bill to authorize Department of Defense support for programs on pro bono legal assistance for members of the Armed Forces.

S. 1299

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

S. 1309

At the request of Mr. SCHUMER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1309, a bill to amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care.

S. 1368

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

S. 1486

At the request of Mr. ROBERTS, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 1486, a bill to amend title XVIII of the Social Security Act to clarify and expand on criteria applicable to patient admission to and care furnished in long-term care hospitals participating in the Medicare program, and for other purposes.

S. 1591

At the request of Mrs. GILLIBRAND, the name of the Senator from New York (Mr. SCHUMER) 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. 1600

At the request of Mr. MORAN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 1600, a bill to enhance the ability of community banks to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes.

S. 1606

At the request of Mr. PORTMAN, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 1606, a bill to reform the process by which Federal agencies analyze and formulate new regulations and guidance documents.

S. 1629

At the request of Mr. TESTER, his name 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.

At the request of Mrs. GILLIBRAND, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1629, supra.

S. 1755

At the request of Mr. TESTER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1755, a bill to amend title 38, United States Code, to provide for coverage under the beneficiary travel program of the Department of Veterans Affairs of certain disabled veterans for travel for certain special disabilities rehabilitation, and for other purposes.

S. 1796

At the request of Mr. PRYOR, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1796, a bill to make permanent the Internal Revenue Service Free File program.

S. 1832

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

S. 1880

At the request of Mr. BARRASSO, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1880, a bill to repeal the health care law's job-killing health insurance tax.

S. 1882

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1882, a bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that valid generic drugs may enter the market.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Virginia (Mr. WARNER) 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. 1903

At the request of Mrs. GILLIBRAND, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1903, a bill to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and for other purposes.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1930

At the request of Mr. TOOMEY, the name of the Senator from South Dakota (Mr. JOHNSON) was withdrawn as a cosponsor of S. 1930, a bill to prohibit earmarks.

At the request of Mr. TOOMEY, the name of the Senator from Wisconsin (Mr. JOHNSON) was added as a cosponsor of S. 1930, supra.

S. 2010

At the request of Mr. KERRY, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2010, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S.J. RES. 19

At the request of Mr. HATCH, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S.J. Res. 19, a joint resolution proposing an amendment to the

Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 310

At the request of Ms. MIKULSKI, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the ''Year of the Girl'' and Congratulating Girl Scouts of the USA on its 100th anniversary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOEVEN (for himself, Mr. LUGAR, Mr. VITTER, Mr. MCCONNELL, Mr. JOHANNS, Mr. PORTMAN, Mr. BARRASSO, Mr. MCCAIN, Mr. CORNYN, Mrs. HUTCHISON, Mr. THUNE, Mr. SESSIONS, Mr. ALEXANDER, Mr. MORAN, Ms. AYOTTE, Mr. BOOZMAN, Mr. DEMINT, Mr. PAUL, Ms. MURKOWSKI, Mr. KYL, Mr. MANCHIN, Mr. LEE, Mr. BLUNT, Mr. INHOFE, Mr. TOOMEY, Mr. HATCH, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. CORKER, Mr. COBURN, Mr. COCHRAN, Mr. CRAPO, Mr. GRAHAM, Mr. ENZI, Mr. GRASSLEY, Mr. HELLER, Mr. ISAKSON, Mr. JOHNSON of Wisconsin, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SHELBY, Mr. WICKER, and Mr. BROWN of Massachusetts):

S. 2041. A bill to approve the Keystone XL pipeline project and provide for environmental protection and government oversight; read the first time.

Mr. HOEVEN. Mr. President, I rise today to speak about legislation I am introducing. I am pleased to introduce this legislation, along with 43 cosponsors, making that 44 Members of the Senate sponsoring legislation to improve the Keystone XL project.

This legislation would approve Keystone XL under article 1, section 8 of the Constitution. That provision, the commerce clause, gives Congress the authority to regulate commerce with foreign countries, and that is the authority Congress needs to use, just as Congress used that authority in 1973 to approve the Alaskan Pipeline.

Moving forward with the Keystone project will create tens of thousands of jobs—tens of thousands of jobs at a time when our country badly needs those jobs, at a time when we have more than 13 million people out of work, or 8½ percent unemployment. It will create those jobs without spending one Federal taxpayer dollar. Not one. This is private sector investment—more than $7 billion that will help generate tens of thousands of jobs at a time when our economy badly needs them and when we need to get people back to work.

Also, this will reduce our dependence on oil from the Middle East—830,000 barrels a day. The Keystone XL Pipeline will move 830,000 barrels of oil a day from Canada and from States such as my own, the State of North Dakota. That is 830,000 barrels of oil a day we don't have to get from the Middle East at a time when we have rising tensions in the Middle East, at a time when Iran is threatening to close the Strait of Hormuz, at a time when we could see gas prices going to $4, maybe even $5 a gallon.

The reality is, even if we don't build the project, the oil will still be produced. The oil in Canada will still be produced. It is just that it would not come to the United States. It will go to China, and we will have worse environmental stewardship, not better. Building the project will actually help us provide better environmental stewardship because we don't need to haul that oil overseas, around the world. We would not need to continue bringing in oil from the Middle East. That 830,000 barrels a day will go to our refineries where there are higher standards with better environmental stewardship.

President Obama recently turned down this project. He turned down the project because he said he couldn't make a decision in 60 days. He said he couldn't make a decision on the project in 60 days. That was too soon. But the project has been under review for more than 3 years. Let me repeat that. This project has been under review by the administration for more than 3 years. The EPA and the State Department have been reviewing the project.

In our legislation we simply say this has been under review for more than 3 years, and it is time to make a decision. It is time to move forward. Furthermore, for the one portion of the route that was contested, the Nebraska portion, we say: Take as much time as you need to reroute in Nebraska—after 3 years—to make sure we provide enough time for the decision.

I have a chart here that shows this timeline. Let's take a minute and go through it.

The application was originally submitted in September of 2008. September of 2008 is when the process started. So as you can see, it has been under review in 2008, 2009, 2010, 2011.

The State Department itself, EPA through the NEPA process and the State Department, has responsibility to make a decision on the project and, as you can see, on their own timeline they had planned to render a decision before the end of last year. As a matter of fact, I received a letter from Secretary of State Clinton indicating they intended to have a final decision before the end of the year. Yet, when we passed our earlier legislation, the President said, Well, we can't make a decision in 60 days.

Do you mean 3 years and 60 days? How long does it take to study this process and make a decision—particularly when in the last bill which we passed 89–10 by this body, and now in this legislation again we say, as to the only contested portion of the rule where you may want to reroute through Nebraska due to the Oglala aquifer, we provide as much time as needed to do the rerouting. But at some point we have got to make a decision to move forward with the project.

So maybe you say, Well, okay, it has been studied for 3 years, but more time is needed somehow because it is a unique project. Actually, it is not a unique project.

Before coming to the Senate last year, I was the Governor of North Dakota for 10 years. While I was Governor, TransCanada built a very similar project. The red line here is the Keystone project. It goes from Calgary down to Patoka, IL, much the same route, bringing oil from Canada into our refineries. That was permitted, not in 3 years, that was permitted in 2 years. In 2 years, that was permitted. We have been studying Keystone XL, a sister pipeline—very similar. It goes down to Cushing into the refineries along the gulf coast. We have been studying for 3 years a very similar project already approved in 2.

You may say, Well, I don't know. Still, you only have one kind of project there and maybe there is some new or challenging thing you have to take into account. So, yes, we have been studying it for 3 years and you need that kind of time because somehow we are recreating the wheel or doing something new and different. Well, that is not quite the case, either.

Let's go to my third chart. These are the oil and gas pipelines in the United States. All these red lines show oil and gas pipelines throughout our country, already existing, already in place, already moving oil and gas around the country. So now we are going to bring another one through here with all these pipelines, with the latest technology, the latest safeguards. And you mean to say that, after 3 years, that is not time to figure out whether we can approve another pipeline when we have hundreds of pipelines all over this country that people count on every day for their supply of oil? For their supply of gas? That is the situation.

Clearly, we can make this decision. Clearly, after more than 3 years of study, it doesn't make sense to not move forward, particularly when we are talking about tens of thousands of jobs that we need. Not only will it not cost our Federal Government revenue, it will generate hundreds of millions in revenue back to local, State, and Federal Government.

In addition to creating jobs, it reduces our dependence on Middle East oil. And if we don't do it, the oil goes to China. It is still produced, but it goes to China. So, actually, we have better environmental stewardship with the project.

The U.S. Chamber of Commerce last year did a study. In that study, they cited 351 infrastructure projects that are being held up in the country right now—351 infrastructure projects that are being held up in the country right now due to regulations and bureaucratic delays. If we can get those projects going, based on the study the U.S. Chamber did, that would generate almost $1.1 trillion in gross domestic product for our country. It would generate—their estimate—1.9 million jobs,

not with more government spending, but enabling the private investment to go forward by taking the bureaucratic delays out of the way, by reducing the regulatory burden, by green-lighting projects like Keystone XL, which has been under study for more than 3 years.

Back to one of these earlier charts. In my home State of North Dakota, we now produce more than 500,000 barrels of oil a day. We need to put 100,000 barrels a day into this pipeline so we can get it to market, so we can get it to consumers and companies throughout this country. That is 100,000 barrels a day right now that we have to move through other means, such as truck or rail. That is equal to 500 truckloads a day, or 17 million truck miles a year. Think of the toll on our roads, think of the traffic fatalities that result when that product should be going through pipeline. And at the same time that we have less traffic safety, tremendous wear and tear on our roads, we suffer a discount. Our companies, our mineral owners, our people suffer a discount because it is more expensive to transport that product by rail and by truck. Those are the realities of getting our economy going.

Again, I go back to the national security concern: 830,000 barrels a day that we have got to get from the Middle East.

With these kinds of developments, with this kind of infrastructure, together with Canada and some oil that we get from Mexico, by building Keystone XL Pipeline we can produce more than 80 percent of the oil we consume right here in our country. That means we don't have to get it from the Middle East. And look what is going on in the Middle East. Look at Iran, threatening to blockade the Strait of Hormuz. That is a fundamental national security issue.

Unions across this country have said, Hey, we need these jobs. We support this project. We want to move forward with this and other infrastructure projects. But it is not just about the jobs and the economy, although that is vitally important to all the people who are out of work; it is a vital and national security issue, and it is going to continue to be a more important national security issue as we continue to see gas prices rise and as we continue to see instability in the Middle East.

Again, back to the environmental issues. This oil will be produced. It is either going to China or it is coming here. If we bring it here, we have better environmental stewardship because it goes in a pipeline to refineries that have the lowest emission standards. If we don't, the pipeline goes to the west coast. They load it on tankers. You have to haul it to places such as China where it is refined in refineries with higher emissions. And then, guess what. We have to ship oil from the Middle East—generating more emissions—to bring to our refineries. Again, it makes no sense. It is time to move forward.

There is clear precedence and clear authority. Article 1, section 8 of the Constitution gives Congress the constitutional authority to act under the commerce clause. Congress exercised that authority in 1973 for the Alaskan pipeline. It is time for Congress to exercise its authority again for the good of our economy and for the good of our country.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 356—EXPRESSING SUPPORT FOR THE PEOPLE OF TIBET

Mrs. FEINSTEIN (for herself, Mr. LIEBERMAN, Mr. RUBIO, Mrs. BOXER, Mr. DURBIN, Mr. MCCAIN, Mr. WEBB, and Mr. UDALL of Colorado) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 356

Whereas Tibet is the center of Tibetan Buddhism, and His Holiness the Dalai Lama, Tenzin Gyatso, is the most revered figure in Tibetan Buddhism;

Whereas the Government of the People's Republic of China continues to enforce policies that infringe on fundamental freedoms of Tibetans, including punitive security measures against monasteries, mass arrests, and restrictions on freedom to practice religion;

Whereas both the Dalai Lama and the Kalon Tripa, Dr. Lobsang Sangay, the prime minister democratically elected by the Tibetan exile community, have specifically stated that they do not seek independence for Tibet from China;

Whereas, in his inaugural address on August 8, 2011, Kalon Tripa Sangay stated that he will ''continue the Middle-Way policy, which seeks genuine autonomy for Tibet within the People's Republic of China'';

Whereas, according to the Department of State's 2011 Report on Tibet Negotiations, since 2002, nine rounds of talks between the Government of the People's Republic of China and envoys of the Dalai Lama ''have not borne concrete results'';

Whereas, despite persistent efforts by the Dalai Lama and his representatives, the Government of the People's Republic of China and envoys of the Dalai Lama have not held any formal dialogue since January 2010;

Whereas, since March 2011, at least 16 Tibetans have set themselves on fire, and at least 12 have died;

Whereas the repressive policies of the Government of the People's Republic of China have created an environment of despair, hopelessness, and frustration among many Tibetans;

Whereas, on November 1, 2011, the United Nations Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, expressed concern over ''restrictive measures'' implemented by the Government of the People's Republic of China in Tibetan monasteries, stating that such measures ''not only curtail the right to freedom of religion or belief, but further exacerbate the existing tensions, and are counterproductive'' and affirming that ''the right of members of the monastic community, and the wider community to freely practice their religion, should be fully respected and guaranteed by the Chinese Government'';

Whereas, on January 24, 2012, Maria Otero, Under Secretary for Civilian Security, Democracy and Human Rights, and United States Special Coordinator for Tibetan Issues, issued a statement expressing concern about ''reports of violence and continuing heightened tensions in Tibetan areas of China, including reports of security forces in Sichuan province opening fire on protesters, killing some and injuring others'';

Whereas the Constitution of the People's Republic of China guarantees freedom of religious belief for all citizens, but the July-December 2010 International Religious Freedom Report of the Department of State states that ''the [Chinese] government's repression of religious freedom remained severe in the Tibet Autonomous Region and other Tibetan areas'';

Whereas, on March 10, 2011, His Holiness the Dalai Lama announced that he would relinquish his last remaining governmental duties in the Central Tibetan Administration, and would turn over political authority to the leadership democratically elected by Tibetans in exile;

Whereas, on March 20, 2011, the Tibetan government in exile conducted competitive democratic elections that were monitored by international observers and deemed free, fair, and consistent with international standards;

Whereas nearly 50,000 people in over 30 countries, more than half of all the eligible Tibetan exiles voters, participated in the March 20, 2011 elections;

Whereas Dr. Lobsang Sangay was elected Kalon Tripa, or prime minister, of the Central Tibetan Administration after receiving 55 percent of votes in the March 20, 2011, election and was inaugurated on August 8, 2011;

Whereas Kalon Tripa Sangay was selected to study in the United States under the Department of State's Tibetan Scholarship Program, earning a doctorate in law from Harvard University, and served as a Senior Fellow at the East Asian Legal Studies Program at Harvard Law School;

Whereas Kalon Tripa Sangay, while at Harvard University, promoted dialogue among Tibetan exiles and Chinese students and visiting Chinese scholars to enhance mutual understanding and advance the prospects for reconciliation; and

Whereas it is the objective of the United States Government, consistent across administrations of different political parties and as articulated in the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107–228; 22 U.S.C. 6901 note) to promote a substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives in order to secure genuine autonomy for the Tibetan people within China: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the death of Tibetans who have self-immolated and deplores the repressive policies targeting Tibetans;

(2) calls on the Government of the People's Republic of China to suspend implementation of religious control regulations, reassess religious and security policies implemented since 2008 in Tibet, and resume a dialogue with Tibetan Buddhist leaders, including the Dalai Lama or his representatives, to resolve underlying grievances;

(3) calls on the Government of the People's Republic of China to release all persons that have been arbitrarily detained; to cease the intimidation, harassment and detention of peaceful protestors; and to allow unrestricted access to journalists, foreign diplomats, and international organizations to Tibet;

(4) calls on the Secretary of State to seek from the Government of the People's Republic of China a full accounting of the forcible

removal of monks from Kirti Monastery, including an explanation of the pretext or conditions under which monks were removed and their current whereabouts;

(5) commends His Holiness the Dalai Lama for his decision to devolve his political power in favor of a democratic system;

(6) congratulates Tibetans living in exile for holding, on March 20, 2011, a competitive, multi-candidate election that was free, fair, and met international electoral standards;

(7) reaffirms the unwavering friendship between the people of the United States and the people of Tibet; and

(8) both—

(A) calls on the Department of State to fully implement the Tibetan Policy Act of 2002 (subtitle B of title VI of Public Law 107–228; 22 U.S.C. 6901 note), including the stipulation that the Secretary of State seek ''to establish an office in Lhasa, Tibet, to monitor political, economic, and cultural developments in Tibet'', and also to provide consular protection and citizen services in emergencies; and

(B) urges that the agreement to permit China to open further diplomatic missions in the United States should be contingent upon the establishment of a United States Government consulate in Lhasa, Tibet.

Mrs. FEINSTEIN. Mr. President, I rise today with Senators LIEBERMAN, RUBIO, BOXER, DURBIN, MCCAIN, WEBB, and MARK UDALL to submit a resolution expressing our deep concern about the current situation in Tibet and our steadfast support for the Tibetan people.

Once again, we have seen how harsh and counterproductive Chinese policies have heightened tensions and led to deadly violence.

According to press reports and the International Campaign for Tibet, since the beginning of the Chinese New Year on Monday, security forces in Sichuan province have opened fire three times on Tibetans who gathered peacefully to protest Chinese policies on Tibet.

At least six Tibetans have been killed and many more wounded.

These attacks come on top of a recent spate of self-immolations mostly by Tibetan monks and nuns.

Since March 2011, at least 16 Tibetans, including four this month alone, have set themselves on fire and at least 12 have died.

I know I join my colleagues in mourning these tragic deaths and the death of Tibetans in this latest round of unrest.

In addition, I call on Chinese security forces to exercise maximum restraint and stop targeting Tibetan protesters.

Violence is not the answer to the legitimate grievances of the Tibetan people.

We must raise our voice with this resolution to call on Beijing to respect the right of Tibetans to practice their own religion freely and preserve their distinct cultural and linguistic identity.

This resolution mourns the death of Tibetans who have self-immolated and deplores the repressive policies targeting Tibetans; calls on the Government of the People's Republic of China to suspend implementation of religious control regulations, reassess religious and security policies implemented since 2008 in Tibet, and resume a dialogue with Tibetan Buddhist leaders, including the Dalai Lama or his representatives, to resolve underlying grievances; calls on the Government of the People's Republic of China to release all persons that have been arbitrarily detained; to cease the intimidation, harassment and detention of peaceful protestors; and to allow unrestricted access to journalists, foreign diplomats, and international organizations to Tibet.

The resolution commends His Holiness the Dalai Lama for his decision to devolve his political power in favor of a democratic system; congratulates Tibetans living in exile for holding, on March 20, 2011, a competitive, multi-candidate election that was free, fair, and met international electoral standards; and reaffirms the unwavering friendship between the people of the United States and the people of Tibet.

Over the past several years I have been following the situation in Tibet with increasing concern.

I became involved in this issue when I first met His Holiness the Dalai Lama during a trip to India and Nepal in the fall of 1978.

At that time, as Mayor, I invited His Holiness to visit San Francisco and he accepted.

In September 1979, I was delighted to welcome the Dalai Lama to San Francisco to receive his first public recognition in the United States.

He inspired me to act and I have had the privilege to call him a friend for over 30 years.

Over this time, I have come to the view that Chinese policies on Tibet are intended to suppress the Tibetan culture and people.

These policies include punitive security measures including permanently placing Chinese officials in monasteries; surveillance, mass arrests, and detentions; and restrictions on freedom to practice religion including requiring monks to denounce the Dalai Lama.

We have seen how these policies have created an atmosphere of despair, hopelessness, and frustration among many Tibetans.

Despite nine rounds of talks between the United Front Work Department of the Communist Party of China and envoys of His Holiness, a comprehensive solution to the Tibetan issue remains out of reach.

As a friend of China and the Dalia Lama, I am saddened to see the situation in Tibet deteriorate to this point.

The Dalai Lama has been trying to engage the Chinese leadership for over fifty years.

In the 1990s, I carried three letters to President Jiang Zemin from the Dalai Lama requesting a face to face meeting.

In my view, the Dalai Lama's concerns are driven by a strong Tibetan belief and experience that the Chinese Government continues to suppress the Tibetan culture and way of life.

As my colleagues know, the Dalai Lama has made it clear that he does not support independence for Tibet, but rather meaningful cultural and religious autonomy for the Tibetan people within the People's Republic of China.

Most recently, in his March 2011 statement marking the 52nd anniversary of the peaceful Tibetan uprising he stated:

In our efforts to solve the issue of Tibet, we have consistently pursued the mutually beneficial Middle-Way Approach, which seeks genuine autonomy for the Tibetan people within the [People's Republic of China].

The newly elected prime minister of the Tibetan government-in-exile, Dr. Lobsang Sangay, has affirmed this policy in his inaugural address:

Guided by the wisdom of our forefathers and foremothers, we will continue the Middle-Way policy, which seeks genuine autonomy for Tibet within the People's Republic of China.

Despite these repeated and unequivocal statements, Beijing continues to insist that His Holiness seeks independence for Tibet.

I am stunned that this message has fallen on deaf ears.

Let there be no doubt: the clear goal of His Holiness and the Tibetan people is autonomy within China.

This autonomy can only come about through meaningful dialogue and negotiation, not actions that would undermine Tibetan culture.

As such, I urge the administration to work with our friends and allies in the international community and call on the Chinese Government to begin a substantive dialogue with the Dalai Lama on national reconciliation, respect for the Tibetan culture, and meaningful autonomy for Tibet.

I urge my colleagues to stand up for the Tibetan people and support this resolution.

SENATE RESOLUTION 357—COMMEMORATING THE 150TH ANNIVERSARY OF THE BATTLE OF MILL SPRINGS AND THE SIGNIFICANCE OF THE BATTLE TO THE CIVIL WAR

Mr. MCCONNELL (for himself and Mr. PAUL) submitted the following resolution; which was considered and agreed to:

S. RES. 357

Whereas the Battle of Mill Springs, which took place on January 19, 1862, in Pulaski and Wayne Counties in Kentucky, was the first significant victory for the Union Army in the Civil War, according to the National Park Service;

Whereas Confederate General Felix Zollicoffer, who died at the Battle of Mill Springs, was one of the first generals to die in the Civil War;

Whereas the Battle of Mill Springs was the second largest battle to take place in Kentucky during the Civil War, engaging over 10,000 soldiers;

Whereas the outcome of the Battle of Mill Springs opened the path for the Union Army

to move through Kentucky and into Tennessee, affecting the outcome of the Civil War;

Whereas Mill Springs Battlefield has been designated as a National Historic Landmark by the Department of the Interior;

Whereas the Mill Springs Battlefield Association, along with volunteers in the surrounding community, has made significant strides in preserving the historic site of the battle and educating the public about the historic event that took place at that site;

Whereas the Mill Springs Battlefield Association Visitor Center provides visitors with battlefield tours, access to Civil War artifacts, and a Civil War library; and

Whereas more than 50,000 visitors have traveled to the uniquely preserved battlefield, which spans nearly 500 acres: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 150th anniversary of the Battle of Mill Springs;

(2) recognizes—

(A) the work of the Mill Springs Battlefield Association in acquiring, preserving, and maintaining Mill Springs Battlefield for posterity; and

(B) the continuing effort of the Mill Springs Battlefield Association to educate the public about this significant historic event;

(3) encourages the people of the United States to visit Mill Springs Battlefield on the occasion of the 150th anniversary of the Battle of Mill Springs; and

(4) recognizes—

(A) the contributions of the soldiers who fought in the Battle of Mill Springs; and

(B) the outcome of the Battle of Mill Springs, which helped to preserve the union of the United States.

SENATE RESOLUTION 358—EXPRESSING SUPPORT FOR THE DESIGNATION OF JANUARY 28, 2012, AS ''NATIONAL DATA PRIVACY DAY''

Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mr. KERRY, Mr. LEAHY, Mr. BEGICH, Ms. KLOBUCHAR, Mr. UDALL of New Mexico, Mr. PRYOR, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 358

Whereas new and innovative technologies enhance our lives by increasing our ability to communicate, learn, share, and produce;

Whereas integration of new and innovative technologies into our everyday lives has the potential to compromise the privacy of our personal information if appropriate protection is not taken;

Whereas protecting the privacy of personal information is a global imperative for governments, commerce, civil society, and individuals;

Whereas many individuals and companies are unaware of the risks to the privacy of personal information posed by new and innovative technologies, of data protection and privacy laws, or of the specific steps they can take to protect the privacy of personal information;

Whereas ''National Data Privacy Day'' constitutes an international collaboration and a nationwide effort to educate and raise awareness about data privacy and about protecting the privacy of personal information;

Whereas the fourth annual recognition of ''National Data Privacy Day'' by Congress would encourage more people nationwide to be aware of data privacy and to protect the privacy of their personal information;

Whereas government officials and agencies from the United States, Canada, and Europe, as well as representatives of businesses and nonprofit organizations, privacy professionals, academic communities, legal scholars, educators, and others with an interest in data privacy are working together on January 28, 2012, to educate and raise awareness about data privacy and about protecting the privacy of personal information;

Whereas on January 28, 2012, privacy professionals and educators are being encouraged to discuss data privacy and security with teens and young adults in schools across the United States, and parents are being encouraged to discuss data privacy and security with their children; and

Whereas January 28, 2012, would be an appropriate day to designate as ''National Data Privacy Day'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of January 28, 2012, as ''National Data Privacy Day'';

(2) encourages State and local governments to observe the day with appropriate activities and initiatives that raise awareness about data privacy;

(3) encourages privacy professionals and educators to discuss data privacy and security with teens and young adults in schools across the United States;

(4) encourages corporations to take steps to protect the privacy and security of the personal information of their clients and consumers, to design data privacy into products they create wherever possible, and to promote trust in technologies; and

(5) encourages individuals across the United States to learn about data privacy and the specific steps they can take to protect the privacy of their personal information.

SENATE CONCURRENT RESOLUTION 34—EXPRESSING THE SENSE OF CONGRESS IN HONOR OF THE LIFE AND LEGACY OF VÁCLAV HAVEL

Mr. RUBIO (for himself, Mr. LIEBERMAN, Mr. LUGAR, Mr. KYL, Mr. CASEY, Mr. CARDIN, Mr. INHOFE, Mr. MENENDEZ, Mrs. FEINSTEIN, Mr. DURBIN, Mr. BARRASSO, Mr. CORNYN, Mr. NELSON of Florida, Mrs. SHAHEEN, Mr. ISAKSON, Mr. MCCAIN, and Mr. GRAHAM) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 34

Whereas Václav Havel, former President of the Czech Republic, passed away on December 18, 2011, at 75 years of age, at his country home in Hrádeček in the Czech Republic;

Whereas Václav Havel was widely recognized and respected throughout the world as a defender of democratic principles and human rights;

Whereas through his extensive writings, Václav Havel courageously challenged the ideology and legitimacy of the authoritarian communist regimes that ruled Central and Eastern Europe during the Cold War;

Whereas Václav Havel, who was imprisoned 3 times by the Communist Party of Czechoslovakia for his advocacy of universal human rights and democratic principles, maintained his convictions in the face of repression;

Whereas Václav Havel was one of the leading organizers of Charter 77, a group of 242 individuals who called for the human rights guaranteed under the 1975 Helsinki accords to be realized in Czechoslovakia;

Whereas Václav Havel was a cofounder of the Committee for the Defense of the Unjustly Prosecuted, an organization dedicated to supporting dissidents and their families, which helped to advance the cause of freedom and justice in Czechoslovakia;

Whereas Václav Havel, as leader of the Civic Forum movement, was a key figure in the 1989 peaceful overthrow of the Czechoslovakian communist government known as the Velvet Revolution;

Whereas following the Velvet Revolution, Václav Havel was democratically elected as President of the Czech and Slovak Federal Republic in 1990, and after a peaceful partition forming 2 separate states, democratically elected President of the Czech Republic in 1993;

Whereas under the leadership of Václav Havel, the Czech Republic became a prosperous, democratic country and a respected member of the international community;

Whereas under the leadership of Václav Havel, the Czech Republic became a member of the North Atlantic Treaty Organization (NATO) on March 12, 1999, and continues to be a valued friend and treasured ally of the United States;

Whereas during his lifetime, Václav Havel received praise as one of the world's great democratic leaders and awarded many international prizes recognizing his commitment to peace and democratic principles;

Whereas on July 23, 2003, President George W. Bush honored Václav Havel with the Presidential Medal of Freedom, the highest civilian award of the United States Government, for being ''one of liberty's great heroes'';

Whereas, after leaving office as president of the Czech Republic in February 2003, Václav Havel remained a voice on behalf of democratic dissidents worldwide and against authoritarian regimes, including Belarus, Iran, Cuba, and Burma:

Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) mourns the loss of Václav Havel and offers its heartfelt condolences to the Havel family and the people of the Czech Republic;

(2) recognizes Václav Havel's courage and commitment to democratic values in the face of communist repression;

(3) recognizes Václav Havel's pivotal historical legacy in defeating the ideology of communism, peacefully ending the Cold War, and building a Europe that is democratic, united, and at peace;

(4) recognizes Václav Havel's solidarity with democratic dissidents throughout the world and support for the expansion of freedom, including in Belarus, Iran, Cuba, and Burma; and

(5) reaffirms the commitment of the United States to the causes of freedom, democracy, and human rights for which Václav Havel stood.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1470. Mr. REID (for himself, Mr. BROWN of Massachusetts, Mr. LIEBERMAN, Ms. COLLINS, Mrs. GILLIBRAND, Mr. LEVIN, and Mr. FRANKEN) submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table.

SA 1471. Mr. MCCAIN (for himself, Mr. ROCKEFELLER, Mr. ENZI, Mrs. MCCASKILL, Mr. JOHANNS, Mr. BARRASSO, Mr. BLUNT, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2038, supra; which was ordered to lie on the table.

SA 1472. Mr. TOOMEY (for himself, Mrs. MCCASKILL, Mr. DEMINT, Mr. UDALL of Colorado, Mr. RUBIO, Ms. AYOTTE, Mr. PORTMAN, Mr. THUNE, and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill S. 2038, supra; which was ordered to lie on the table.

SA 1473. Mr. COBURN (for himself, Mr. UDALL of Colorado, Mr. MCCAIN, Mr. BURR, Mrs. MCCASKILL, and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 2038, supra; which was ordered to lie on the table.

SA 1474. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 2038, supra; which was ordered to lie on the table.

SA 1475. Mr. COBURN (for himself, Mr. MCCAIN, and Mr. JOHNSON of Wisconsin) submitted an amendment intended to be proposed by him to the bill S. 2038, supra; which was ordered to lie on the table.

SA 1476. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2038, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1470. Mr. REID (for himself, Mr. BROWN of Massachusetts, Mr. LIEBERMAN, Ms. COLLINS, Mrs. GILLIBRAND, Mr. LEVIN, and Mr. FRANKEN) submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stop Trading on Congressional Knowledge Act of 2012'' or the ''STOCK Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(2) EMPLOYEE OF CONGRESS.—The term ''employee of Congress'' means—

(A) an employee of the Senate; or

(B) an employee of the House of Representatives.

(3) EXECUTIVE BRANCH EMPLOYEE.—The term ''executive branch employee''—

(A) has the meaning given the term ''employee'' under section 2105 of title 5, United States Code; and

(B) includes—

(i) the President;

(ii) the Vice President; and

(iii) an employee of the United States Postal Service or the Postal Regulatory Commission.

(4) JUDICIAL OFFICER.—The term ''judicial officer'' has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978.

SEC. 3. PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives shall issue interpretive guidance of the relevant rules of each chamber, including rules on conflicts of interest and gifts, clarifying that a Member of Congress and an employee of Congress may not use nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities as a means for making a private profit.

SEC. 4. PROHIBITION OF INSIDER TRADING.

(a) AFFIRMATION OF NON-EXEMPTION.—Members of Congress and employees of Congress are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(b) DUTY.—

(1) PURPOSE.—The purpose of the amendment made by this subsection is to affirm a duty arising from a relationship of trust and confidence owed by each Member of Congress and each employee of Congress.

(2) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1) is amended by adding at the end the following:

''(g) DUTY OF MEMBERS AND EMPLOYEES OF CONGRESS.—

''(1) IN GENERAL.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b) and Rule 10b–5 thereunder, each Member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities.

''(2) DEFINITIONS.—In this subsection—

''(A) the term 'Member of Congress' means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico; and

''(B) the term 'employee of Congress' means—

''(i) an employee of the Senate; or

''(ii) an employee of the House of Representatives.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.''.

SEC. 5. CONFORMING CHANGES TO THE COMMODITY EXCHANGE ACT.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended—

(1) in paragraph (3), in the matter preceding subparagraph (A)—

(A) by inserting ''or any Member of Congress or employee of Congress (defined in this subsection as those terms are defined in section 2 of the Stop Trading on Congressional Knowledge Act of 2012)'' after ''Federal Government,'' the first place it appears;

(B) by inserting ''Member,'' after ''position of the''; and

(C) by inserting ''or by Congress'' before ''in a manner''; and

(2) in paragraph (4)—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by inserting ''or any Member of Congress or employee of Congress'' after ''Federal Government,'' the first place it appears;

(ii) by inserting ''Member,'' after ''position of the''; and

(iii) by inserting ''or by Congress'' before ''in a manner'';

(B) in subparagraph (B), in the matter preceding clause (i), by inserting ''or any Member of Congress or employee of Congress'' after ''Federal Government,''; and

(C) in subparagraph (C)—

(i) in the matter preceding clause (i), by inserting ''or by Congress''—

(I) before ''that may affect''; and

(II) before ''in a manner''; and

(ii) in clause (iii), by inserting ''to Congress, or any Member of Congress or employee of Congress'' after ''Federal Government''.

SEC. 6. PROMPT REPORTING OF FINANCIAL TRANSACTIONS.

(a) REPORTING REQUIREMENT.—Section 101 of the Ethics in Government Act of 1978 is amended by adding at the end the following subsection:

''(j) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), a Member of Congress or officer or employee of Congress shall file a report of the transaction.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring on or after the date that is 90 days after the date of enactment of this Act.

SEC. 7. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Congressional Research Service, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the role of political intelligence in the financial markets.

(2) CONTENTS.—The report required by this section shall include a discussion of—

(A) what is known about the prevalence of the sale of political intelligence and the extent to which investors rely on such information;

(B) what is known about the effect that the sale of political intelligence may have on the financial markets;

(C) the extent to which information which is being sold would be considered non-public information;

(D) the legal and ethical issues that may be raised by the sale of political intelligence;

(E) any benefits from imposing disclosure requirements on those who engage in political intelligence activities; and

(F) any legal and practical issues that may be raised by the imposition of disclosure requirements on those who engage in political intelligence activities.

(b) DEFINITION.—For purposes of this section, the term ''political intelligence'' shall mean information that is—

(1) derived by a person from direct communications with executive branch and legislative branch officials; and

(2) provided in exchange for financial compensation to a client who intends, and who is known to intend, to use the information to inform investment decisions.

SEC. 8. PUBLIC FILING AND DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.

(a) PUBLIC, ON-LINE DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Not later than August 31, 2012, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of the Senate and the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, shall ensure that financial disclosure forms filed by Members of Congress, officers of the House and Senate, candidates for Congress, and employees of the Senate and the House of Representatives in calendar year 2012 and in subsequent years pursuant to title I of the Ethics in Government Act of 1978 are made available to the public on the respective official websites of

the Senate and the House of Representatives not later than 30 days after such forms are filed.

(2) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(3) REPORTING TRANSACTIONS.—In the case of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, such disclosures shall be filed not later than 30 days after the transaction. Notices of extension for transaction disclosure shall be made available electronically under this subsection along with its related disclosure.

(4) EXPIRATION.—The requirements of this subsection shall expire upon implementation of the public disclosure system established under subsection (b).

(b) ELECTRONIC FILING AND ON-LINE PUBLIC AVAILABILITY OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS, OFFICERS OF THE HOUSE AND SENATE, AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Subject to paragraph (6) and not later than 18 months after the date of enactment of this Act, the Secretary of the Senate and the Sergeant at Arms of the Senate and the Clerk of the House of Representatives shall develop systems to enable—

(A) electronic filing of reports received by them pursuant to section 103(h)(1)(A) of title I of the Ethics in Government Act of 1978; and

(B) public access to financial disclosure reports filed by Members of Congress, Officers of the House and Senate, candidates for Congress, and employees of the Senate and House of Representatives, as well as reports of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, notices of extensions, amendments and blind trusts, pursuant to title I of the Ethics in Government Act of 1978 through databases that—

(i) are maintained on the official websites of the House of Representatives and the Senate; and

(ii) allow the public to search, sort and download data contained in the reports.

(2) LOGIN.—No login shall be required to search or sort the data contained in the reports made available by this subsection. A login protocol with the name of the user shall be utilized by a person downloading data contained in the reports. For purposes of filings under this section, section 105(b)(2) of the Ethics in Government Act of 1978 does not apply.

(3) PUBLIC AVAILABILITY.—Pursuant to section 105(b)(1) of title I of the Ethics in Government Act of 1978, electronic availability on the official websites of the Senate and the House of Representatives under this subsection shall be deemed to have met the public availability requirement.

(4) FILERS COVERED.—Individuals required under the Ethics in Government Act of 1978 or the Senate Rules to file financial disclosure reports with the Secretary of the Senate or the Clerk of the House shall file reports electronically using the systems developed by the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Clerk of the House.

(5) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained for purposes of this subsection. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(6) ADDITIONAL TIME.—The requirements of this subsection may be implemented after the date provided in paragraph (1) if the Secretary of the Senate or the Clerk of the House identify in writing to relevant congressional committees an additional amount of time needed.

(c) RECORDKEEPING.—Section 105(d) of the Ethics in Government Act of 1978 is amended to read as follows:

''(d)(1) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be.

''(2) Such report shall be made available to the public—

''(A) in the case of a Member of Congress until a date that is 6 years from the date the individual ceases to be a Member of Congress; and

''(B) in the case of all other reports filed pursuant to this title, for a period of six years after receipt of the report.

''(3) After the relevant time period identified under paragraph (2), the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation or inquiry.''.

SEC. 9. OTHER FEDERAL OFFICIALS.

(a) PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.—

(1) EXECUTIVE BRANCH EMPLOYEES.—The Office of Government Ethics shall issue such interpretive guidance of the relevant Federal ethics statutes and regulations, including the Standards of Ethical Conduct for executive branch employees, related to use of nonpublic information, as necessary to clarify that no executive branch employee may use non-public information derived from such person's position as an executive branch employee or gained from the performance of such person's official responsibilities as a means for making a private profit.

(2) JUDICIAL OFFICERS.—The Judicial Conference of the United States shall issue such interpretive guidance of the relevant ethics rules applicable to Federal judges, including the Code of Conduct for United States Judges, as necessary to clarify that no judicial officer may use non-public information derived from such person's position as a judicial officer or gained from the performance of such person's official responsibilities as a means for making a private profit.

(b) APPLICATION OF INSIDER TRADING LAWS.—

(1) AFFIRMATION OF NON-EXEMPTION.—Executive branch employees and judicial officers are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(2) DUTY.—

(A) PURPOSE.—The purpose of the amendment made by this paragraph is to affirm a duty arising from a relationship of trust and confidence owed by each executive branch employee and judicial officer.

(B) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1), as amended by this Act, is amended by adding at the end the following:

''(h) DUTY OF OTHER FEDERAL OFFICIALS.—

''(1) IN GENERAL.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b), and Rule 10b-5 thereunder, each executive branch employee and each judicial officer owes a duty arising from a relationship of trust and confidence to the United States Government and the citizens of the United States with respect to material, nonpublic information derived from such person's position as an executive branch employee or judicial officer or gained from the performance of such person's official responsibilities.

''(2) DEFINITIONS.—In this subsection—

''(A) the term 'executive branch employee'—

''(i) has the meaning given the term 'employee' under section 2105 of title 5, United States Code;

''(ii) includes—

''(I) the President;

''(II) the Vice President; and

''(III) an employee of the United States Postal Service or the Postal Regulatory Commission; and

''(B) the term 'judicial officer' has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.''.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act, the amendments made by this Act, or the interpretive guidance to be issued pursuant to sections 3 and 9 of this Act, shall be construed to—

(1) impair or limit the construction of the antifraud provisions of the securities laws or the Commodities Exchange Act or the authority of the Securities and Exchange Commission or the Commodity Futures Trading Commission under those provisions;

(2) be in derogation of the obligations, duties and functions of a Member of Congress, an employee of Congress, an executive branch employee or a judicial officer, arising from such person's official position; or

(3) be in derogation of existing laws, regulations or ethical obligations governing Members of Congress, employees of Congress, executive branch employees or judicial officers.

SA 1471. Mr. MCCAIN (for himself, Mr. ROCKEFELLER, Mr. ENZI, Mrs. MCCASKILL, Mr. JOHANNS, Mr. BARRASSO, Mr. BLUNT, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON BONUSES TO EXECUTIVES OF FANNIE MAE AND FREDDIE MAC.

Notwithstanding any other provision in law, senior executives at the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are prohibited from receiving bonuses during any period of conservatorship for those entities on or after the date of enactment of this Act.

SA 1472. Mr. TOOMEY (for himself, Mrs. MCCASKILL, Mr. DEMINT, Mr. UDALL of Colorado, Mr. RUBIO, Ms. AYOTTE, Mr. PORTMAN, Mr. THUNE, and Mr. JOHANNS) submitted an amendment

intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EARMARK ELIMINATION ACT OF 2012.

(a) SHORT TITLE.—This Act may be cited as the ''Earmark Elimination Act of 2011''.

(b) PROHIBITION ON EARMARKS.—

(1) BILLS AND JOINT RESOLUTIONS, AMENDMENTS, AMENDMENTS BETWEEN THE HOUSES, AND CONFERENCE REPORTS.—

(A) IN GENERAL.—It shall not be in order in the Senate to consider a bill or resolution introduced in the Senate or the House of Representatives, amendment, amendment between the Houses, or conference report that includes an earmark.

(B) PROCEDURE.—Upon a point of order being made by any Senator pursuant to subparagraph (A) against an earmark, and such point of order being sustained, such earmark shall be deemed stricken.

(2) CONFERENCE REPORT AND AMENDMENT BETWEEN THE HOUSES PROCEDURE.—When the Senate is considering a conference report on, or an amendment between the Houses, upon a point of order being made by any Senator pursuant to paragraph (1), and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable under the same conditions as was the conference report. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(3) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(4) DEFINITIONS.—

(A) EARMARK.—For the purpose of this section, the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives as certified under paragraph 1(a)(1) of rule XLIV of the Standing Rules of the Senate—

(i) providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(ii) that—

(I) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(II) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

(iii) modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(B) DETERMINATION BY THE SENATE.—In the event the Chair is unable to ascertain whether or not the offending provision constitutes an earmark as defined in this subsection, the question of whether the provision constitutes an earmark shall be submitted to the Senate and be decided without debate by an affirmative vote of two-thirds of the Members, duly chosen and sworn

(5) APPLICATION.—This section shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality or congressional district.

SA 1473. Mr. COBURN (for himself, Mr. UDALL of Colorado, Mr. MCCAIN, Mr. BURR, Mrs. MCCASKILL, and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PREVENTING DUPLICATIVE AND OVERLAPPING GOVERNMENT PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the ''Preventing Duplicative and Overlapping Government Programs Act''.

(b) REPORTED LEGISLATION.—Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended—

(1) in subparagraph (c), by striking ''and (b)'' and inserting ''(b), and (c)'';

(2) by redesignating subparagraph (c) and subparagraph (d); and

(3) by inserting after subparagraph (b) the following:

''(c) The report accompanying each bill or joint resolution of a public character reported by any committee (including the Committee on Appropriations and the Committee on the Budget) shall contain—

''(1) an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or duplicative Federal program or programs, office or offices, or initiative or initiatives; and

''(2) an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.''.

(c) SENATE.—Rule XVII of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''6. (a) It shall not be in order in the Senate to proceed to any bill or joint resolution unless the committee of jurisdiction has prepared and posted on the committee website an overlapping and duplicative programs analysis and explanation for the bill or joint resolution as described in subparagraph (b) prior to proceeding.

''(b) The analysis and explanation required by this subparagraph shall contain—

''(1) an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or duplicative Federal program or programs, office or offices, or initiative or initiatives; and

''(2) an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.

''(c) This paragraph may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate upon their certification that such waiver is necessary as a result of—

''(1) a significant disruption to Senate facilities or to the availability of the Internet; or

''(2) an emergency as determined by the leaders.''.

SA 1474. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. AVAILABILITY OF LEGISLATION IN THE HOUSE AND SENATE.

(a) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to proceed to any legislative matter unless the legislative matter has been publically available on the Internet as provided in subsection (b) in searchable form 72 hours (excluding Saturdays, Sundays and holidays except when the Senate or the House of Representatives is in session on such a day) prior to proceeding.

(b) AVAILABILITY.—With respect to the requirements of subsection (a), the legislative matter shall be available on the official website of the committee with jurisdiction over the subject matter of the legislative matter.

(c) WAIVER AND SUSPENSION.—

(1) IN THE SENATE.—The provisions of this section may be waived in the Senate only by the affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) IN THE HOUSE.—The provisions of this section may be waived in the House of Representatives only by a rule or order proposing only to waive such provisions by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(3) POINT OF ORDER PROTECTION.—In the House of Representatives, it shall not be in order to consider a rule or order that waives the application of paragraph (2).

(4) MOTION TO SUSPEND.—It shall not be in order for the Speaker to entertain a motion to suspend the application of this section under clause 1 of rule XV of the Rules of the House of Representatives.

(d) LEGISLATIVE MATTER.—In this section, the term ''legislative matter'' means any bill, joint resolution, concurrent resolution, conference report, or substitute amendment.

SA 1475. Mr. COBURN (for himself, Mr. MCCAIN, and Mr. JOHNSON, of Wisconsin) submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PERMANENT PROHIBITION ON CONGRESSIONAL EARMARKS.

(a) BILLS AND JOINT RESOLUTIONS.—

(1) POINT OF ORDER.—It shall not be in order to—

(A) consider a bill or joint resolution reported by any committee that includes an earmark, limited tax benefit, or limited tariff benefit; or

(B) a Senate bill or joint resolution not reported by committee that includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the bill or joint resolution shall be returned to the calendar until compliance with this subsection has been achieved.

(b) CONFERENCE REPORT.—

(1) POINT OF ORDER.—It shall not be in order to vote on the adoption of a report of a committee of conference if the report includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the conference report shall be returned to the calendar.

(c) FLOOR AMENDMENT.—It shall not be in order to consider an amendment to a bill or joint resolution if the amendment contains an earmark, limited tax benefit, or limited tariff benefit.

(d) AMENDMENT BETWEEN THE HOUSES.—

(1) IN GENERAL.—It shall not be in order to consider an amendment between the Houses if that amendment includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the amendment between the Houses shall be returned to the calendar until compliance with this subsection has been achieved.

(e) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(f) DEFINITIONS.—For the purpose of this section—

(1) the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(2) the term ''limited tax benefit'' means any revenue provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; and

(3) the term ''limited tariff benefit'' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

SA 1476. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. MEMBER CERTIFICATION.

Section 102(a) of the Ethics in Government Act of 1978 is amended by inserting at the end the following:

''(9)(A) A statement (as provided in subparagraph (B)) certifying that financial transactions included in the report filed pursuant to section 101 (d) and (e) were not made on the basis of non-public information.

''(B) The certification required by this paragraph is as follows: 'I hereby certify that the financial transactions reflected in this disclosure form were not made on the basis of material, non-public information.' ''.

NOTICE OF INTENT TO SUSPEND THE RULES

Mr. COBURN. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to offer an amendment to the Standing Rules of the Senate, by proposing Amendment No. 1473 to S. 2038.

PRIVILEGES OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Hala Furst, a Presidential Management Fellow on detail to the Homeland Security and Governmental Affairs Committee, be granted the privilege of the floor for the duration of the debate on S. 2038.

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

Mr. TESTER. Mr. President, I ask unanimous consent that Val Molaison, a fellow in my office, be granted the privilege of the floor today.

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

BORDER TUNNEL PREVENTION ACT OF 2011

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 260, S. 1236.

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

The legislative clerk read as follows:

A bill (S. 1236) to reduce the trafficking of drugs and to prevent human smuggling across the Southwest Border by deterring the construction and use of border tunnels.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with 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. 1236) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1236

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 ''Border Tunnel Prevention Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) As the international border between the United States and Mexico becomes more secure, trafficking and smuggling organizations intensify their efforts to enter the United States by increasing the number of tunnels and other subterranean passages between Mexico and the United States.

(2) Border tunnels are most often used to transport narcotics from Mexico to the United States, but can also be used to transport people and other contraband.

(3) Between May 1990 and May 2011, law enforcement authorities discovered 137 tunnels, 125 of which have been discovered since September 2001. While law enforcement authorities discovered only 2 tunnels in California between 1990 and 2001, there has been a dramatic increase in the number of border tunnels discovered in California since 2001.

(4) Section 551 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295) added a new section to title 18, United States Code (18 U.S.C. 555), which—

(A) criminalizes the construction or financing of an unauthorized tunnel or subterranean passage across an international border into the United States; and

(B) prohibits any person from recklessly permitting others to construct or use an unauthorized tunnel or subterranean passage on the person's land.

(5) Any person convicted of using a tunnel or subterranean passage to smuggle aliens, weapons, drugs, terrorists, or illegal goods is subject to an enhanced sentence for the underlying offense. Additional sentence enhancements would further deter tunnel activities and increase prosecutorial options.

SEC. 3. DEFINITIONS.

In this Act:

(1) NATIONAL SECURITY ZONE.—The term ''national security zone'' means any Southwest Border land designated by the Secretary as being at a high risk for border tunnel activity, as authorized under section 8(b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(3) SOUTHWEST BORDER LAND.—The term ''Southwest Border land'' means all parcels of real property in the United States that—

(A) are located within 1 mile of the international border between the United States and Mexico; and

(B) are not owned by a Federal, State, tribal, or local government entity.

SEC. 4. ATTEMPT OR CONSPIRACY TO USE, CONSTRUCT, OR FINANCE A BORDER TUNNEL.

Section 555 of title 18, United States Code, is amended by adding at the end the following:

''(d) Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.''.

SEC. 5. AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting '', section 555 (relating to construction or use of international border tunnels)'' before the semicolon at the end.

SEC. 6. FORFEITURE.

(a) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by inserting ''555,'' after ''545,''.

(b) CIVIL ASSET FORFEITURE.—Any merchandise introduced into the United States

through a tunnel or passage described in section 555(a) of title 18, United States Code, shall be subject to seizure and forfeiture in accordance with section 596(c) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)).

SEC. 7. MONEY LAUNDERING DESIGNATION.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''section 555 (relating to border tunnels),'' after ''section 554 (relating to smuggling goods from the United States),''.

SEC. 8. NOTIFICATION REQUIREMENTS.

(a) NOTIFICATION TO LAND OWNERS.—The Secretary is encouraged to annually provide each known nongovernmental owner and tenant of land located in a national security zone with a written notification that describes—

(1) Federal laws related to the construction of illegal border tunnels; and

(2) the procedures for reporting violations of such laws to U.S. Immigration and Customs Enforcement.

(b) DESIGNATION OF BORDER TUNNEL HIGH RISK AREAS.—

(1) IN GENERAL.—The Secretary may designate any Southwest Border land that the Secretary has a substantial reason to believe is at a high risk for border tunnel activity as a national security zone.

(2) PUBLICATION.—The Secretary shall—

(A) publish any designations made under paragraph (1) in the Federal Register; and

(B) allow appropriate notice and comment in accordance with the chapter 5 of title 5, United States Code (commonly referred to as the ''Administrative Procedures Act'').

(c) RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out this section.

SEC. 9. REPORT.

(a) IN GENERAL.—The Secretary shall submit an annual report to the congressional committees set forth in subsection (b) that includes a description of—

(1) the cross border tunnels in Southwest Border land discovered during the reporting period; and

(2) the needs of the Department of Homeland Security to effectively prevent, investigate and prosecute border tunnel construction on Southwest Border land.

(b) CONGRESSIONAL COMMITTEES.—The congressional committees set forth in this subsection are—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the Senate;

(4) the Committee on Homeland Security of the House of Representatives;

(5) the Committee on the Judiciary of the House of Representatives; and

(6) the Committee on Appropriations of the House of Representatives.

COMMEMORATING 105TH ANNIVERSARY OF THE BATTLE OF MILL SPRINGS

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 357 submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 357) commemorating the 105th anniversary of the Battle of Mill Springs and the significance of the battle to the Civil War.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 357) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 357

Whereas the Battle of Mill Springs, which took place on January 19, 1862, in Pulaski and Wayne Counties in Kentucky, was the first significant victory for the Union Army in the Civil War, according to the National Park Service;

Whereas Confederate General Felix Zollicoffer, who died at the Battle of Mill Springs, was one of the first generals to die in the Civil War;

Whereas the Battle of Mill Springs was the second largest battle to take place in Kentucky during the Civil War, engaging over 10,000 soldiers;

Whereas the outcome of the Battle of Mill Springs opened the path for the Union Army to move through Kentucky and into Tennessee, affecting the outcome of the Civil War;

Whereas Mill Springs Battlefield has been designated as a National Historic Landmark by the Department of the Interior;

Whereas the Mill Springs Battlefield Association, along with volunteers in the surrounding community, has made significant strides in preserving the historic site of the battle and educating the public about the historic event that took place at that site;

Whereas the Mill Springs Battlefield Association Visitor Center provides visitors with battlefield tours, access to Civil War artifacts, and a Civil War library; and

Whereas more than 50,000 visitors have traveled to the uniquely preserved battlefield, which spans nearly 500 acres: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 150th anniversary of the Battle of Mill Springs;

(2) recognizes—

(A) the work of the Mill Springs Battlefield Association in acquiring, preserving, and maintaining Mill Springs Battlefield for posterity; and

(B) the continuing effort of the Mill Springs Battlefield Association to educate the public about this significant historic event;

(3) encourages the people of the United States to visit Mill Springs Battlefield on the occasion of the 150th anniversary of the Battle of Mill Springs; and

(4) recognizes—

(A) the contributions of the soldiers who fought in the Battle of Mill Springs; and

(B) the outcome of the Battle of Mill Springs, which helped to preserve the union of the United States.

NATIONAL DATA PRIVACY DAY

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 358, submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 358) expressing support for the designation of January 28, 2012, as ''National Data Privacy Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 358) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 358

Whereas new and innovative technologies enhance our lives by increasing our ability to communicate, learn, share, and produce;

Whereas integration of new and innovative technologies into our everyday lives has the potential to compromise the privacy of our personal information if appropriate protection is not taken;

Whereas protecting the privacy of personal information is a global imperative for governments, commerce, civil society, and individuals;

Whereas many individuals and companies are unaware of the risks to the privacy of personal information posed by new and innovative technologies, of data protection and privacy laws, or of the specific steps they can take to protect the privacy of personal information;

Whereas ''National Data Privacy Day'' constitutes an international collaboration and a nationwide effort to educate and raise awareness about data privacy and about protecting the privacy of personal information;

Whereas the fourth annual recognition of ''National Data Privacy Day'' by Congress would encourage more people nationwide to be aware of data privacy and to protect the privacy of their personal information;

Whereas government officials and agencies from the United States, Canada, and Europe, as well as representatives of businesses and nonprofit organizations, privacy professionals, academic communities, legal scholars, educators, and others with an interest in data privacy are working together on January 28, 2012, to educate and raise awareness about data privacy and about protecting the privacy of personal information;

Whereas on January 28, 2012, privacy professionals and educators are being encouraged to discuss data privacy and security with teens and young adults in schools across the United States, and parents are being encouraged to discuss data privacy and security with their children; and

Whereas January 28, 2012, would be an appropriate day to designate as ''National Data Privacy Day'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of January 28, 2012, as ''National Data Privacy Day'';

(2) encourages State and local governments to observe the day with appropriate activities and initiatives that raise awareness about data privacy;

(3) encourages privacy professionals and educators to discuss data privacy and security with teens and young adults in schools across the United States;

(4) encourages corporations to take steps to protect the privacy and security of the personal information of their clients and

consumers, to design data privacy into products they create wherever possible, and to promote trust in technologies; and

(5) encourages individuals across the United States to learn about data privacy and the specific steps they can take to protect the privacy of their personal information.

HONORING THE LIFE AND LEGACY OF VÁCLAV HAVEL

Mr. BROWN of Ohio. Madam President, I ask unanimous consent the Senate proceed to the consideration of S. Con. Res. 34, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 34) expressing the sense of Congress in honor of the life and legacy of Václav Havel.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BROWN of Ohio. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 34) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 34

Whereas Václav Havel, former President of the Czech Republic, passed away on December 18, 2011, at 75 years of age, at his country home in Hrádeček in the Czech Republic;

Whereas Václav Havel was widely recognized and respected throughout the world as a defender of democratic principles and human rights;

Whereas through his extensive writings, Václav Havel courageously challenged the ideology and legitimacy of the authoritarian communist regimes that ruled Central and Eastern Europe during the Cold War;

Whereas Václav Havel, who was imprisoned 3 times by the Communist Party of Czechoslovakia for his advocacy of universal human rights and democratic principles, maintained his convictions in the face of repression;

Whereas Václav Havel was one of the leading organizers of Charter 77, a group of 242 individuals who called for the human rights guaranteed under the 1975 Helsinki accords to be realized in Czechoslovakia;

Whereas Václav Havel was a cofounder of the Committee for the Defense of the Unjustly Prosecuted, an organization dedicated to supporting dissidents and their families, which helped to advance the cause of freedom and justice in Czechoslovakia;

Whereas Václav Havel, as leader of the Civic Forum movement, was a key figure in the 1989 peaceful overthrow of the Czechoslovakian communist government known as the Velvet Revolution;

Whereas following the Velvet Revolution, Václav Havel was democratically elected as President of the Czech and Slovak Federal Republic in 1990, and after a peaceful partition forming 2 separate states, democratically elected President of the Czech Republic in 1993;

Whereas under the leadership of Václav Havel, the Czech Republic became a prosperous, democratic country and a respected member of the international community;

Whereas under the leadership of Václav Havel, the Czech Republic became a member of the North Atlantic Treaty Organization (NATO) on March 12, 1999, and continues to be a valued friend and treasured ally of the United States;

Whereas during his lifetime, Václav Havel received praise as one of the world's great democratic leaders and awarded many international prizes recognizing his commitment to peace and democratic principles;

Whereas on July 23, 2003, President George W. Bush honored Václav Havel with the Presidential Medal of Freedom, the highest civilian award of the United States Government, for being ''one of liberty's great heroes'';

Whereas, after leaving office as president of the Czech Republic in February 2003, Václav Havel remained a voice on behalf of democratic dissidents worldwide and against authoritarian regimes, including Belarus, Iran, Cuba, and Burma:

Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) mourns the loss of Václav Havel and offers its heartfelt condolences to the Havel family and the people of the Czech Republic;

(2) recognizes Václav Havel's courage and commitment to democratic values in the face of communist repression;

(3) recognizes Václav Havel's pivotal historical legacy in defeating the ideology of communism, peacefully ending the Cold War, and building a Europe that is democratic, united, and at peace;

(4) recognizes Václav Havel's solidarity with democratic dissidents throughout the world and support for the expansion of freedom, including in Belarus, Iran, Cuba, and Burma; and

(5) reaffirms the commitment of the United States to the causes of freedom, democracy, and human rights for which Václav Havel stood.

MEASURE READ THE FIRST TIME—S. 2041

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

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

The legislative clerk read as follows:

A bill (S. 2041) to approve the Keystone XL pipeline project and provide for environmental protection and government oversight.

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

The PRESIDING OFFICER. The objection is heard.

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

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

ORDERS FOR TUESDAY, JANUARY 31, 2012

Mr. BROWN of Ohio. I ask unanimous consent that the Senate adjourn until 10 a.m. tomorrow, Tuesday, January 31, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 11:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half, and that following morning business, the Senate proceed to vote on the motion to proceed to Calendar No. 301, S. 2038, the Stop Trading on Congressional Knowledge (STOCK) Act; further, that the Senate recess from 12:30 p.m. to 2:15 p.m. to allow for weekly caucus meetings.

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

PROGRAM

Mr. BROWN of Ohio. Madam President, we will begin consideration of the STOCK Act during tomorrow's session of the Senate. Senators will be notified when votes are scheduled.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

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

There being no objection, the Senate, at 6:38 p.m., adjourned until Tuesday, January 31, 2012, at 10 a.m.