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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 13, 2010, at 2 p.m.

Senate

MONDAY, APRIL 12, 2010

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Almighty and everlasting God, You have revealed Your glory among the nations. Increase in our Senators the gifts of faith, hope, and perseverance, enabling them to obtain what You promise. Lord, infuse them with a passion to do Your will so that this Nation will fulfill Your purposes in our world. Deliver our lawmakers from discouraged thoughts, as they remember Your mighty acts in our Nation's history.

Pour eternity into these brief lives of ours, and open to us the gates of a new and deeper fellowship with You. Today, we lift our prayers for those who mourn in West Virginia and Poland. We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 12, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

The ACTING PRESIDENT pro tempore. The majority leader.

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COURT OF IMPEACHMENT

Mr. REID. Mr. President, I ask unanimous consent the Senate convene as a Court of Impeachment to process the answer of Judge G. Thomas Porteous, Jr.

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

Pursuant to rule IX of the Rules and Procedures in the Senate when sitting on impeachment trials, the Secretary of the Senate will now swear the Sergeant at Arms.

The SECRETARY of the SENATE. Do you, Drew Willison, solemnly swear that the return made by you upon the process issued on the 19th of March, 2010, by the Senate of the United States against G. Thomas Porteous, Jr., is truly made and that you have performed such service as therein described, so help you God?

The DEPUTY SERGEANT at ARMS. I do.

Mr. President, I send to the desk the return of service I executed upon service of the summons upon Judge G. Thomas Porteous, Jr., Friday, March 19, 2010, at 8:55 a.m.

The ACTING PRESIDENT pro tempore. The return of service will be spread upon the Journal and printed in the RECORD.

The return of service is as follows:

The foregoing writ of summons, addressed to G. Thomas Porteous, Jr., United States District Judge for the Eastern District of Louisiana and the foregoing precept, addressed to me, were duly served upon the said G. Thomas Porteous, Jr. by my delivering true and attested copies of the same to G. Thomas Porteous, Jr., at his home, 4801 Neyrey Drive, Metairie, LA, on the 19th day of March 2010, at 8:55 a.m.

TERRANCE W. GAINER,
Sergeant at Arms.

Witness: ANDREW B. WILLISON,
Deputy Sergeant at Arms.

Dated 23 March 2010.

Mr. REID. Mr. President, I ask that the Secretary of the Senate communicate to the House of Representatives an attested copy of the answer of G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana, to the articles of impeachment.

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

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

Mr. REID. I further ask that the answer be referred to the Impeachment Trial Committee on the Articles Against Judge G. Thomas Porteous, Jr., established by the Senate on March 17, 2010; and that the answer of the respondent, G. Thomas Porteous, Jr., to the Articles of Impeachment exhibited against him by the House of Representatives be printed for the use of the Senate sitting in the trial of said impeachment.

The ACTING PRESIDENT pro tempore. It is so ordered.

The Answer to the Articles of Impeachment is as follows:

IN THE SENATE OF THE UNITED STATES

SITTING FOR THE TRIAL OF AN IMPEACHMENT

In re:

Impeachment of G. Thomas Porteous, Jr., United States District Judge for the Eastern District of Louisiana

ANSWER OF JUDGE G. THOMAS PORTEOUS, JR. TO THE ARTICLES OF IMPEACHMENT

The Honorable G. Thomas Porteous, Jr., a Judge of the United States District Court for the Eastern District of Louisiana, as commanded by the summons of the Senate of the United States, answers the accusations made by the House of Representatives of the United States in the four Articles of Impeachment it has exhibited to the Senate as follows:

PREAMBLE

THE HOUSE OF REPRESENTATIVES' IMPEACHMENT OF JUDGE PORTEOUS IS UNPRECEDENTED AND UNJUSTIFIED

For the first time in modern history, the House of Representatives has impeached a sitting Article III Judge who has never been charged with a crime. Indeed, it has been more than 74 years since the House of Representatives has brought Articles of Impeachment against a judge that were not preceded by that judge's indictment in the criminal courts. The Articles of Impeachment brought against Judge Porteous are also unprecedented in two additional ways. First, this is the only time since the ratification of the Constitution that the House of Representatives has brought Articles of Impeachment against a judge after the Executive Branch, having conducted a thorough investigation, has declined to prosecute. Second, it is the only time in the same period that the House of Representatives has based an Article of Impeachment against a judge, or any other officer, upon allegations that pre-date his or her entry into federal office.

These actions are unprecedented and they are also unjustified by the facts of this case. The four Articles of Impeachment do not allege a single offense that supports the conviction and removal of a sitting Article III Judge under the impeachment clause of the Constitution. Article II, Section 4 of the Constitution provides that the civil officers shall be removed from office only upon ''Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors.'' The charges in the articles against Judge Porteous do not rise to the constitutionally required level of ''high Crimes and Misdemeanors.'' Indeed, in some instances, the Articles allege violations of the canons of judicial ethics or criticize Judge Porteous' handling of matters before the Court. While Judge Porteous vehemently denies violating those canons or mishandling matters, noncriminal ethical violations or incorrect decisions have never been found to be a sufficient basis for conviction and removal from office. Such issues simply do not rise to the level of ''high Crimes and Misdemeanors'' as contemplated by the Framers. To the extent that a trial on the Articles in this case is permitted to convert—in contravention of both the Constitution and impeachment precedent—such acts into grounds for removal of an Article III Judge, it will set a new standard. A standard that treads deeply and dangerously into the realm of an independent judiciary that was at the very core of the Framers' vision of three coequal branches of government.

In devising the three branches, the Framers divided the ability to impeach and remove Executive and Judicial Branch officers between the House of Representatives and the Senate. By doing so, the Framers, through the Constitution, empowered the House to allege the standard for impeachment based upon the language of the impeachment clause. But history has shown the power to impeach is not the power to remove. The power to try impeachments and remove officers upon conviction was vested solely in the Senate. It is the Senate—a uniquely deliberative body, free from the passions and prejudices of the majority—that sits in judgment and determines whether a given Article of Impeachment is sufficient, both legally and factually, to justify the removal of an Article III Judge.

In striking this careful balance, the Framers made clear that the trial and removal process is not one that should embrace unprecedented or novel impeachments. In vesting the power in the Senate, the Framers' intent was that the process would not be exercised easily or quickly, but carefully and deliberately. The Framers, through the Constitution, positioned the Senate along the path between the possibility of ill-considered and novel uses of the power to impeach and the decision to remove, confident that the Senate would stand as a safeguard against removal when constitutional standards had not been met. The Articles of Impeachment returned by the House are unprecedented, unjustified, and fail to meet the constitutionally required standard. Accordingly, Judge Porteous, in answer, asks the Senate to fulfill its constitutionally mandated role by dismissing the articles or, alternatively, acquitting him of the charges.

GENERAL DENIAL OF FACTS NOT ADMITTED

Judge Porteous denies each and every material allegation of the four Articles of Impeachment not specifically admitted in this ANSWER.

ARTICLE I

ANSWER TO ARTICLE I

Without waiving his affirmative defenses, Judge Porteous admits that he presided as a United States District Judge over the Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises litigation and that on October 17, 1996 he denied a motion seeking to recuse him from presiding over the case. Judge Porteous denies that he engaged in any corrupt conduct in connection with his handling of the litigation or in denying the motion for recusal. Judge Porteous denies that he intentionally made any misleading statements during the recusal hearing. Judge Porteous also denies engaging in a corrupt scheme of any sort with Jacob Amato, Jr. and Robert Creely and that he, at any time, deprived the parties or the public of the right to the honest services of his office. Judge Porteous further denies that he engaged in any corrupt conduct after the bench trial in Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises or at any time while the case was under advisement.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE I

Article I does not allege an offense that supports the conviction and removal of a sitting Article III United States District Judge under the impeachment clause of the Constitution. Article II, Section 4 of the Constitution provides that the civil officers shall be removed from office only upon ''Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors.'' The charges in the articles against Judge Porteous do not rise to the constitutionally required level of ''high Crimes and Misdemeanors.'' Because Article I does not meet the rigorous constitutional standard for conviction and removal, it should be dismissed.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE I

Article I is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against Judge Porteous or what allegations rise to the level of ''high Crimes and Misdemeanors'' as required by the Constitution. In essence, Article I alleges that Judge Porteous took several judicial actions while presiding as a United States District Judge in Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises, including failing to grant a recusal motion and failing to disclose certain facts. In doing so, the Article alleges that Judge Porteous ''deprived the parties and the public of the right to the honest services of his office.'' This ''deprivation of the right to honest services'' language is borrowed from Title 18, United States Code, Section 1346, a statute that is fraught with vagueness concerns. Indeed, its constitutional viability is currently pending before the United States Supreme Court in a series of cases. See Weyhrauch v. United States, No. 08–1196; Black v. United States, No. 08–876; and Skilling v. United States, No. 08–1394. The inclusion of this standard, as well as the nonspecific allegations regarding the allegedly improper judicial actions taken by Judge Porteous, render Article I unconstitutionally vague.

It is a fundamental principle of our law and the Constitution that a person has a right to know what specific charges he is facing. Without such notice, no one can prepare the defense to which every person is entitled. The law and the Constitution also require that the charges provide adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of specific ''high Crime and Misdemeanor'' upon which the Article of Impeachment is grounded, a trial becomes a moving target for the accused.

Article I fails to provide the required definite and specific identification. As an article of impeachment, it is constitutionally defective and should be dismissed.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE I

Article I is fatally flawed because it charges multiple instances of allegedly corrupt conduct in a single article. The Constitution provides that ''no person shall be convicted without the Concurrence of two thirds of the Members present.'' Senate Rule XXIII provides that ''an article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial.''

Despite these clear pronouncements, the House of Representatives, in Article I, has alleged a series of allegedly wrongful acts. In doing so, the House of Representatives has returned an Article of Impeachment which might permit a Senator to vote for impeachment if he or she finds that Judge Porteous committed even a single allegedly wrongful act, even where two-thirds of the Senators do not agree on which wrongful act was committed. This creates the very real possibility

that conviction could occur even though Senators were in wide disagreement as to the alleged wrong committed. The structure of Article I presents the possibility that Judge Porteous could be convicted even though he would have been acquitted if separate votes were taken on each allegedly wrongful acts included in the article. As written, Article I does not require the constitutionally required number of Senators to agree on the specific conduct forming the basis for conviction and removal. By charging multiple wrongs in one article, the House of Representatives has made it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of two-thirds of the members. Accordingly, Article I should fail.

FOURTH AFFIRMATIVE DEFENSE TO ARTICLE I

Article I was returned by the House of Representatives in violation of Judge Porteous' constitutional rights in that it is based, in part, upon his compelled testimony provided under a grant of immunity. Because the process of impeachment, conviction and removal is a quasi-criminal one and under the circumstances here, Judge Porteous has constitutional rights that are violated by the use of his prior compelled, immunized testimony, Article I must be dismissed. Further, because the immunity grant by Judge Edith Jones, Chief Judge of the Fifth Circuit Court of Appeals and Chair of the Special Committee of the Judicial Conference of the Fifth Circuit, was not proper under the immunity statute, the compelled testimony was wrongly procured and any Article of Impeachment based upon that testimony must be dismissed.

ARTICLE II

ANSWER TO ARTICLE II

Without waiving his affirmative defenses, Judge Porteous denies that he engaged in a longstanding pattern of corrupt conduct demonstrating his unfitness to serve as a United States District Court Judge as alleged in Article II. Judge Porteous further denies that he improperly set aside or expunged felony convictions for two Marcotte employees. Judge Porteous also denies that he at any time took any action in his capacity as a United States District Judge that related in any way to the Marcottes or their business interests.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE II

Article II does not allege an offense that supports the conviction and removal of a sitting Article III United States District Judge under the impeachment clause of the Constitution. Article II, Section 4 of the Constitution provides that the civil officers shall be removed from office only upon ''Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors.'' The charges in the articles against Judge Porteous do not rise to the constitutionally required level of ''high Crimes and Misdemeanors.'' Because Article II does not meet the rigorous constitutional standard for conviction and removal, it should be dismissed.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE II

Article II is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against Judge Porteous or what allegations rise to the level of ''high Crimes and Misdemeanors'' as required by the Constitution. Article II alleges that Judge Porteous engaged in certain corrupt actions prior to his appointment and confirmation to the position of Untied States District Judge. Article II makes no specific allegations concerning actions taken by Judge Porteous while on the federal bench. Indeed, the only allegations concerning Judge Porteous tenure on the federal bench is that he in some unidentified way ''used the power and prestige of his office to assist the Marcottes in forming relationships with State judicial officers and individuals important to the Marcottes' business.'' The vagueness problem here cannot be overstated. It is simply not possible to begin to defend against this type of allegation. It is wholly lacking in any factual basis and clearly fails to frame a set of facts that amount to ''high Crimes and Misdemeanors.''

As we set forth in the SECOND AFFIRMATIVE DEFENSE TO ARTICLE I, it is a fundamental principle of our law and the Constitution that a person has a right to know what specific charges he is facing. Without such notice, no one can prepare the defense to which every person is entitled. The law and the Constitution also require that the charges provide adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of specific ''high Crime and Misdemeanor'' upon which the Article of Impeachment is grounded, a trial becomes a moving target for the accused.

Article II fails to provide the required definite and specific identification. As an article of impeachment, it is constitutionally defective and should be dismissed.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE II

For the reasons set forth in the THIRD AFFIRMATIVE DEFENSE TO ARTICLE I, Article II is constitutionally defective because it charges multiple alleged wrongs in a single article, which makes it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of the two-thirds of the members. Accordingly, Article II should fail.

FOURTH AFFIRMATIVE DEFENSE TO ARTICLE II

Article II cannot support the conviction and removal of an Article III United States District Judge because the alleged conduct preceded Judge Porteous' service as a United States District Judge. The constitutional impeachment mechanism provides a procedure to remove a judge for the commission of ''high Crimes and Misdemeanors'' while in federal office. The impeachment precedents do not provide a single example of an Article of Impeachment that has ever been based upon conduct that allegedly occurred prior to the impeached officer's entry into federal office. In contrast, the precedents suggest that while the House of Representatives may have investigated such allegations, that such conduct has never provided the basis for an impeachment and, significantly, the House has, on occasion, refused to take action because the allegations preceded the officer's entry into federal service. Moreover, while Judge Porteous contends that any attempt to use Article III's ''good behaviour'' clause to lower the standard necessary to impeach a federal judge is unsupported by the Constitution's impeachment clause, the House has clearly applied that lower standard in returning the four Articles of Impeachment. To the extent that the House has relied on the ''good behaviour'' clause, that clause states that judges ''shall hold their offices during good behaviour'' and clearly relates to a judge's conduct while in federal judicial office. Because the allegations of Article II relate to a period prior to Judge Porteous taking the federal bench, Article II must be dismissed.

ARTICLE III

ANSWER TO ARTICLE III

Without waiving his affirmative defenses, Judge Porteous denies that he knowingly and intentionally made material false statements and representatives in connection with his personal bankruptcy or that he knowingly and intentionally repeatedly violated a court order in his bankruptcy case.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE III

Article III does not allege an offense that supports the conviction and removal of a sitting Article III United States District Judge under the impeachment clause of the Constitution. Article II, Section 4 of the Constitution provides that the civil officers shall be removed from office only upon ''Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors.'' The charges in the articles against Judge Porteous do not rise to the constitutionally required level of ''high Crimes and Misdemeanors.'' Because Article III does not meet the rigorous constitutional standard for conviction and removal, it should be dismissed.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE III

Article III is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against Judge Porteous or what allegations rise to the level of ''high Crimes and Misdemeanors'' as required by the Constitution. In essence, Article III alleges a number of actions taken by Judge Porteous in connection with his personal bankruptcy, but it unclear as to the specific acts are claimed to violate the constitutional standard. Moreover, it is also does not clearly state the specific allegations regarding what transaction Judge Porteous concealed during the bankruptcy process or what new debts he allegedly incurred.

As we set forth in the SECOND AFFIRMATIVE DEFENSE TO ARTICLE I, it is a fundamental principle of our law and the Constitution that a person has a right to know what specific charges he is facing. Without such notice, no one can prepare the defense to which every person is entitled. The law and the Constitution also require that the charges provide adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of specific ''high Crime and Misdemeanor'' upon which the Article of Impeachment is grounded, a trial becomes a moving target for the accused.

Article III fails to provide the required definite and specific identification. As an article of impeachment, it is constitutionally defective and should be dismissed.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE III

For the reasons set forth in the THIRD AFFIRMATIVE DEFENSE TO ARTICLE I, Article II is constitutionally defective because it charges multiple alleged wrongs in a single article, which makes it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of the two-thirds of the members. Accordingly, Article II should fail.

FOURTH AFFIRMATIVE DEFENSE TO ARTICLE III

For the reasons set forth in the FOURTH AFFIRMATIVE DEFENSE TO ARTICLE I, Article III was returned by the House of Representatives in violation of Judge Porteous' constitutional rights in that it is based, in part, upon his compelled testimony provided under a grant of immunity. Because the process of impeachment, conviction and removal is a quasi-criminal one and under the circumstances here, Judge Porteous has constitutional rights that are violated by the use of his prior compelled, immunized testimony, Article 1 must be dismissed. Further, because the immunity grant by Judge Edith Jones, Chief Judge of the Fifth Circuit Court of Appeals and Chair of the Special Committee of the Judicial Conference of the Fifth Circuit, was not proper under the immunity statute, the compelled testimony

was wrongly procured and any Article of Impeachment based upon that testimony must be dismissed.

FIFTH AFFIRMATIVE DEFENSE TO ARTICLE III

The allegations in Article III do not rise to the level of ''high Crimes and Misdemeanors'' because they address purely personal conduct that is not criminal. Prior impeachment precedent has never before sought to convict and remove a judge from office based upon personal non-criminal conduct. The very nature of the impeachment process is focused first and foremost upon the official actions of judges. Where allegations in the Articles of Impeachment address non-official personal acts by judges, longstanding precedent has limited ''high Crimes and Misdemeanors'' to those personal acts that are also indictable offenses. Article III ignores this precedent in seeking to convict and remove Judge Porteous from office for non-official, non-criminal acts. While it is possible that the House of Representatives would claim that the actions taken in relation to the personal bankruptcy were indictable offenses, this claim would conflict with the multi-year investigation of the United States Department of Justice which concluded that prosecution was not warranted in light of the concern that the issues related to the bankruptcy were not material. It would also conflict with the criminal bankruptcy statutes, which require that any alleged false statement not be made simply knowingly or willfully, but fraudulently, before criminal liability may attach to such conduct. In framing Article III, the House of Representatives is seeking to convict and remove a sitting United States District Judge based upon a lowered standard, one that does not constitute ''high Crimes and Misdemeanors,'' and one that has never before provided a basis for impeachment, much less conviction and removal from office. Article III of the Articles of Impeachment should be dismissed.

ARTICLE IV

ANSWER TO ARTICLE IV

Without waiving his affirmative defenses, Judge Porteous denies that he knowingly made material false statements in order to obtain the office of United States District Court Judge.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE IV

Article IV does not allege an offense that supports the conviction and removal of a sitting Article III United States District Judge under the impeachment clause of the Constitution. Article II, Section 4 of the Constitution provides that the civil officers shall be removed from office only upon ''Impeachment for, and Conviction of, Treason, Bribery or other high Crimes and Misdemeanors.'' The charges in the articles against Judge Porteous do not rise to the constitutionally required level of ''high Crimes and Misdemeanors.'' Because Article IV does not meet the rigorous constitutional standard for conviction and removal, it should be dismissed.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE IV

Article IV is unconstitutionally vague. No reasonable person could know what specific charges are being leveled against Judge Porteous or what allegations rise to the level of ''high Crimes and Misdemeanors'' as required by the Constitution. In essence, Article IV alleges that Judge Porteous gave false answers on various forms that were presented in connection with the background investigation that was used to evaluate his appointment and confirmation as a United States District Judge. However, it is not clear whether Article IV contends that simply providing a single one of the alleged false statements is a ''high Crime or Misdemeanor'' or whether the ''high Crime or Misdemeanor'' is based upon all of the acts alleged, i.e., several alleged false statements and other conduct alleged. Moreover, the nature of the questions on the forms that are the focus of this Article themselves add to the vagueness problem.

As we set forth in the SECOND AFFIRMATIVE DEFENSE TO ARTICLE I, it is a fundamental principle of our law and the Constitution that a person has a right to know what specific charges he is facing. Without such notice, no one can prepare the defense to which every person is entitled. The law and the Constitution also require that the charges provide adequate notice to jurors so they may know the basis for the vote they must make. Without a definite and specific identification of specific ''high Crime and Misdemeanor'' upon which the Article of Impeachment is grounded, a trial becomes a moving target for the accused.

Article IV fails to provide the required definite and specific identification. As an article of impeachment, it is constitutionally defective and should be dismissed.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE IV

For the reasons set forth in the THIRD AFFIRMATIVE DEFENSE TO ARTICLE I, Article IV is constitutionally defective because it charges multiple instances of alleged acts of making false statements in one article, which makes it impossible for the Senate to comply with the Constitutional mandate that any conviction be by the concurrence of the two-thirds of the members. Accordingly, Article IV should fail.

FOURTH AFFIRMATIVE DEFENSE TO ARTICLE IV

Article IV cannot support the conviction and removal of an Article III United States District Judge because the alleged conduct preceded Judge Porteous' service as a United States District Judge. The constitutional impeachment mechanism provides a procedure to remove a judge for the commission of ''high Crimes and Misdemeanors'' while in federal office. The impeachment precedents do not provide a single example of an Article of Impeachment that has ever been based upon conduct that allegedly occurred prior to the impeached officer's entry into federal office. In contrast, the precedents suggest that while the House of Representatives may have investigated such allegations, that such conduct has never provided the basis for an impeachment and, significantly, the House has, on occasion, refused to take action because the allegations preceded the officer's entry into federal service. Moreover, while Judge Porteous contends that any attempt to use Article III's ''good behaviour'' clause to lower the standard necessary to impeach a federal judge is unsupported by the Constitution's impeachment clause, the House has clearly applied that lower standard in returning the four Articles of Impeachment. To the extent that the House has relied on the ''good behaviour'' clause, that clause states that judges ''shall hold their offices during good behaviour'' and clearly relates to a judge's conduct while in federal judicial office. Because the allegations of Article IV relate to a period prior to Judge Porteous taking the federal bench, Article IV must be dismissed.

Respectfully submitted,

RICHARD W. WESTLING,
CHELSEA S. RICE,
JACKSON B. BOYD,
ANTHONY J BURBA,
Ober, Kaler, Grimes & Shriver, P.C.
SAMUEL S. DALTON,
Attorney at Law.
RÉMY VOISIN STARNS,
Attorney At Law PLLC.

Counsel for G. Thomas Porteous, Jr., United States District Judge for the Eastern District of Louisiana.

Submitted: April 7, 2010.

The ACTING PRESIDENT pro tempore. The Court of Impeachment is adjourned.

SCHEDULE

Mr. REID. Mr. President, today, the Senate convened at 2 p.m. and will be in a period of morning business until 3 p.m., with the time equally divided and controlled between the two leaders or their designees.

At 3 p.m., the Senate will resume the motion to proceed to H.R. 4851. The Republican leader will control the time between 5 p.m. and 5:15 p.m. and the majority leader will control the time from 5:15 p.m. until 5:30 p.m.

At 5:30 p.m., the Senate will proceed to a rollcall vote on the motion to invoke cloture on the motion to proceed to H.R. 4851. That will be the first vote of the day.

At 3:30 p.m., we will interrupt debate for a moment of silence to honor the coal miners killed in last week's explosion at Upper Big Branch Mine in West Virginia.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to morning business as previously outlined and that Senators be permitted to speak for up to 10 minutes each.

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

ORDER FOR MOMENT OF SILENCE

Mr. REID. Mr. President, I ask unanimous consent that at 3:30 p.m., the Senate observe a moment of silence in solidarity with the people of West Virginia regarding the mining accident.

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

RECENT TRAGEDIES

Mr. REID. Mr. President, I wish to extend my personal condolences to those who suffered the two tragedies while we were back home—one here in America and one halfway around the world.

The mining tragedy in West Virginia hit home for me. It brought back a lot of memories. When I was less than 1 week old, my dad was working in a mine in a place called Chloride, AZ, which was just over the Colorado River from Searchlight. He and another man were sinking a shaft, and in those days you didn't have all the protections you have today. They had drilled some holes—seven to be exact—and always, when the holes are lit, both miners

don't stay there. They leave and one remains to light the hole. So Carl Myers, who was working with my dad, went to the next level, as a matter of fact, and waited until the holes were lit, and then my dad would come up and meet him and the holes would go off.

What happened was that one of the pieces of fuse was defective, and it set off one of the holes prematurely. It blew my dad's light out and blew one of the soles off his shoe. He was hurt and in a state of shock. What the miners did in those days, in a shaft, is they would have a sinking ladder about 10 feet long and they would take it up before the holes went off and then they would climb out on that ladder. My dad, even though he was hurt, knew he had to get out of that mine because he knew there were six other holes burning. They were covered with muck. He had to get out of there, so he put the ladder down and tried to climb out, but it kept falling over. His mind wasn't working well and he couldn't understand why that was, but the blast had blown one of the legs off the ladder, so it kept tipping over.

The man that was on the next level, knowing how many holes had been drilled and knowing only one had gone off and that there were six more to go, in spite of that, came down and helped carry my dad, who was much bigger than he was, out of that mine. He got a medal for heroism, and the incident was written up by the great journalist Lowell Thomas.

I can remember as a boy my mother still picking rocks out of my dad's back as a result of that blast. In a book I wrote about Searchlight, I talk about a number of the deaths in the mines at Searchlight. My dad worked quite a bit at Blossom, and the dad of one of my friends I grew up with was killed in that mine. My dad carried him out of that hole. So I have some knowledge about how people feel when these mining accidents occur.

As I said, this tragedy brought back a lot of memories, and I extend my condolences to all the people of West Virginia, through Governor Manchin, Senator BYRD, and Senator ROCKEFELLER. I sympathize with the people of West Virginia for their loss.

I also extend my condolences to the people of Poland. That plane carried 96 souls—parents, husbands, wives, and friends. It carried that nation's President, its First Lady, its Deputy Foreign Minister, lawmakers, their military chief of staff, and so many other military and civilian leaders. The tragic loss is unthinkable, and America grieves alongside our friends in Poland, especially when you understand where they were going and why they were going there—20,000 Poles had been killed by the Russians even before war on Germany was declared by us.

EXPRESSION OF APPRECIATION TO CHAPLAIN BLACK

Mr. REID. Mr. President, I wish to welcome back my colleagues. I know each of us cherishes the time we get to spend at home and the face-to-face conversations we have with our neighbors and constituents.

Prior to beginning my remarks, because he is in the Chamber, I wish to extend my appreciation to our Chaplain, Admiral Black. He has been so concerned about my family as a result of the accident that occurred in the Presiding Officer's State. He has communicated with my wife personally, he has prayed for her personally and publicly and in different groups, and it just indicates what a family we are in the Senate. I personally appreciate the thoughts and more than one personal conversation with Chaplain Black about Landra.

HEALTH CARE REFORM

Mr. REID. Mr. President, last December, just minutes before the Senate passed the health care reform bill that President Obama signed into law last month, my friend, the Republican leader, predicted we would get an earful when we got home, and he was right. Everywhere I went in Nevada, from the two big cities of Reno and Las Vegas, to Elko and Carson City and my hometown of Searchlight, Nevadans, young and old—people, in general—came up to me and said: Thank you—numerous people, without any exaggeration.

One mother told me how grateful she was she could finally cover her child's health care. Her child has juvenile diabetes. Parents such as she told me how grateful they were that they would be able to keep their kids on their insurance until they are 26 years old. Out-of-work Nevadans—and there is more than one I would like to acknowledge—explained to me how grateful they were that finally they will be able to afford their own health care while they try to find a full-time job.

Seniors, individually and in groups, told me how grateful they are now that they will not have to worry about whether they are going to have to split a pill or take a pill because the doughnut hole has been filled. Everyone—every senior citizen in America, every Social Security recipient—understands what the doughnut hole was and isn't anymore.

Many small businesses told me that because of the tax cuts this Congress passed and our President signed into law because of the health care bill this year, they will be able to afford health insurance for the first time in their lives for their employees—24,000 of those small businesses in Nevada.

These people haven't been fooled by the opposition's strategy of myths and misinformation. They aren't frightened by the campaign of fear and false cries of socialism.

I know I am not the only one who got an earful of thanks from constituents whose lives are changing for the better because of this historic reform. I also heard one other thing everywhere I went: This law should not be repealed.

A week ago this Sunday, I returned from Salt Lake City to Las Vegas, and the front page of the Salt Lake Tribune had a story, which I will paraphrase, but basically it said that those people in Utah are no longer talking about repealing the bill; they are talking about trying to improve the bill.

It is hard for people to talk about repealing this bill which gives such immediate benefits to the American people. It is difficult to try to have someone say I would like this bill repealed because I do not agree with the $1.3 trillion by which this legislation is going to reduce the debt of this country in the second 10 years—$142 billion in the first 10 years.

I explained to people at home, if you have a fight in a ring, you have a referee, a referee there to be as fair as they can to make sure it is a fair fight. In this health care debate, we had such an entity in the ring with us as we battled, Democrats and Republicans. It was set up many years ago, this referee; it was called the Congressional Budget Office. It is not run by Republicans or Democrats. It is there to be fair. It is their determination this legislation over the first 10 years would save $142 billion, the second 10 years would reduce the debt by a further $1.3 trillion.

People all over America, and Nevadans, now have more control than ever over their health, more protection from insurance companies, and more opportunity than ever before to have a healthy life.

As it relates to the economy, Nevadans know that health reform is economic reform. It will save families money in the short run and save our country money in the long run. But they also know we have to do more. We have to make more investments today to help our economy run better tomorrow. One of the best ways to do that is by creating green jobs, and that has worked so well, jobs right here at home that can never be outsourced, jobs that strengthen our Nation's economic, environmental and national safety and security.

Boulder City is a city in Nevada. It was built because of the Boulder Dam, now Hoover Dam. It is a great and beautiful little city. It is the only city in Nevada that has a growth ordinance. But they have also been very farsighted. I extend my appreciation to Mayor Tobler and all the city council. They have set up a zone where they are creating green jobs, and lots of green jobs. I went there. It is between Railroad Pass and Searchlight and part of it is Boulder City. It was amazing what we saw there. For acre after acre, workers, men and women in their hard hats and their orange vests, were placing 1 million solar panels in place—1 million in the desert to produce enough electricity for about 45,000 homes. It is

the largest plant of its type in the world. There may be one in Spain that may be a tiny bit bigger, but let's assume it is not. It is a huge plant. We have this going on all over Nevada as a result of the economic recovery package and tax incentives we give people to build green energy—clean energy jobs. That vast array in the middle of the desert, dotted by countless hard hats worn by people working very hard, was truly an impressive sight.

This afternoon at 5:30 we are going on to something extremely important, especially for people who have been struggling in America. We need to continue supporting projects such as, of course, the solar plant in Boulder City and continue moving toward a clean energy economy. They demand critical long-term investments and we have a long way to go. But there are additional things we can do right now this afternoon at 5:30 to help millions of hard-working Nevadans and Americans struggling to find work. These are not deadbeats; these are not bums; these are people who are out of work and have been out of work for a long time and have struggled to find a job. If we pass this emergency extension of unemployment and health benefits, we can give those unemployed families the help they need to put food on the table or go to the doctor.

Some on the other side flatly refuse to do so. To them it doesn't matter that these people lost their jobs through no fault of their own or that they are desperate to find a new full-time job and that this is an emergency, not only for our families but for our country. Many of those who oppose this extension voted to give tax breaks to rich chief executive officers who shipped American jobs overseas. Now that their constituents are trying to find jobs of their own, I hope they will consider giving them at least the short-term help they need and need critically. If Republicans continue blocking unemployment assistance, 1 million Americans will lose that lifeline by the end of this month.

RECOGNITION OF THE MINORITY LEADER

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

WEST VIRGINIA MINE DISASTER

Mr. MCCONNELL. Mr. President, while we were in recess, the people of West Virginia experienced a very difficult mine safety experience. Our neighbors in West Virginia, like Kentucky, are big coal producers. We have had our share, in the Commonwealth of Kentucky, over the years of mining disasters, and our hearts and prayers go out to our neighbors in West Virginia as they attempt to recover from the latest tragedy in what is obviously a very dangerous profession, and that is mining of coal.

POLISH TRAGEDY

We also witnessed a great tragedy overseas, the death of the Polish President Lech Kaczynski, his wife, and so many other Polish leaders over the weekend. This is obviously a terrible tragedy for Poland and a great loss for us as well. Poland is a great friend of the United States and we send our heartfelt condolences and every expression of solidarity to the Polish people and the families of the dead at this very difficult time.

LONG-TERM FISCAL SECURITY

Turning back to home now, I want to welcome everybody back. I hope everyone had a restful and productive break. My constituents have never been shy about sharing their views on what we are doing here in Washington. These past 2 weeks were no different. To be perfectly blunt: Kentuckians are concerned about the direction of our country. They are overwhelmingly opposed to the health spending bill, what it will cost, and the process used to pass it. And more generally, Kentuckians, and Americans everywhere, are concerned about the consequences of the endless borrowing and spending here in Washington.

Americans worry that we are on the cusp or maybe even past the cusp of a debt crisis. And they are frustrated. They don't understand how lawmakers in Washington can ignore this looming disaster after just narrowly averting the last one. Americans know that this is one crisis no bailout could ever prevent. We could borrow a trillion dollars to dig the country out of a mess that was created on Wall Street, but once the government maxes out its own credit card, there is nowhere to turn—except to the citizens themselves.

So the time to act is now. The deficit this year alone is projected to be more than $1.4 trillion. Social Security recently started paying out more than it is taking in. Interest payments alone on the national debt are approaching $1 trillion a year. Interest rates on mortgages, student loans, and small business loans are threatening to rise. There is no reason to think the problems we are seeing in Europe won't strike here at home if we do nothing to reverse current trends.

Those who continue to use the taxpayer credit card with reckless abandon threaten not only our chances of a quick recovery and the jobs it would create but also the nation's long-term fiscal security—and a safety net that has been built up over the decades precisely for moments like this. Democrats can no longer hide behind the argument of good intentions when the results threaten our very stability as a nation.

We must get a handle on the deficit and the debt. This is the issue that will focus our attention in the weeks and months ahead. And over the coming weeks, I assure you, Republicans will continue to give our colleagues across the aisle and our President the opportunity to live up to the President's commitment on February 13: ''Now, Congress will have to pay for what it spends, just like everybody else.'' Americans will not tolerate another crisis of Washington's making.

SUPREME COURT VACANCY

Another issue we will be focused on, of course, is the Supreme Court. Justice Stevens' decision last week to retire from the Court gives us another opportunity to discuss the proper role of our Federal courts and our Constitution.

Last year, during the debate over Justice Sotomayor's nomination, Americans saw the Senate debate and discuss the President's ''empathy'' standard for judicial appointments. At the end of that debate, most Americans—and indeed Justice Sotomayor herself, along with Senators of the President's own party—rejected that standard and agreed with Republicans that judges ought to apply the law, not their own feelings and personal preferences.

We are hopeful that this time around the President will select someone with extensive real-world legal experience and a demonstrated commitment to the rule of law. That is what Americans expect from their judges, whether it is small claims court or the Supreme Court. They do not expect us to select judges based upon whose side the judge is on, as one Democrat on the Judiciary Committee once suggested.

Once the President submits his nominee, Senate Republicans will diligently review his or her record so the American people can be confident that they will be able to fulfill the judicial oath; namely, to administer ''justice without respect to persons and to do right by the poor and by the rich.'' I am hopeful that at the end of the day, I and other Republicans will be convinced that the nominee will be able to do so.

I yield the floor.

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. There will now be a period of morning business until 3 p.m., with time equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each.

The Senator from Illinois.

EXPRESSING SORROW TO WEST VIRGINIA AND POLAND

Mr. DURBIN. Mr. President, I join my colleagues in expressing my sorrow to the families of West Virginia for the coal miners who were lost in that disaster. Illinois is a coal mining State. Throughout our history we have had terrible mine disasters and the loss of

life. I hope we can not only bring them consolation but that we can learn from this disaster. When we find that only a small portion of the fines that have been imposed on coal companies for safety violations have been paid, it clearly calls for a much more aggressive approach by our Federal Government and the agencies that are entrusted with the responsibility of protecting the safety of these coal miners. We can do better.

One of the saddest comments, but I am afraid true comments, came from my colleague Senator JAY ROCKEFELLER, who said these tragedies are likely to occur again no matter how much we do.

Congressman NICK RAHALL said: unfortunately, reform, when it comes to coal mine safety, is written in the blood of dead coal miners. But let us use their lives as an inspiration to do a better job of writing the laws and enforcing the laws so that the men and women who work in this perilous trade have the protection of their government.

Second, I will be speaking at length at a later time, but I want to join with those who expressed their sorrow over the death of the President and First Lady of Poland and so many of the government leaders. It is said there are more Polish Americans living in Chicago, IL, than in any other city than Warsaw, Poland. We have a proud, strong Polish population in and around the city of Chicago. They have been through much in their lives. Many of them came to this country to escape the horrors of World War II. They have built their families, their neighborhoods, their churches, their parishes—they have built our city, the city of Chicago, and many others in my State. They were in grief and mourning as they gathered over the weekend at a Polish cemetery to express their sorrow for the loss of their President and First Lady.

The people of Poland have been inspired by faith and family in times of adversity. They will be again. I will have more remarks to make on that subject at a later point.

HEALTH CARE REFORM

The minority leader, Senator MCCONNELL, Republican of Kentucky, before we left, said, wait until you go home and listen to people about health care reform.

So I did. I went all across Illinois, and I spent 2 weeks. I went right into the teeth of the most conservative parts of Illinois, held meetings, answered questions, and by and large people had some impressions of what the bill did but did not know the details on what it was going to do and how it was going to change their lives.

I talked to them about the fact that there are literally people working today in our State of Illinois—1.4 million of them—without health insurance. Many times, these people and their children have lived a whole life without health insurance.

On the Senate floor, I spoke of a lady I met in a Hampton Inn in Marion, IL. Her name is Judy. What a sweetheart. She is there every morning cleaning off the tables, greeting everyone with a smile. She has become my buddy because we stop there, and we talk about southern Illinois and what is going on. On the last trip there, I talked to her about health care reform. She was worried about it.

What is it going to do to me? Is it going to mandate that I buy health insurance? I do not make a lot of money, Senator.

I said: Do you have health insurance?

She said: Senator, come on. I have never had health insurance in my life. I am a waitress.

Never had health insurance in her life.

How old are you, Judy?

Fifty-nine.

Never had health insurance.

Never, she said. When you saved up enough money, you went to the doctor and you had to make do.

Well, how is your health, I asked her.

She said: Well, I have high blood sugar.

I said: How high?

She said: I do not know. I cannot get to the doctor regularly, but when it gets very bad, I get checked out. He says: I have to do something about it.

That is what she told me on the last trip. When I saw her on this trip, I almost did not recognize her. She had dropped 25 pounds, and she looked pretty weak. But she came to me and she said: Well, my blood sugar is acting up again. I have lost 25 pounds. But I never missed a day of work. I came in here every day.

Judy would be covered by this health care reform bill. She will have health insurance for the first time in her life, under Medicaid. She will be able to be taken care of. She will have a doctor looking at her blood sugar to make sure she does not go blind or lose a limb. That is what this health care reform bill does.

Before we left town, I had one of my staff call a local doctor and ask him, as a personal favor, to see her. He said he would. I thanked him so much for doing that. I hope he can help her along.

As we left town, though, I went by Carbondale, IL, home of Southern Illinois University. There is a baseball coach there named Danny Callahan. I have known him since he was 6 years old. He is a great guy; probably in his forties now; two or three kids. He was diagnosed with melanoma 6 or 8 years ago from a sunburn he got as a baseball player, and it had spread. He has been battling cancer ever since. He has had tumors removed, his lower jaw removed, and he is trying to hang on. His doctor came up with a therapy for him, a cancer therapy for him, that works, that slows down the progress of the cancer. When they turned in the bill for the cancer therapy, the health insurance company said: No, we do not cover that. Well, it cost $14,000 a month. Danny cannot afford that. He has been in court in a battle with this health insurance company to get the drugs his doctor wants to give him to save his life. Sadly, that battle still goes on.

The health reform bill we passed will give Danny and his family and others like him a fighting chance against health insurance companies. So when I hear the Republican leader come to the floor and tell us we are going to catch this firestorm of opposition, I think of these cases, of those people, and how, if we did nothing, their lives could not be as good. In fact, some of them may suffer as a result of the current system and the law.

We are going to have a vote this afternoon, for those who follow the Senate. It is a vote about unemployment benefits. You see, many of us believe we are in an economic emergency in this country with about 8 million people unemployed, another 6 million under long-term unemployment—almost 15 million Americans unemployed, looking for work. For some of them, we have been extending unemployment benefits so they can get by. It is about $300 a week. For families who have been going through this for a long time, with unemployment that has lasted over a year, we know what they have been through. They have lost their life savings, and they have nowhere to turn. So on an emergency basis, we have been extending unemployment benefits and health insurance coverage for the unemployed in this country. We tried to do it again before we left for this 2-week Easter break, and there was an objection from the Republican side of the aisle. Senator COBURN of Oklahoma has objected. What it means is that as of 1 week ago, we started cutting people off from coverage for unemployment benefits in America because of the objection of one Senator. How many people? Over 200,000 lost their unemployment benefits across America in the first week; another 200,000 will lose their benefits this week; and by the end of the month, 1 million Americans will lose their unemployment benefits because 1 Senator objected and they do not want to bring this to a vote.

If you want to know why a Senator who is, like myself, drawing a paycheck and living a pretty comfortable life would want to cut off unemployment benefits for those who are struggling, the argument was mentioned earlier by the Republican leader: It is time to fight the deficit. Let's fight the deficit when it comes to unemployment benefits in America. That is the stand they are taking. It is interesting to me that many of these same Senators thought nothing of an $800 billion bailout for the banks when they were in trouble. That was not paid for. Mr. President, $800 billion for banks—oh, we have to do that—but when it comes to helping the unemployed in this country, oh, that is going to break the bank. When are we ever going to learn?

I am getting a little tired of being preached to by the other said of the aisle about fiscal conservatism. It was their President, the last President, who more than doubled the national debt in this country, from $5 trillion to $12 trillion. It was under their watch that we engaged in two wars and did not pay for any of it, added it to the national debt. It was under their watch that they called for tax breaks for the wealthiest people in America in the midst of a war and added it directly to the debt. Now when we come to the floor and say, for goodness' sake, give the unemployed in this country the basics of life to get by, they say we cannot afford it; we have this deficit. When it came to the bank bailout, we did not hear a word about the deficit. When it came to paying for these wars, which we did not do, we did not hear these deficit hawks. When it came to a prescription drug benefit that cost $400 billion, they did not pay for it. The list goes on.

I look at my State and think, 16,000 people in Illinois lost their health insurance because 1 Republican Senator objected; 2,600 from his home State of Oklahoma. And the number grows by the week. What are we going to do about this? They want to pay for this by taking the money out of programs we are going to use to put people to work, taking the money away from projects that are going to be built across America to put construction workers back to work. Construction trades have one of the highest unemployment rates in America, over 25 percent. They are talking about cutting the money from the projects to pay for unemployment benefits. That is not going to bring us out of the recession; it is going to create more unemployment in the process. That is what this debate is all about.

There are ways we can address this deficit, and should. There is a Presidential commission which I am going to serve on with a number of Republicans and Democrats. It will not be easy. But why in the world do we want to fight this battle today on the backs of those who are unemployed and losing their benefits? It literally means that thousands across America are going to have to do without.

What do you do when you have exhausted your savings, you have no job, you are about to lose your home, and it is a real question about whether you can keep going down to the food pantry or the soup kitchen? If you don't think that is happening, check out your hometown. That is exactly what is happening. The Republican answer is, cut off the benefits and tell them we have to cut the projects to build the roads, to build the bridges, and make more unemployment in the construction trade sector in order to pay for this. That, to me, is not a good approach. It is not a humane approach. If we can just get as much compassion from the other side of the aisle for unemployed workers as we had for bank bailouts, we would have a chance of feeding those people and keeping their families together during one of the worst economic turns we have seen in America.

The vote later on today—we will need 60 votes in order to continue to move forward on unemployment benefits. We do not have those votes on this side of the aisle. We will need Republican votes. The last time we dealt with this a month or so ago, a number of Republicans stepped forward and helped. I hope we do the same this afternoon.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

JOBS IMPACT

Mr. KYL. Mr. President, last week I traveled around my State of Arizona to large towns and small, and I heard from many of my constituents. Arizonians have very serious concerns about what is happening here in Washington. They are worried about the direction in which our country has moved and about the kind of Nation their kids and their grandkids will inherit. They are unhappy about the tremendous levels of spending and debt and about how new taxes and regulations threaten jobs and our economy. It is not an overstatement to say that people are outraged about what they perceive as irresponsible behavior in Washington. Many are frustrated because they feel as if they have lost control of their government. Today, I wish to focus on three specific concerns I heard, and they all relate to how taxes and regulations are impacting jobs in my home State.

First is the health spending bill. If anyone thinks the American people will have forgotten about this in a few months, I can assure you they will not have. They are overwhelmingly opposed to this law, and they are frustrated that it was passed despite widespread opposition. They are upset about the high cost, the new taxes, the massive regulations, and the manner in which it was passed.

Arizona's employers and the unemployed workers are both affected by the new taxes and mandates in the bill that will prevent hiring. How? Well, many small business owners in Arizona are wondering how they are supposed to hire new employees when they are about to be slapped with a new payroll tax. Of course, a payroll tax is a direct tax on hiring.

Arizona employers with more than 50 workers face a second problem: they will face steep fines if they do not comply with the new mandate that they provide health insurance to all of their employees. It is another disincentive to create a job or even to retain current employees.

The refrain I heard from employers and other Arizonians over and over again is: You have to repeal this bill. And I agree.

The second concern I heard a lot about was unemployment insurance and its impact on jobs. I will discuss in just a moment the concern the employers have about their share of the expense of unemployment insurance. But first of all, let me address comments just made by my colleague from Illinois, who suggested that Republicans wanted to leave people who are unemployed out in the lurch, that we did not support extending unemployment benefits. That, of course, is not true. I voted for every extension of benefits, as have the majority of my colleagues. The question is, Who should pay for the extension? My colleague suggests that it is not a question of who but whether it should be paid for. It is said over and over again: The question is whether it should be paid for. Well, it is not a matter of whether. It will have to be paid for. That is to say, we are borrowing the money. We have to pay that money back. It is a question of whether we pay for it or we simply say: Put it on the tab for our kids and our grandkids to pay for it.

So the question is, to extend unemployment benefits again to folks alongside us, who have the misfortune of having lost their job, until they can get another job, who is going to pay to extend their unemployment benefits? It seems to me that is an obligation of this generation.

My kids and grandkids are going to have plenty to worry about in their generations. They will probably face the prospect of some unemployment, too, and they are probably going to have to extend unemployment benefits, and somebody will have to pay for that. The question is, Who? Are we going to make them pay not only for what happens on their watch but also what happened on our watch that we were not able to pay for?

That is the question: Are we able to? To extend these benefits for the period of time we were taking about just before the recess was $9.5 billion. And I don't think one could contend that somewhere in the Federal budget we can't find $9.5 billion over the course of the year which could be used to pay for these benefits. If they are a top priority, then that is what should be used to pay for the benefits. It is a 30-day period of time.

Interestingly, during the debate before the Easter recess, we actually had an agreement for about 45 minutes in this Chamber where Republicans and Democrats alike agreed that to ensure there would not be a hiatus where benefits would not be extended—and by the way, the physicians would be reimbursed for the care they provide to Medicare patients—we agreed on a set of revenue measures that would pay for a week of these benefits so that there would be no period of time that there would be a hiatus, that they would not be paid for. But someone from the other side had to call the Speaker of the House to make sure that was OK with the House of Representatives.

I am told it was the Speaker who said: No, we will not pay for the extension of benefits. We will not do that.

It is not a question of whether we are for extending unemployment benefits. It is not a question of whether they have to be paid for. It is a question of who pays for them. For my money, if we can't find $9.5 billion somewhere in this government and say it is a higher priority to extend unemployment benefits and pay for it than whatever that money is used for, then we are not doing our jobs.

My colleague from Illinois suggested that Republicans were responsible for taking us to war and not paying for it. That needs to be responded to. This body voted to go to war. This body supports the troops who are fighting. I assume this body wants to pay them and to buy them the appropriate equipment and that is a top priority of our government. Under the Constitution, the first obligation of government is to protect its citizens. That is the No. 1 priority. We have to spend that money. There are other priorities, but there comes a point when we have to begin setting priorities and say to go to war, we have to do that. That has to be paid for. To do this and this and this, that has to be paid for. But at a certain point in time, we are entitled to ask: Now that we have run out of money, do we want to keep spending or do we find a way for this generation to pay for that spending? That is what we are talking about with the extension of unemployment benefits.

Of course, they need to be extended. We will support that. The question will be, will my colleagues on the other side of the aisle support finding the funds to offset the cost.

This is not without cost. The Coalition of Arizona Business Organizations reinforced the point in a recent letter to my office. They pointed out: The Arizona Department of Economic Security estimates that my State will have to borrow $300 to $400 million from the U.S. Department of Labor between 2010 and 2013 to keep the unemployment fund solvent so they can continue to make payments to beneficiaries.

To make matters more difficult, Arizona employers have already been hit with an average increase of 50 percent in unemployment insurance taxes. This increase has occurred at the very time that businesses are trying to recover. Of course, it can delay economic recovery, and more hiring for businesses the more they have to pay. The message I got from small businesses was, if you want them to start hiring, Congress needs to waive the Federal Unemployment Tax Act penalties, also known as FUTA.

This is a tax that currently averages $56 per employee. But if Arizona were to fail to repay the money the State has borrowed from the Federal Government, it could rise as high as $308 per employee. Obviously, that does not portend more hiring, and it is not what employers need.

The third and final concern relates to lending. Senator MCCAIN and I met with representatives of some of Arizona's smaller banks, community banks. They are being crushed because regulators have been forcing them to raise more capital than they are required to hold, and that undermines economic recovery because they then have less money to lend.

In addition, regulatory guidelines, especially on commercial real estate lending, are hindering new loans as well as the refinancing of existing loans, and existing regulations are discouraging banks from working with borrowers to avoid foreclosure. These banks are being forced to increase capital in an environment in which capital is very scarce for community banks. A more sensible course would be having banks retain more capital when times are good and easing up on those requirements when times are bad.

The effect of the bank regulators' actions is not just denial of loans to those who should not get them—and there are some who should not be refinanced—but even to more creditworthy individuals and businesses. As a result, businesses can't invest and grow, which is what they need to do to create jobs and improve the economy.

The bottom line is a lot of things Washington is doing have hurt small businesses, the engines of job creation. Americans are not happy about this. Jobs should be our No. 1 priority. Congress has the tools to create a better environment for job creation. I am not talking about labeling every spending bill that comes up as a jobs bill. It means listening to what job creators are saying, not punishing them with a tidal wave of new taxes and regulations.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. I ask unanimous consent to speak for 15 minutes.

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

EXTENDING UNEMPLOYMENT BENEFITS

Mr. NELSON of Florida. Mr. President, the American people are asking: Why can't those guys get together up there and get something done? They are asking: Whatever happened to common sense? They say: People are out of work. Why can't you extend their unemployment benefits? All of this is what the vast majority of the American people are saying. Yet we allowed, over 2 weeks ago, unemployment compensation to cease for certain people hurting in this country. It is important for us now to temporarily extend unemployment benefits, as well as the ability for someone who is out of work to continue their health insurance coverage through what is known as the COBRA program. These important programs expired. We are going to have a procedural vote later today.

As is typical in the Senate, we don't get to the actual, substantive vote today. We vote on a motion to proceed, and we have to cut off debate with a motion to cut off debate, called a motion for cloture, just to get to the motion to proceed to get to the bill. But that is what has taken place today. We will get it done. We will use the better part of this week going through all of this parliamentary falderal. When they call the final roll, we will get it extended.

But why can't we get together? Why did one Senator, over 2 weeks ago, hold up the whole works on something so obvious? Folks are hurting in most of the country. They certainly are in my State. Over 40 percent of Florida homeowners are under water on their mortgage. The banks are pulling back on credit to small businesses. When you get right down to it, the blame for failing to temporarily extend this eleemosynary help, this commonsense help to people who are hurting, falls solely at the feet of the Congress because we couldn't get it together, through our parliamentary rules.

Our people are hurting. It is our responsibility to extend these programs to provide some little pittance for people who can't get work and financially have a desperate need. Unfortunately, for many Americans these benefits are the only thing keeping food on the table as they struggle to find a job and make financial ends meet.

I certainly hope we are not going to let these programs lapse again. There are encouraging signs in the economy, but unemployment always lags the recovery of other parts of the economy. Therefore, we need to give some little measure of stability to these people, these poor families out of work, instead of us continuing to have partisan gamesmanship that we have seen so often over the course of the last couple months.

FINANCIAL REFORM

Mr. NELSON of Florida. Mr. President, after the extension of unemployment benefits is accomplished—and we will get it done—we will take on financial reform. Remember back, the failure of Lehman Brothers and the near collapse of our financial system and, as a result, the passage of $700 billion of taxpayer money to bail out Wall Street? Back in the fall of 2008, the break down in our financial system fueled one of the worst economic downturns since the early part of the last century. The stock market plunged. The credit and capital markets froze, and real economic activity took a nosedive.

While we are seeing some slight improvement in both the markets and the economy as a whole, too many people remain unemployed and underemployed. In Florida, the unemployment rate has surpassed 12 percent. The unemployment rate in Florida is now the sixth highest in the country. Since the crisis began in the fall of 2008, a lot has happened. We elected a new President. We passed an economic

recovery bill. We passed health reform. We passed an enhanced home buyer tax credit. We passed several measures of tax relief for small businesses. But there is one thing we have yet to do that is at the top of the list; that is, to try to help clean up Wall Street and our excesses in the financial system. We owe it to taxpayers so they do not face another $700 billion bailout in the future. Never again should we use taxpayer money to bail out reckless and freewheeling Wall Street bankers.

Our colleagues on the Banking Committee have put forth one proposal. It includes a new consumer financial watchdog. It also includes new rules for the regulation of derivatives—those things that have fancy names such as credit default swaps, which are insurance policies on losses that you would have in other investments. Listen to what one of the richest people in the world, the sage of Omaha, Warren Buffett, says. He refers to all of those very clever financial instruments as ''financial weapons of mass destruction.'' That is Warren Buffett. If there is one lesson from the former Goliath insurance company, AIG, it is that we better get serious about regulating derivatives.

The Banking Committee bill includes new rules for liquidating large financial institutions when they become insolvent. It tightens rules related to capital requirements, liquidity, and the use of leverage. But when the Banking Committee bill comes to the floor, we must strengthen and improve the legislation to rein in the greed that ran amok, that nearly brought down our entire financial system altogether. Of course, we can expect a vast army of lobbyists who will descend to protect various financial fiefdoms from these new transparency and accountability rules.

I will offer a number of amendments on the floor. I want to mention one today, the Wall Street Compensation Reform Act. This bill I have already introduced, and which I will offer as an amendment, hopefully will restore some sanity and common sense to executive pay practices on Wall Street.

The legislation is simple. It encourages large banks and financial institutions to adopt widely accepted compensation practices. Banks that fail to adopt those standards would lose the benefit of certain tax deductions. They could no longer deduct the large compensation payments they make to highly paid employees.

I have read with astonishment the recent reports that Wall Street banks continue to pay outlandish bonuses to undeserving executives. Many of these institutions—and this is what gets your blood pressure going up—are still living on taxpayer-funded life support.

In most business professions, executive pay will follow performance. Managers and executives usually are rewarded for creating lasting value. Unsuccessful managers and executives are shown the door. But apparently these basic commonsense principles have been lost on a lot of the Wall Street firms. This year, Wall Street bonuses were in the range of $150 billion. Eighteen months after the fall of Lehman Brothers, it is back to business as usual for the major banks.

We have been here before. We had the same debate last spring when AIG paid those absurd bonuses to the financial traders who managed one major accomplishment: They drove their company into the ground. Although we had lots of legislation introduced, Congress again failed to act. The army of lobbyists descended to make sure that was the case, and here we are again.

I daresay there is almost a unanimous recognition that poorly crafted executive pay practices at major financial institutions contributed to the near collapse of the financial system—what ultimately brought about the $700 billion taxpayer-funded bailout.

The general counsel of the Federal Reserve Board has testified that compensation practices in the banking sector were a contributing cause to the crisis. In January, the Federal Deposit Insurance Corporation found that ''excessive and imprudent risk taking remains a contributing factor in financial institution failures and losses to the Deposit Insurance Fund.''

Current pay practices encourage excessive risk taking because short-term gains are heavily rewarded even if they are unsustainable. The negative consequences of severe losses in a company are often externalized and shifted to the shareholders or to the public.

The Federal safety net for financial institutions encourages traders and executives to take unnecessary risks. The most obvious example is the $700 billion Wall Street bailout. Executives who should have left without their shirts instead left with golden parachutes.

Real and meaningful financial reform must include changes to the existing compensation culture in the finance industry. And, oh, are we going to get resistance as we put forward this idea.

Under the amendment I am going to offer, major banks and financial institutions could only deduct their large executive compensation payments if the pay complies with rules that focus on rewarding long-term performance. The principles were developed by the Financial Stability Board, the council of major central banks. The Federal Reserve was instrumental in developing these compensation principles.

Under the amendment I will offer, tax deductions for major banks and financial institutions are going to be conditioned on the following: compensation payments over $1 million must be performance based and at least half of the performance-based compensation must vest over an extended period of 5 years or more. This is going to tie compensation not only to performance but to long-term performance.

Another part of this amendment requires that, for executives at public companies, at least half of the performance-based compensation must be paid in employer stock. Compensation agreements for top executives must include a claw-back provision that retracts the deferred compensation in the event of ethical misconduct. Also in the amendment, compensation agreements must prohibit employees from engaging in personal hedging strategies, such as compensation insurance, that undermine the very risk alignment principles we are creating.

This amendment creates a new and meaningful executive compensation disclosure requirement in order to empower the company's shareholders and the company's investors to hold banks accountable for what they pay their senior executives.

The special interests certainly are going to argue that Congress should not get involved in compensation decisions. They are going to say the private marketplace knows best. They are going to argue if Congress passes measures like this, Wall Street is going to pack up its bags and move to greener pastures abroad.

Unfortunately, right now, what the market knows is that big, short-term gains lead to big bonuses, and big losses lead to taxpayer-funded bailouts. Enough of this. We are going to have the opportunity to take real steps to reform compensation practices. It is my hope—perhaps naively so—that the Senate would unanimously approve this concept. It will not be unanimous, but I believe we can get 60 votes to break a filibuster, and I think we can pass it. The American taxpayers' funds are at stake.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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.

MOMENT OF SILENCE

Under the previous order, there will now be a moment of silence in solidarity with the people of West Virginia on the loss of the miners in the Massey Energy mine disaster last week.

(Moment of silence.)

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. 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.

CONCLUSION OF MORNING BUSINESS

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

CONTINUING EXTENSION ACT OF 2010—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 4851, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to H.R. 4851, an act to provide a temporary extension of certain programs, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, it has been 2 weeks since we last spoke on the floor on this issue. There has been a lot written in the press and a lot of things that have been said. I will reiterate what I said earlier in that debate before we took an inappropriate spring break, and that is the fact that everybody thinks those who are unemployed and are eligible should be getting unemployment checks. That is not a partisan issue. It is a fact we want to support those who need our help right now.

The real question, however, is what will we do to make sure that effort is an effort that has some real meaning behind it and that these are not hollow words. The debate around here becomes partisan and labels get applied, and I admit that I am partisan—but not from a party standpoint; I am partisan for our children.

The question isn't whether we should make sure that unemployment benefits are there. The question isn't whether people can get health insurance under COBRA. The question isn't whether we ought to do the right thing for those who are depending on us. The question is, where do we get the money?

It is simple. We have two options. One option says: Time out; this is so important that it doesn't matter where we get the money; we have to supply it. The other option is—and by the way, the first option belies the fact that we have any waste in the Federal Government. I don't think we can do a poll that would come so close to unanimity as a poll on which we would ask the American people whether the Federal Government is efficient and effective. I doubt that we would get anybody on the ''yes'' ledger side on that.

The real question, then, becomes do we have the goodwill and the presence of mind to do this in a way that doesn't jeopardize our children? You see, we are not just fighting about unemployment benefits. We are not debating the issue of unemployment benefits. We are debating the issue of whether we take from those who come after us and give to those today.

Many times I have used this poster of this young lady. Her name is Madeline. Madeline was caught in DC wearing this poster. I have gone over the numbers. When she wore the poster, her debt was $38,375. Her debt today, without us extending this bill after last year, is over $45,000. So the question is competing priorities. We have the priority of making sure that we help those who need our help in a time of economic decline. And then we have the priority of making sure we have not mortgaged the opportunity of freedom for children such as Madeline.

Who will fight for the Madelines? Who will stand up for our grandchildren and say we can find $9.2 billion out of an almost $4 trillion budget and pay for it and not charge it to the Madelines of this world? That is what we are doing when we declare something an emergency.

I would also make the point that we passed a 9-month extension for many of these programs. It was paid for. In other words, we didn't add to the debt when we passed a bill that would extend this for 9 months. The Senate did its work. That bill hasn't come back because the House is unlikely to pass it with the pay-fors in it and, frankly, several were used to pay for the health care bill that passed.

Who will protect the Madelines of the world? Since the beginning of this year and the famed passage of a statute called pay-go, which says we will no longer create new spending without cutting the spending somewhere else, we have spent $120 billion of Madeline's future, and every Madeline who is out there—every 3-year-old and 4-year-old who is out there. We have done it by waiving the new statute that says you have to pay as you go. Congress—and the Senate specifically—increased our budget 5.6 percent this year. In a year where true costs were down we increased our own budget. Yet, we refuse to look at the hard choices that are necessary for us to make a future for the Madelines of this world.

What happens if we continue this? What happens if we continue to say we will borrow from the future instead of making the tough choices now? I will tell you what happens. Madeline's future—her opportunity for prosperity—is mortgaged. We tend to think in the short run, and the vision our Founders had was thinking in the long term.

So where do we find $9.2 billion? If I get an opportunity, I will offer five amendments that will pay for that. I wager that nary a person would ever miss the money. We could find $9.2 billion in the Defense Department. They have at least $50 billion worth of waste. But, no, we won't go there. We have $700 billion in unobligated balances of which well over 20 percent has been sitting there for 2 years. That is $140 billion. We can pay for this for a year, but we won't go there. We have ineffective spending in the stimulus bill that hasn't been rolled out yet that I will put forward as a greater priority than the money intended left in the stimulus bill is for. But we are not going to go there. What we are going to do—and we will pass a motion to proceed today to this bill. But what we are going to do is take the easy, the soft road of not paid for. We cannot continue to do that.

Last year—and we will continue this year—out of every dollar the Federal Government spent we borrowed 43 percent. So 43 cents out of every dollar the Federal Government spent last year we borrowed. We ended up with a real deficit of close to $1.6 trillion by the time you get out of the accounting gimmicks that Washington uses. That is what we added to the Madelines of the world. We are going to do that this year again.

The February deficit was the highest on record ever for the Federal Government. So we are going to have an excessive $1.4 billion or $1.5 billion or probably a $1.6 trillion deficit this year, and we are going to add another $9.2 billion with this bill.

How is it fair? How is it right that in this country we cannot do two right things, we can only do one right and one wrong thing? I posit that stealing money from our kids' future and mortgaging their future is morally wrong. I posit that helping people who need our help on unemployment benefits is morally right. Why can we not do both? We ought to be able to do both.

I sent a letter to the minority and majority leaders when the bill first came up. I will read it because I think it is important to understand the thinking on why we should pay for this—realizing that we passed a 9-month extension that was paid for, and because the House hasn't acted, we don't feel an obligation to protect the Madelines of the world. The letter says this:

I am writing to notify you that I would like to be consulted on any unanimous consent agreements regarding the consideration of H.R. 4851, the Continuing Extension Act of 2010, which would extend the number of federal programs for one month.

No one is arguing that Americans who are currently unemployed should not have their unemployment insurance payments extended. But once again, Congress is refusing to find a way to offset the $9.15 billion cost of the bill with cuts to less important federal spending.

Time and time again, Congress intentionally waits until the last minute to consider important legislation and then declares the billions of dollars in foreseeable costs as ''emergency'' spending in order to avoid having to find a way to pay for the bills' price tags.

In the last 6 months, Congress has passed four major extension bills. H.R. 4851 would be the fifth such bill. The total cost of these bills is almost $30 billion. Additionally, over the last year Congress has increased funding totaling $64.9 billion for the Highway and Unemployment Insurance Trust Funds without offsets.

This shortsightedness sticks taxpayers with billions of dollars in additional debt and treats the unemployed, doctors and Medicare patients, hard working men and women who help make our roads and bridges safe, and others relying on federal funds as pawns in Congress' borrowing and spending game.

When the previous last-minute one month extension (H.R. 4692) was brought up days before the funding authority for numerous federal programs, including Unemployment Insurance and the Highway Trust Fund, which expired at the end of February, 2010, a United States Senator was attacked for objecting to passing the bill without any debate or amendments because the bill was unpaid for and added $10 billion to our nation's debt.

In other words, there is something wrong with Senator BUNNING raising the question of whether we ought to pay for it.

As always, those who prefer to borrow to avoid making the tough budget decisions won out, and the taxpayers were stuck with another $10 billion in debt.

The Madelines of the world.

Congress has continually resisted the need to act like every family in the United States of America and to budget and live within their means. Our debt is now over $12.6 trillion. The 2010 deficit is projected to amount to $1.3 trillion and we are borrowing 43 cents on every dollar; yet, Congress continues to increase spending without any correlating spending cuts.

Congress' inability to prioritize and manage national needs results in real consequences for Americans, whether it be furloughs, market uncertainty that leads to lower investment and job losses, or Americans being saddled with higher debt and taxes.

If Congress keeps approving temporary extension bills throughout the calendar year without finding offsets, Congress will have added almost $120 billion to our national debt. Additionally, the Senate has already approved more than $120 billion in new federal spending not offset, even though it passed Pay-Go legislation just over one month ago claiming to prohibit such activity.

In the House, Appropriations Chairman David Obey has indicated that some new spending needs to be offset with unused, unobligated funds. Chairman Obey suggested rescinding $362 million in reserve stimulus funds for the Women, Infants and Children nutrition program; $112 million from a Commerce Department program designed to provide coupons to households to help buy analog-to-digital converter boxes; $103 million from USDA rural development programs; and $44 million from the Transportation Department's Consumer Assistance to Recycle and Save Program . . . to offset the cost of a different spending bill. The Senate should likewise find a way to offset this one-month extension bill and create a sustainable precedent.

The Senate can start with federal unobligated balances. According to the White House, in Fiscal Year 2011, 33 percent of all federal funds were unused and obligated. The total dollar amount of these unobligated balances was estimated at $703 billion. Rescinding only discretionary funding that has been available for more than two years would likely result in roughly $100 billion in offset spending. The Senate could also tap into $228 billion in unobligated stimulus funds as Chairman Obey has suggested.

At the very least, Congress should reconsider transferring the almost $100 million budget increase it approved for itself for 2010 to offset the cost of additional spending. Congress should not be increasing its budget by 4.5 percent when our economy shrunk by 2.4 percent and inflation was at less than 1 percent.

I have also detailed through numerous oversight hearings, reports, and legislation how the federal government wastes more than $300 billion every year. I have suggested hundreds of offsets to new spending, including consolidating duplicative programs, and eliminating federal programs that address parochial concerns.

We all think our Americans in need of financial assistance are worth the $9 billion bill cost, but do we think our children and grandchildren are worth paying for these costs up front, rather than passing the cost to them?. . . .

Thank you for protecting my rights regarding this legislation.

I ask unanimous consent to have this letter printed in the RECORD.

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

MARCH 23, 2010.

Hon. MITCH MCCONNELL,
Senate Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing to notify you that I would like to be consulted on any unanimous consent agreements regarding the consideration of H.R. 4851, the Continuing Extension Act of 2010, which would extend a number of federal programs for one month.

No one is arguing that Americans who are currently unemployed should not have their unemployment insurance payments extended. But once again, Congress is refusing to find a way to offset the $9.15 billion cost of the bill with cuts to less important federal spending.

Time and time again, Congress intentionally waits until the last minute to consider important legislation and then declares the billions of dollars in foreseeable costs as ''emergency'' spending in order to avoid having to find a way to pay for the bills' price tags.

In the last 6 months, Congress has passed four major extension bills. H.R. 4851 would be the fifth such bill. The total cost of these bills is almost $30 billion. Additionally, over the last year Congress has increased funding totaling $64.9 billion for the Highway and Unemployment Insurance Trust Funds without offsets.

This short sightedness sticks taxpayers with billions of dollars in additional debt and treats the unemployed, doctors and Medicare patients, hard working men and women who help make our roads and bridges safe, and others relying on federal funds as pawns in Congress' borrowing and spending game.

When the previous last-minute one-month extension (H.R. 4691) was brought up days before the funding authority for numerous federal programs, including Unemployment Insurance and the Highway Trust Fund, expired at the end of February, 2010, a United States Senator was attacked for objecting to passing the bill without any debate or amendments because the bill was unpaid for and added $10 billion to our nation's debt.

As always, those who prefer to borrow to avoid making tough budget decisions won out, and the taxpayers were stuck with another $10 billion of debt.

Congress has continually resisted the need to act like every family in the United States of America and to budget and live within their means. Our debt is now over $12.6 trillion. The 2010 deficit is projected to amount to $1.3 trillion and we are borrowing 43 cents on every dollar; yet, Congress continues to increase spending without any correlating spending cuts.

Congress' inability to prioritize and manage national needs results in real consequences for Americans, whether it be furloughs, market uncertainty that leads to lower investment and job losses, or Americans being saddled with higher debt and taxes.

If Congress keeps approving temporary extension bills throughout the calendar year without finding offsets, Congress will have added almost $120 billion to our national debt. Additionally, the Senate has already approved more than $120 billion in new federal spending not offset, even though it passed Pay-Go legislation just over one month ago claiming to prohibit such activity.

In the House, Appropriations Chairman David Obey has indicated that some new spending needs to be offset with unused, unobligated funds. Chairman Obey suggested rescinding $362 million in reserved stimulus funds for the Women, Infants and Children nutrition program; $112 million from a Commerce Department program designed to provide coupons to households to help buy analog-to-digital converter boxes; $103 million from USDA rural development programs; and $44 million from the Transportation Department's Consumer Assistance to Recycle and Save Program (also known as the ''Cash for Clunkers'' program) to offset the cost of a different spending bill. The Senate should likewise find a way to offset this one-month extension bill and create a sustainable precedent.

The Senate could start with federal unobligated balances. According to the White House, in Fiscal Year 2011, 33 percent of all federal funds were unused and obligated. The total dollar amount of these unobligated balances was estimated at $703 billion. Rescinding only discretionary funding that has been available for more than two years would likely result in roughly $100 billion in offset spending. The Senate could also tap into $228 billion in unobligated stimulus funds as Chairman Obey has suggested.

At the very least, Congress should reconsider transferring the almost $100 million budget increase it approved for itself for 2010 to offset the cost of additional spending. Congress should not be increasing its budget by 4.5 percent when our economy shrunk by 2.4 percent and inflation was at less than 1 percent.

I have also detailed through numerous oversight hearings, reports, and legislation how the federal government wastes more than $300 billion every year. I have suggested hundreds of offsets to new spending, including consolidating duplicative programs, and eliminating federal programs that address parochial concerns.

We all think our Americans in need of financial assistance are worth the $9 billion bill cost, but do we think our children and grandchildren are worth paying for these costs up front, rather than passing the cost to them? I am willing to accept a unanimous consent agreement to pass the bill with my amendment included to offset the full amount. I am open to all other offset suggestions.

Thank you for protecting my rights regarding this legislation.

Sincerely,

TOM A. COBURN.

Mr. COBURN. Mr. President, so what are we going to do? We have before us a need. It is a good need. It is something we ought to do. We are going to borrow 43 cents out of every dollar we spend this year. We are going to put the Madelines of this world in a position that by 2020, this number is not going to be $45,000; it is going to be $95,000. That is where she is going to be. That is every man, woman, and child in terms of what they owe in terms of the direct national debt.

Can we continue on this pace? We hear we will fix it later. Later is not good enough for the Madelines of this world. Later is today. Now is the time for us to do the very hard work. It is not easy to come up with spending offsets. It is not easy to not increase the national debt. It is very easy to simply put the credit card into the machine and say: Because they are out of sight, out of mind—the Madelines of the world—we will just charge it to them.

That is what is being proposed here. If you oppose that, all of a sudden you do not care about the people who are unemployed. I cannot tell you how many times I have heard that in the last 2 weeks; that it is obstruction that you want to pay for it. Should we be working hard to secure the future of the children such as Madeline?

We are told that over the next 9 years, we are going to borrow an additional $9.8 trillion, based on the budget projections that are out there. Of that $9.8 trillion, almost half of it is money we are going to borrow and turn around to pay interest on what we already owe. That is eerily close to those of us who get into trouble with credit cards. We get another credit card, borrow the max on it to pay off the other credit cards. Then we get in trouble with that one and get another one. Pretty soon, we cannot pay anything.

The Chinese own over $900 billion of our bonds, the Russians $800 billion. Have we considered the fact that our problems, in terms of our foreign policy with Iran and our ability to put sharp, tough sanctions on somebody who wants to use and develop nuclear weapons could possibly be inhibited by the fact that two of the countries opposing those strong, tough sanctions own a lot of our bonds and that we are dependent on them? Could it also be that the week before last, when the Treasury option was very soft because the Chinese did not participate, that is a warning shot across our bow? We are in waters this country has never seen before. If we pass this bill and we continue to pass more bills, not having made the tough choices, we are steaming toward a catastrophe.

What will that look like? It is not that we cannot fix the problem. It is not as if we could not go and find $9.2 billion out of a nearly $4 trillion budget. It is that we refuse to. It is not that it is impossible. We refuse to. We refuse to do the same things families across this country do every day; that is, make a choice about priorities.

My office just last week, with the help of the Congressional Research Service and the GAO, identified 70 duplicate programs on nutrition across three Federal Departments. We now have 70 programs for food and nutrition across three departments, with thousands upon thousands of Federal employees, thousands upon thousands of pages of bureaucratic gobbledygook and regulations. I would propose probably we ought to have one good program on food and nutrition. We do not address that. The authorizing committees do not. The appropriating committees do not.

We have 105 programs that encourage people to go into math, science, technology, and engineering across six different agencies—105 programs. There is not one agency that does not have considerable waste in it, and there is probably not one American who would not think that we could not cut 1 or 2 or 3 percent from every agency and drive efficiency. But we will not do that.

The real question is: Why won't we? We will beat up people because they will not agree to spend Madeline's money and her future, but we will not agree to trim the waste, the fat, duplication, and fraud out of the Federal Government. It is no wonder the public has such a poor image of Congress because we are actually not doing what they are asking us to do.

It would be different if there was not waste in the Federal Government. If everything was fine-tuned, effective, and efficient, one could make an argument for borrowing this money. But nobody I know of believes the Federal Government is efficient and effective throughout its myriad departments and agencies. If the majority might feel that way, that it is not, why would we not do the hard work of paying for this bill?

What does it mean to borrow $9.2 billion this month and $10 billion last month and $10 billion before and the $120 billion we passed in the first 3 months of the second session of the 111th Congress? What does it mean? It means we do not think we have to play by the same rules as the rest of the American public. We have a tilted sense of reality. There is no obligation on us to eliminate waste to provide a good for those people who are depending on us.

We will go forward this evening on a motion to proceed to this bill unpaid for, charged to the Madelines of this world, and all you have to do is take $9.2 billion—it is not much in Washington speak; it is twice the size of Oklahoma's budget for a year—and we will charge it to a credit card to our kids.

Ultimately, what we are doing is stealing a college education from our kids. We are stealing a job opportunity from our kids. We are stealing the ability for our kids to own a home and to provide for their children what was provided for them. You see, the heritage we have that built this country was one of sacrifice, where we make decisions that require us to make a sacrifice to create opportunity. When you turn that upside down, the American experiment fails. When we steal opportunity from the future so we can benefit for today, we eliminate the genius that made this country great. It is time we reversed that.

It is not really a partisan issue. I know the press is going to say that. It is partisan for our future. It is partisan for our kids. And we can do both. We can find $9.2 billion that isn't as effectively spent as will be spent on COBRA or unemployment insurance or on flood insurance or on fixing the SGR for a short period of time. We can do that, but we won't because we are in the habit of not making hard choices. We are in the habit of doing the least best thing rather than the best thing.

The best thing for our budget, the best thing for our future, the best thing for our children's future is for us to say X, Y, and Z are not nearly as important as unemployment insurance benefits, are not as important as COBRA benefits, are not as important as fixing the SGR for a short period of time. When will we muscle up the courage to start making those kinds of decisions?

We can't continue doing what we are doing. We can't grow to $20 trillion worth of debt—over 100 percent of our GDP. At the rate we are going, in 2010, we will have $24 trillion worth of debt, and $24 trillion, at 6 percent interest, is $1.5 trillion a year in interest payments. We can't make it. We cannot handle that. And the reality will only come home when it is too late.

Senator REID, when we passed the pay-go bill, said it was a new start. He said we are going to open our billfold, and if the money is there we will spend it but we are not going to spend money that is not in our billfold—to paraphrase his quote. Well, this bill goes to an empty billfold. The money is not there. So we can either increase our debt, which will make life for the Madelines of this world tougher or we can actually take on some tough decisionmaking as a body and actually eliminate lower priority programs. Would that have some impact on some programs? Yes. I mean, we could actually take a 1-percent across-the-board cut and come up with $30 billion easily. Americans know we could get 1 percent out of the Federal agencies. But we are not going to do that either.

The question is, When will we start acting in the responsible role with which we are charged? When will we start thinking with a long-term perspective about what is going to happen to our country if, in fact, we don't start making the hard choices now? No matter how much scorn, no matter how many derisive statements are made, the Madelines of the world are worth it. When we sit and relax and think this is not as big a problem as we hear described, we fall into the same trap as every other republic in history. And they all collapsed. No republic has survived more than 250 years, and they all collapsed for the same reason. They all collapsed ultimately because they lost control of their fiscal policy—taxes, spending, priorities.

So we have a choice in front of us. This isn't the first time we are going to have this choice, and it won't be the last. But a question that I think the American people ought to be asking is, When is the Congress going to start acting in a responsible manner? When are they going to start following the guidelines every other prudent financial decisionmaker makes, whether it be the head of a household, a wage earner, a small business, or a small nonprofit? They all live within a budget, and what they do is they say: Here is the most important priority and here is the least, and they go down the line. When the money runs out, they either generate efficiency to allow that money to be more effective and more efficient in how it is spent or they eliminate the lower priority items.

It would be a wonderful search for people to go on thomas.gov to find out the number of programs that have been eliminated versus the number of programs that have been created in the last 2 years. I guarantee you they will outnumber 200 or 300 to 1. In the Judiciary Committee this week, we will have two bills up that duplicate existing programs. I will have the same fight in the Judiciary Committee, and I will lose. We will extend new programs that are doing the same thing other programs are doing, and yet I will lose the battle and we will create new programs to do the same thing we already have government programs doing. Why is that? Because you cannot manage what you do not measure. We don't put metrics on hardly anything in the Federal Government programs, and conveniently so. Therefore, we can say: Well, we can't know whether they are efficient.

The time for our comfort with where we find ourselves financially is over. The American people already understand that because 72 percent of them, in a recent poll, said their No. 1 issue is debt and spending. They already get it. They are wondering when we are going to catch up with them. They are for supporting unemployment insurance benefits but not charging them to their children. They are for us making the hard choices.

So as we go forward, the hope would be that we would get out of the short-term thinking we find ourselves in and start looking down the road of what is coming. I have been quoted as saying that I think we have less than 5 years to fix our ship. I think that is probably generous. I don't think there is one problem in front of our country that we can't fix. However, if we ignore the realities of our financial situation, if the elected leaders in this country fail to make priority decisions, which means you are going to offend some of the supporters of the lower priority programs, then we are not going to solve the problems that are in front of us. If our focus is parochial only—in other words, only the concerns within our own States—rather than that of our Nation as a whole, we are not going to fix the problems in front of us.

I have five grandchildren, and in thinking of the future, I often wonder what things will be like for them.

Thinking backward, when I was 17 and 18 and going to college for the first year, there was this tremendous vision on the horizon that I saw in front of me. I could go to school because I had parents who could afford to pay for my college, and wherever I wanted to go, whatever I wanted to do was out there on that horizon. That is a limited possibility today for our kids. Is it going to be a possibility for the Madelines of the world?

Thinking forward, if you take everyone who is 25 years of age and younger in this country and go out 20 years, here is where they will be: That group, 45 and younger, will be responsible for $1,113,000—each and every one of them will be responsible for $1,113,000 worth of debt and unfunded liabilities, every one of them, if we are on the same course we are on today. Take 6 percent of that, and you will see they are going to have to come up with about $67,000 a year just to pay the interest costs on that debt. That is before they pay income taxes. That is before they pay rent or pay a mortgage. That is before they pay for a car or a car payment. That is before they put food on the table. That is before they clothe their kids and themselves. That is before they give to a charity or their church.

We are stealing the American dream every time we fail to be cognizant of what the future holds, if we don't change course. So the debate really isn't about unemployment insurance; it is about when are we going to change course? When are we going to start recognizing the need to live within our means?

We are going to hear that we have always done it this way, that we have passed three other short-term extensions and that we call them emergencies so we don't have to pay for them. I would say it is time that we not always do it the way we have always done it because the way we have always done it has gotten us $12.6 trillion in debt and is sending us out to sea without a rudder and without enough fuel oil to get back to shore.

My hope is that our debate will focus on what the real problems are in this country, the real long-term problems, because you really solve short-term problems when you start attacking the long-term problems and when you really start making the tough decisions.

I say to my colleague from Montana, as head of the Finance Committee, he knows what would happen if we sent a signal that we were really going to start getting tough about our budget. He knows what would happen to bond rates. He knows what would happen to our ability to lead in the world if we all of a sudden became cognizant and acted in a way that was fiscally responsible. Investment would come flowing back into this country, bond yields would go down, not up, and the cost of our debt would go down. It would be a home run every way we look at it. It would be a home run for the Madelines of this country, and it would be a home run for those who are unemployed.

If you read the financial news, you have been seeing what is happening to Greece. Greece got rescued just in the last week, partly through the IMF, but mainly the money is going to come from Germany and France. They are going to get to borrow for a short period of time at 5 percent instead of the 7½ percent the market reflects.

I would say that there is no Germany or France to bail us out. There is no one who will come to bail America out. It is highly doubtful that Greece has the political will to do what it has to do to solve its own problem. The question is, In 2 or 3 years, are they going to be saying the same thing about our country? Do we have the political will to dig out of the hole we have, in fact, dug for ourselves? When I say ''we,'' I am not talking about the American public, I am talking about the Congress of the United States. You can't blame it on any President. You can't blame it on the courts. The blame for our financial situation lies solely with the U.S. Congress. Whether it is lack of oversight of financial firms or Freddie Mac and Fannie Mae; whether it is the lack of oversight of the SEC; whether it is the tremendous amount of waste, fraud, and abuse in the Federal Government—$300 billion, at least, per year—it lies with us.

We are going to hear a lot of reasons why we should pass this—just pass the charges on to our kids. My hope is that the American people will reject that because when they accept that it is OK to just charge it to our kids, what they are doing is conditioning us to continue doing the same thing—continuing to spend the future opportunities of our children and grandchildren. Our heritage is much greater than that. Our kids and grandkids are worth much more than that. Let it not be said of this Congress that we failed to act in the time when the tough get going and that we made the tough decisions about not increasing the debt, streamlining the government, eliminating some of the $300 billion worth of waste, fraud, abuse, and duplication that is in the Federal Government.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Montana.

Mr. BAUCUS. Mr. President, we are starting to come out of the worst recession since the Great Depression.

A little more than a year ago, in the fourth quarter of 2008, the economy declined at an annual rate of more than 5 percent. A year later, in the fourth quarter of 2009, the gross domestic product grew at an annual rate of nearly 6 percent.

Last month, manufacturing activity increased at the fastest rate in 5½ years. Last month, the service sector expanded at the fastest rate in more than 2 years. And last month, the economy added 162,000 jobs.

The economy has taken its first steps toward recovery.

The economists say that part of the reason why the economy is starting to come back is what we did here. One of the first things that President Obama did in office was to press for bold action to prevent another Great Depression. And one of the first bills that Congress enacted in the new administration was the Recovery Act.

The economists say that it's working. The nonpartisan Congressional Budget Office says that in the fourth quarter of 2009, the Recovery Act increased the number of full-time-equivalent jobs by between 1.4 million and 3 million. And CBO also estimates that real gross domestic product was 1½ percent to 3½ percent higher in the

fourth quarter than it would have been without the Recovery Act.

So there are some encouraging signs.

But we still face major challenges in the economy. There is still work to do creating jobs.

The unemployment rate stands at 9.7 percent. Almost a tenth of the labor force is unemployed. More than 15 million Americans are out of work.

First-time claims for unemployment benefits rose the week before last. Businesses are still laying off workers. And companies remain tentative in hiring new employees.

The economists call unemployment ''a lagging indicator.'' Employers can be slow to rehire, when business begins to pick up.

The Congressional Budget Office expects the unemployment rate to remain above 8 percent until 2012. CBO does not expect unemployment to reach what they call its ''natural state'' of 5 percent until 2016.

CBO does not expect that the gap between actual output and potential output will close until the end of 2014.

That is why we need to pass a temporary extension of unemployment benefits.

Jobless benefits are a powerful way to bolster demand during times of high unemployment.

Households receiving unemployment benefits spend their additional benefits right away. That spurs demand for goods and services. That boosts production. And that leads businesses to hire more employees.

The Congressional Budget Office looked at the different ways that we can help the economy to grow, and CBO says that extending additional unemployment benefits would have one of the largest effects on economic output and employment per dollar spent.

Because benefits are often spent quickly, extending unemployment benefits will provide a timely boost to the economy.

A temporary extension will also provide immediate assistance to millions of Americans struggling to feed their families and pay the bills.

According to officials in my home State of Montana, if we do not pass this extension, then thousands of Montanans could lose their unemployment benefits and will have significant difficulties. That is a significant number when you consider the population of my State.

An extension of unemployment benefits is essential, but it is not enough. We must also consider unemployment insurance reforms that could help to create more jobs.

That is why I plan to hold a hearing in the Finance Committee on Wednesday to explore ways to use unemployment insurance to help Americans to get back to work.

States and experts have ideas for how we can improve the unemployment insurance system. They have ideas about how it can save and create more jobs.

Wednesday, the Finance Committee will discuss possible commonsense innovations with a panel of experts, while also addressing the challenge of State solvency.

But right now, it is essential that we pass a temporary extension of unemployment benefits. An extension will help workers to get by as they search or retrain for a new job. And an extension will also provide a much-needed boost to the economy.

So, let us help the families who are struggling in this difficult economic time. Let us help to spur demand and economic growth. Let us vote to invoke cloture on this vital legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, we are going to have a cloture vote this evening at 5:30. It is about a subject that is very important. Yet I have been listening to the floor today and hearing the discussion about saving our country, about the issue of large Federal budget deficits, and the things that threaten our country's future.

I wanted to talk a little bit about some of those issues because I have been reading a book recently, quite an interesting book, called ''Too Big to Fail.'' I was listening this afternoon to some of the debate and thinking about too big to fail and too small to matter.

Interesting dichotomy: Too big to fail is talking about the biggest institutions in this country, the largest financial institutions in America, are too big to fail. So they run themselves into serious trouble. They get the benefit of no-fault capitalism. We are told if they fail, it will be a disaster for America's economy; therefore, we will have the taxpayers pony up $700 billion to make sure they do not fail. I am talking about the people at the top.

The question is, What about the people at the bottom, the people who work for a living, who like their jobs, want to have a better future for themselves and their children, but who discovered that as we sailed into this economic storm, while the people at the top got a big old parachute and they were lifted gently to the ground or allowed to get gently grounded, the folks at the bottom were just pushed off a cliff.

We ran into this serious economic trouble, and a whole lot of people lost their jobs. We have had millions and millions of people lose their jobs. We estimate somewhere around 17 million Americans woke up this morning without a job. They went looking today, as they do every day, but they have not found a job. They, their spouse, their children, they are all victims of this economy.

So then the question is, the difference between too big to fail—those institutions, by the way, which for some of our colleagues, they could not be quick enough to get the pillow and the aspirin to say: Can we help you to bed? Is there any way we can be of help? Here is $700 billion on the too-big-to-fail side. But on the too-small-to-matter side—it is the person who lost their job—we had folks in here saying: You are just out of luck. We do not have the ability or willingness to deal with you.

I taught a little economics a couple of years in college. We always understood the basic lessons on economics are simple enough when you run into a very severe recession or depression. But let's talk about recession, a deep recession, and in this case the deepest since the Great Depression. The government's revenues dried up; we have lost somewhere around $400 billion a year in revenue. The economic stabilizers that are required in a recession would be unemployment insurance, food stamps, and those kinds of things to try to help people out, help them through some difficult periods. I am talking now about helping people at the bottom of the economic ladder. Those things automatically go up.

So the revenue goes down, that goes up, and your deficit balloons. There is no question about that. Everybody understands that. I understand why the deficit has gone out of sight. I also understand it is a very serious problem for our country. But I think we should all understand we should not do the things that would move us right back into a recession. The economic stabilizers and the expenditures on them is very important in order to get us out of this problem and in order to help those at the bottom of the economic ladder who cannot help themselves.

What bothers me is we have people coming to the floor of the Senate saying: I am the champion to try to reduce the Federal budget deficit. I am the person who is going to solve this.

Well, I would say to those folks: Where were you? Where have you been? It has been a decade and you were not around. I recall nearly 10 years ago when President Bush came into office, and he said: We have a budget surplus. Yes, they did. The first budget surplus in three decades under the last year of President Clinton's Presidency, a budget surplus at the Federal level, the first one. By the way, that resulted from a series of fiscal policy judgments that were made beginning in 1993. I voted for it. It passed by one vote in the Senate. It passed by one vote in the House. Senators such as—I guess I will name him because he was proud of it—Senator Phil Gramm from Texas stood up and said: You pass this, you will bankrupt the country. No, it did not bankrupt the country. It actually led us out of the problems we were in to a budget surplus in the year 2000.

President George Bush came to town and said: You know what. We have this budget surplus. It looks as though we are going to have budget surpluses for

the next 10 years. Let's give very large tax cuts to people, but the largest tax cuts to the highest income people in America.

Well, I stood on this floor and said: I do not support that. What if we do not have these surpluses for 10 years. These are just economic predictions by economists who cannot remember their phone numbers for 3 days, and they are telling us what is going to happen in 3, 5, and 10 years. Let's be a little bit conservative.

President Bush and his colleagues on the floor of the Senate said: Katey, bar the door. We are pushing this. They did, and they had the votes. They passed it, and all of a sudden we substantially cut the revenue that was coming into the Treasury.

Then what happened almost immediately? Then we were hit with 9/11, a terrorist attack in this country. Then we were at war in Afghanistan. Then we went to war in Iraq, and year after year after year the President brought to this Congress proposals for emergency spending for the war. This President said—I am talking about President George W. Bush—we do not intend to pay for a penny of it. Every single penny for the war is going to be on an emergency basis, put on top of the Federal debt.

I did not hear those folks who now say they are going to stand between us and catastrophe come to the Senate floor then to say that did not make any sense. I did. I said: Why don't we pay for some of this?

The President said: If you try to pay for it, I will veto the bill.

There we were for 8 years spending money we did not have on a war we probably should not have fought, borrowing every single penny of it. Now the folks who speak the loudest these days about these issues are the ones who decided: Oh, that made a lot of sense: cut the government's revenue, fight a war without paying for any of it.

By the way, many of them, 10 years ago when we voted on the floor of this Senate to repeal the restrictions that were put in place after the Great Depression to protect our country, they were the ones who voted for the repeal to say: You know what. Let's let these big financial companies create holding companies, and you can put them all together. You can put real estate and securities and banks and investment banks, FDIC-insured banks, put them all in one big holding company. It will be just fine.

Well, I was on the floor of the Senate saying: This will not be just fine. It will be a catastrophe. I said 10 years ago—I did not know for sure, but I said: Within 10 years we are going to see big taxpayer bailouts if we do this.

Some of the same people on the floor of the Senate back then were saying: Look, let's create these big financial behemoths so we can compete. It will be good.

Then the President, George W. Bush, brought in regulators who boasted they were willing to be willfully blind for almost a decade: It does not matter what you do, you can do that. We will not watch. They said: There is a new sheriff in town. We are business friendly.

So in all of these agencies where we were supposed to have regulators to make sure the free market worked, regulators who were the referees with a striped shirt to blow the whistle to call the foul when the free market was the victim of a foul, they were not around. They were just in a Rip Van Winkle sleep for nearly a decade.

Meanwhile, Wall Street went out to play, and they created the most unbelievable instruments of deception: credit default swaps, synthetic credit default swaps, CDOs. I mean it is unbelievable. The circumstances that developed, the subprime scandal, the creation of these exotic financial instruments, the development of substantially more lending approved by regulatory agencies—all of this set us up for an unbelievable fall.

Some of the same people who were cheerleading for these very activities are now telling us they are going to protect America. And you know where they are going to make their last stand? Their last stand on these deficit issues is to deal with the poor people by saying: No, you cannot get that unemployment insurance extension.

By the way, unemployment insurance is something that people pay for out of their paychecks. Unemployment insurance is something we pay for out of our paychecks. Extending it during a recession is certainly the thing to do. It is something we have always done. Yet this is the last stand.

What about making the last stand when it comes to bailing out Wall Street? How about making the last stand a couple of weeks from now when we have Wall Street reform on the floor of the Senate, when we have a real fight about trying to do reform that is necessary on Wall Street?

In 2008, the financial firms on Wall Street—I am just talking about the Wall Street firms now—the biggest financial firms lost $36 billion and paid $18 billion in bonuses.

I have an MBA. I went to graduate business school. There is nowhere they teach in graduate school that if you go out and lose $35 or $36 billion, you ought to expect to be able to pay $17 or $18 billion in bonuses to those who helped you do it. Yet that is exactly the kind of carnival that existed in this country at the top of the financial food chain.

So we are going to have a big fight about that in a couple of weeks. How do we plug the holes? How do we solve this problem of Wall Street reform? We are going to have a lot of votes, and it will be interesting to see whether those who now speak the loudest about being able to protect the American taxpayer, standing up on the issue of debt and deficits, whether those are the people who are going to join us in taking the action to try to make sure that cannot happen again because, when we talk about what has contributed to this country's debt and deficit, the largest contribution by far are the supportive votes of those who were friends of Wall Street, and in the last 10 years have given them every single opportunity to do what they have done—that is, to create a casino-like economy and to have FDIC-insured banks trading on their own proprietary accounts.

They may just as well have had a blackjack table in the lobby. I mean, it is unbelievable. To fuse together inherently risky investment banks with FDIC-insured banks and having both of them, instead of providing the kinds of things banks used to provide—that is, doing lending—and having both of them trading securities on their own proprietary accounts in order to make big fees and big money. It is unbelievable.

The question is, Who will stand up for our economic interests? Spending on someone who is out of work in a deep recession, is that where you want to take your last stand?

Let me help with a couple other suggestions. How about making a last stand in asking people, like one person who made $3.6 billion in one year, to pay their fair share of taxes to the government. My calculation says that is a $300 million-a-month paycheck. When that person comes home and the spouse asks, Honey, how are we doing? Every single day he can say: We are doing really well. Ten million we earned today. But even better than that, he can now say: And by the way, we paid one of the lowest income tax rates in America. We get to pay a 15-percent income tax. People who work with their hands for a living can't do that. People who take a shower in the morning and after work can't do that. People who work hard all day pay tax rates far higher than 15 percent. We have some of the biggest income earners paying just a 15-percent tax rate on carried interest.

I say to my friends: If you want to do something about the deficit, join me. Let's get rid of that nonsense.

Or I wish they would have joined me the dozen times I have been here talking about the tax dodges that allow people to avoid paying taxes by creating shams. I have shown pictures of American banks that buy German sewer systems. You can't actually touch them. You wouldn't want to feel them. You can't move them. But American banks buy a sewer system in a German city and then lease it back to the city so the city keeps using the system, and the bank gets to write off a sewer system to reduce its American tax obligation. They want all the benefits of being American, but they don't want the responsibility of paying taxes. I say to somebody who comes to the floor and wants to reduce the Federal budget deficit: How about joining me and getting rid of these things?

Or perhaps you could have joined me on the floor when I have shown the picture of the Ugland House, now reasonably famous, a 5-story white building on Church Street in the Cayman Islands. When I showed the photograph, it was an enterprising piece of reporting by a man named David Evans from Bloomberg News who went to the Cayman Islands and found a 5-story white building that in 2004 was the official home to 12,748 corporations. No, they don't all fit in that building. I understand that. It was a legal dodge by companies setting up an address in order to funnel revenue through that address to avoid paying taxes to the United States. By the way, since that time, since 12,748 corporations used that little 5-story house to avoid paying taxes, it has now grown to over 18,000 corporate addresses, as I understand. I say to my friends talking about dealing with budget deficits, how about helping me on that? How about helping me close those loopholes? Those are unbelievably ridiculous loopholes that allow some of the people and companies who make a great deal of money to pay almost no income tax.

That is the tax side. I could talk forever about that, but I won't. But if we got a little help on that, we would reduce the budget deficit.

On the spending side, I have held 20 hearings on spending dealing with contracting in the wars in Iraq and Afghanistan. There is a place in Iraq. If somebody ever gets there, I suggest they drive by and take a look at it. It is American taxpayer dollars sitting in the desert. It is called Kahn Bani Sa'ad. We paid for it. We built it. We tried to build it. I think we spent $20 to $30 million for the first contractor and then fired the contractor and brought in another one. When the other one was finished, the money was gone. But there is a prison sitting on the sands of Iraq that the Iraqi Government said they didn't want and would never use that our Federal Government insisted be built. It is now sitting unused, and it doesn't even look like a finished building. It is huge. Millions, tens of millions of dollars were spent, poured down a hole in the desert. I held 20 hearings on the most unbelievable waste, fraud, and abuse on war contracting in Iraq and Afghanistan that I think has occurred in the history of the country. There is an area of spending we can tackle. We ought to tackle. There are so many areas for us to decide to do something about.

Yet the last stand on the floor of the Senate on a Monday is to say: We have ratcheted up all the strength, the muscle, the courage we have to say we don't think those at the bottom of the economic ladder, those who have lost jobs, those who are out of work, those who feel hopeless and helpless, those whose families are victimized, we don't think they ought to get unemployment insurance extended or we will put enough conditions on it to delay it. The same folks rushed to the altar to say: We can give $700 billion to the biggest financial firms in the country that ran this country into a ditch.

My point is not that we don't have a very serious economic problem. We do. The budget deficits are unsustainable. We have to fix them. My point is, there are some Johnnies-come-lately going on in this Chamber by people who have never come to the floor of the Senate on these issues in the last decade and now believe this budget deficit problem began to emerge on January 1 a year ago. That is not the case. This budget deficit problem, which is serious, results, in significant part, because this country ran into a very serious economic recession. It was not some natural disaster such as a flood, a fire, or tornado we couldn't do anything about. This was manmade. I warned about it 10 years ago. Those warnings were largely ignored.

Bad choices and bad policies have brought us to this position. Now it is required of us to make good choices. One of the good choices would be to recognize our responsibility to those at the bottom of the economic ladder, the folks who have, millions of them, lost their jobs in this recession and didn't do anything wrong. They weren't underperformers at work. They just were swept away by a very substantial recession. They paid for unemployment insurance in their paychecks. We all do.

My hope is we will get some cooperation on this vote today. It is a vote by which an effort to extend unemployment insurance for those who are the most vulnerable in the country has been blocked so we have a cloture petition. It ripens today at 5:30. My hope is we can do that and then move ahead.

There are plenty of us who are anxious to work on reducing the Federal budget deficit. This government needs to tighten its belt in a wide range of areas. There is no question about it. The spending side is important. We need to tackle the spending side and do it seriously. But it is not the only side. There is a whole series of folks who are not paying taxes who should pay. There are some of the biggest corporations in the country avoiding taxes that they should be paying. We ought to bring in the revenue we are required to bring in, ask some to pay what everybody else is paying, and we also ought to tighten our belt. All of that can help us address this very serious economic problem.

Let me look forward again 2 weeks to say if this is the last stand by those who are worried about the Federal budget deficit; that is, trying to make those at the bottom of the economic ladder, the most vulnerable Americans, wait and wonder whether they will get help from this Congress—if that is their last stand, 2 weeks from now, when we take on Wall Street reform and decide to do the things that are necessary to fix what caused this economic problem, fix what caused a substantial portion of the Federal budget deficits and fix what caused this deepest recession we have been in since the Great Depression, will we not get some help in 2 weeks? By the way, the bill that came out of the Banking Committee is a good first step. It needs to be strengthened in a number of areas. But even that bill didn't get any Republican support, not one vote in the Banking Committee. There are a lot of people here who support making sure that we are not too aggressive in trying to deal with the Wall Street folks and Wall Street interests. If we are not aggressive enough to make sure we have closed the loopholes and make sure we have tightened the reins so the American people have some confidence this will not happen again, we will rue the day if we end with a result that doesn't measure up in the minds of the American people.

Again, my point is to suggest we have a very serious, unsustainable budget deficit. It ought not to be surprising to anybody in this Chamber, moving along for a decade, fighting wars without paying for them, running into a very deep recession with revenues drying up when expenditures increase for economic stabilization. That is not surprising. But we need to come together and work together to find ways to not only get the taxes paid that are owed while at the same time we reduce the Federal budget deficit through those means, tighten our belts, and do the things that are necessary to move away from a decade of irresponsibility. If we are going to fight a war, send men and women off to war but don't have the courage to pay for it along the way, that is unbelievable to me. I have been to so many sendoffs, and every one of my colleagues has.

We are prepared to take people away from their families and send them off. I was just at Camp Bondsteel in Kosovo last week visiting the troops. They are away from home for a year. They have courage. When the country asks, they go. When they are called, they don't ask why. Shouldn't this Congress have the same courage to say: If we are going to send people to war, we will pay for it; we will have to ask the American people to pay the cost of that war? That is another significant part of this debate about how to deal with Federal budget deficits.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak for up to 10 minutes.

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

PROSPECTIVE SUPREME COURT VACANCY

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly about the prospective vacancy in the Supreme Court of the United States with the resignation of Justice Stevens. I do so to urge the President to select a nominee without regard to any threats of a filibuster. I urge the President to make his selection of whomever he believes to be the best qualified to handle the responsibilities with a view to academic excellence, professional experience, and intellect to carry on the battle, where we have seen the Supreme Court veer very sharply to the right.

Let's be candid about the Supreme Court being an ideological battleground today. That happens to be the fact. When some decry judicial activism, what could be more judicial activism than reversing the 100-year precedent that corporations may not engage in political advertising, as the Supreme Court did in Citizens United, in a contortion of procedural maneuverings to take a case with an isolated issue with a predetermined obvious purpose of changing the law on that very vital subject for the operation of our democracy?

We had Chief Justice Roberts, in the confirmation proceedings, under oath, swear he would not, quote, ''jolt the system.'' Well, there have been quite a number of jolts in the system with his key vote. We had a very extensive questioning and commentary about Chief Justice Roberts' deference to congressional fact-finding. Only Congress has hearings, hears witnesses, and makes determinations of fact-finding. When the voting rights came up, all of that seemed to have been forgotten.

We have a situation where it is obvious the Supreme Court makes the cutting-edge decisions on the law of the land. The Supreme Court, it turns out, decides who will be President in Bush v. Gore—a decision strictly along political partisan lines.

The Supreme Court of the United States decides what will be the law with respect to campaign finance reform, as we seek to make a determination as to how we can limit the expenditures in political campaigns—the very core of the democratic process.

In Buckley v. Valeo, in 1976, the Supreme Court said that, under the First Amendment, speech equals money. It seemed to me at the time that was a farfetched decision. Now, with Citizens United, we find that corporations are somehow persons, somehow entitled to first amendment rights and can advertise in political campaigns.

The Supreme Court decides who will live and who will die, decides what is the extent of the death penalty. The Supreme Court decides the extent of a woman's right to choose—Casey v. Planned Parenthood. The Supreme Court decides about the power of the State to take private property in eminent domain. And so the cases go on and on and on.

I have sought, for more than a decade now, to have the Supreme Court televised, and twice during my tenure as chairman or ranking member of the Judiciary Committee the committee reported out favorably legislation to require the Supreme Court to be televised, unless there was some extraordinary circumstance invoked by the Court. More recently, in this Congress, I have modified that effort with legislation which recommends that the Supreme Court televise its proceedings.

When Bush v. Gore came up, then-Senator BIDEN and I wrote to Chief Justice Rehnquist urging that the Court allow that monumental case to be televised so the public could see it, considering the very limited number of people who could gain access.

When I went over to the Court that day—being one of the few who could gain access to the Court—the block was surrounded with television cameras because of so much public interest. But the cameras could not go inside. That day the Supreme Court, with the Chief Justice's order, did change practice and allowed an audio transcript to be released immediately thereafter.

I believe Congress has the authority, should it choose to do so, to direct the Supreme Court to permit its proceedings to be televised. The Supreme Court, in a series of cases, has said the public has a right to know what is going on inside the courtroom, and that was the case which involved Richmond Newspapers. Well, in an electronic era, where the public gets so much of its information via television or via radio, there ought to be that access.

But the Congress has the authority to determine when the Court starts to function each year: the first Monday in October. Congress sets a quorum for the Court: six. Congress can set the number of Justices on the Court, as evidenced by the effort by President Franklin Roosevelt in the mid to late 1930s to increase the number of the Supreme Court to some 15.

Obviously, we cannot tell the Supreme Court what to decide, how to decide, but we can tell them about administrative matters. And the Congress has the authority to tell the Court which cases to take. So there is a broad range of matters where the Congress cannot act.

I modified the effort I had to have the Supreme Court televised—instead of ''requiring it'' to ''recommending it''—because in the final analysis the Court can make a determination on separation of powers if Congress imposes a requirement that can be overruled by the Court.

But if the public had access to what was going on in the Supreme Court, it seems to me there would be a clamor to have more openness, more transparency, and greater public appreciation of the fact that the Supreme Court is a battleground.

When considerations are made about—as the Sunday talk shows have filled the airwaves just yesterday—a number of Senators from the other side of the aisle left the filibuster on the table, would not rule it out, the question of what is judge-made law. Well, that is very much in the eye of the beholder as to what is judge-made law.

But I would urge the President not to pay any heed to that. When we start to engage in the subtleties of a nominee who will be among the five instead of the four, I suggest that is a stretch beyond making any determination. That is, I believe—well, it was candidly said trying to persuade Justice Kennedy to be among five, as it is speculated with some pretty solid foundation that Justice Stevens succeeded in persuading Justice Kennedy to side on the issue of habeas corpus.

We had Rasul v. Bush, where Justice Stevens—in a very learned opinion, tracing the authority of detention from the Magna Carta down through habeas corpus—made a determination that habeas corpus was a constitutional right. The case then came to the Court of Appeals for the District of Columbia, and in a contorted opinion—at least contorted in my judgment—the Circuit Court for the District of Columbia said it was on statutory grounds and not constitutional grounds. But reading Rasul v. Bush, starting with the Magna Carta and tracing the constitutional evolution, it certainly, as a fair reading would say, was on constitutional grounds.

Then Boumediene v. Bush came up, and on the petition for cert, only three Justices voted to hear the case, and Justice Stevens was not among them. Had Justice Stevens voted to hear the case, there would have been four Justices to take up the case and it would have been docketed and it would have been heard. But Justice Stevens voted not to hear the case. It was speculated at that time widely that Justice Stevens felt if the Court took the case habeas corpus would be rejected.

We had the long fight on the floor of this body, and I offered an amendment to restore habeas corpus, which was defeated 51 to 48 on the military commissions act. I predicted at that time the Supreme Court would eventually overrule the congressional determination and reinstate habeas corpus as a constitutional right.

Then there came to light information in the military commissions about some very questionable practices, and there was a subsequent petition for reconsideration for a grant of cert. On a petition for reconsideration on a grant of cert, it takes five votes. Four votes are insufficient. You have to have five votes to have cert granted and cert was granted. Justice Stevens and Justice Kennedy joined the other three Justices in the petition for reconsideration to grant cert.

In Boumediene v. Bush, the Supreme Court said that habeas corpus, in fact, was a right. Well, those are speculative and those are subtleties. But my own thinking on the subject is the President ought to appoint somebody who

can be in a sense a warrior in this ideological battle which is going on across the green in the Supreme Court. That is what is happening.

If a new nominee is only a fourth, well, there may be an opportunity for a fifth. President Obama is not halfway through his second year. Who knows what the future will hold on the electoral process or who knows what the future may hold with respect to Supreme Court vacancies. But there may well be an opportunity for subsequent appointments to the Supreme Court.

It is my hope there will be a nominee whom the President feels comfortable with ideologically. Interestingly, when President Obama was Senator Obama, as the record shows, he voted against Chief Justice Roberts for confirmation. In his statement he pretty much acknowledged Chief Justice Roberts'—then Judge Roberts—competency and qualifications but disagreed with him on philosophical and ideological grounds.

But what goes on inside that conference room is known only to the Justices. It is very small, very simple, situated right behind where the Chief Justice sits in court, if you walk right in back of that. I think relatively few people have had an opportunity to see that conference room. It is written about as a place where only the Justices can go. If there is a knock on the door, as is frequently reported, it is the junior Justice who answers the door. But what goes on inside that conference room decides the cutting-edge questions of the day. It is my hope that the replacement will be someone with solid academic credentials, solid professional credentials, the intellect and really the ability to carry on that battle, which is an ideological battleground within that Supreme Court conference room.

I urge further that the President look beyond certain judges. Today, the nine Justices, including Justice Stevens, all come from the courts of appeals from the circuits. Well, there is great talent beyond the circuits. When Brown v. Board of Education was decided, I believe only one had been a circuit judge. Why not look for an ex-Governor like Earl Warren? Why not look for an ex-Attorney General like Robert Jackson? Why not look for an ex-Senator or a current Senator, like Hugo Black, who was a Senator when he was selected for the Court, or perhaps even an ex-President? William Howard Taft had been President of the United States and later served as Chief Justice of the Supreme Court of the United States.

So I believe we ought not to be concerned about it. As divisive as the Senate has become and as partisan and as gridlocked as the Senate has become, I believe there are 60 votes in this Chamber to reject the concept of a filibuster and that the President ought to have a free hand in selecting his choice in accordance with the considerations which I have outlined.

I thank the Chair, and in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REED. Mr. President, we are here to move forward on extending unemployment benefits, which is long overdue. They expired April 5. We have thousands and indeed hundreds of thousands of our fellow citizens across the Nation who need this assistance.

In my State of Rhode Island, it has become even more necessary. Not only are we seeing unemployment rates ranging around 12 percent, but last week we endured the worst flooding in the history of our State. It has swept through a large portion of our State. Senator WHITEHOUSE and I have been going from town to town and neighborhood to neighborhood. People's homes have been engulfed in water, up through the first floor. They have lost their utilities. They have lost their appliances. They have lost their precious mementoes—everything. We have also had commercial operations that have been flooded. Our largest mall in the State, Warwick Mall, has been completely inundated. It has been closed now for almost 2 weeks. Literally hundreds and hundreds of employees have not been able to work. They are now eligible, through no fault of their own, for unemployment compensation. So we have to do this. This is an example of one State, but it is throughout this whole country.

What is also adding further necessity to the legislation before us is that—what we have found is that our Federal, State, and local officials have been extraordinarily prompt in responding to the disaster. I thank the President. He very quickly issued a Presidential disaster declaration for Rhode Island and parts of Massachusetts, as well as other areas of New England. FEMA has been on the ground. They are doing a very good job. But for someone who has lost their home and all of their possessions, someone who also may have lost their business simultaneously, every moment is precious. Despite the extraordinary efforts of the men and women of FEMA, the Small Business Administration, EPA, the Corps of Engineers, State officials, and local officials, we have to do much more for these people.

One of the ironies is that—one of the benefits of the Small Business Administration is essentially providing loans to households and to businesses; however, they are limited unless these businesses can get flood insurance. Private flood insurance is out of sight financially.

Public flood insurance has been without authorization. In this legislation, we will have a temporary extension of the National Flood Insurance Program. Let me translate that into practical terms. SBA in Rhode Island could go to a business and say: You have had physical damage. We can lend up to $2 million to you. Unfortunately, because you can't get flood insurance, we are limited to giving you $14,000. When you offer that to someone who is desperate, who is seeing hundreds of employees without work, who is trying their best—in fact, even the idea of taking another loan is a very great leap forward. To say: You need $100,000 or $500,000; we can give it to you, but—it is the classic catch-22. In this legislation, we can extend this program, even for several weeks, but allow individuals in these affected areas to qualify for what they need.

In terms of home loans, the limit is not that high, but it could be up around $40,000 for personal property and $200,000 for real estate. I have been in homes where the damage is excessive. Yesterday, I walked into a home in Cranston, RI, and a father and his two grown sons were ripping up the tiles. The whole first floor has to be gutted and replaced. They may just try to do it on their own, they may try to seek bank lending, but it would be nice if they could get the full support of the Federal Government, as we intended when we passed the SBA laws and disaster relief laws.

In terms of economic injury, if there is a business that has lost all of its inventory, that has to close, that has just lost business because of the flood, they, too, can qualify for loans—and again, the total is up to $2 million. However, without flood insurance, the cap is $5,000. So going to someone who has lost all of this and saying to them: Well, let me explain the intricacies. You can get this, but you can't get this. If Congress acts, you can get this. We have to do much more for our citizens. If these programs are available, we have to make them truly available.

One of the consequences, frankly, of this political jousting back and forth is we lose sight of the effect on our constituents, the effect on real people and real problems. As a result, they are looking at us here and saying: What is going on? You have authorized the program. You have the money to loan me up to $2 million, but you can't because you can't authorize another program. We might understand that procedurally. We might understand the delays we see here, et cetera. But the American public doesn't understand it. They have a problem; they expect their government to respond, particularly when the programs are already authorized, when the programs are there, and we have done it in the past. I would hazard a guess that every Member in this Chamber has used—or their constituents have used Federal flood relief programs, agriculture relief programs. I supported every one of them because when Americans are facing a natural disaster, they need all of us to rally behind them and support them.

Well, now is the time in Rhode Island and Massachusetts. We need that support. For people to oppose it—oh, we object to this or that—that is not what we are called upon to do. We have people who are desperate because of a natural disaster. We need unemployment compensation for those people and for the thousands who are still looking without success for jobs, and we also need it to assure the people that their welfare is our goal. That is what we do. We can sort out the nuances of conflicting programs and conditions, et cetera, so that they get the help they need.

So I hope we can move through this motion to proceed and get on to a serious debate. I personally believe we have to extend unemployment compensation through the end of the year. This ''Perils of Pauline'' every 30 days leaves people to wondering what is happening to them.

I was in a diner yesterday in Rhode Island, and a woman stopped me and said: When are you going to extend unemployment insurance? I don't know if I am going to get it. I am running out of resources.

This is a woman who has worked all of her life. In fact, she told me she had been laid off once before because she didn't have the training, and then she went and got education through a Federal program, moved into administration, and was just let go by her company because of the downsizing. She played by the rules, she has done everything asked of her as a citizen, and she is just waiting there.

We have to do more. So I hope the logic of our constituents might overwhelm the logic of this Chamber at the moment.

Mr. President, with that, I yield the floor.

CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 323, H.R. 4851, an act to provide a temporary extension of certain programs, and for other purposes.

Harry Reid, Richard J. Durbin, Patty Murray, Patrick J. Leahy, Jack Reed, Christopher J. Dodd, Mark Udall, Debbie Stabenow, Amy Klobuchar, Sheldon Whitehouse, Max Baucus, Dianne Feinstein, Kirsten E. Gillibrand, Kent Conrad, Byron L. Dorgan, John D. Rockefeller, IV, Jeff Bingaman, Robert Menendez.

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

The question is, Is it the sense of the Senate that the debate on the motion to proceed to H.R. 4851, the Continuing Extension Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. GREGG), and the Senator from Missouri (Mr. BOND).

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

The yeas and nays resulted—yeas 60, nays 34, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—60

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (NE)
Bayh	Franken	Nelson (FL)
Begich	Gillibrand	Pryor
Bennet	Hagan	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Sanders
Brown (MA)	Kaufman	Schumer
Brown (OH)	Kerry	Shaheen
Burris	Klobuchar	Snowe
Byrd	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Collins	Lieberman	Voinovich
Conrad	Lincoln	Warner
Dodd	McCaskill	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden

NAYS—34

Alexander	Ensign	McCain
Barrasso	Enzi	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker
Crapo	LeMieux	
DeMint	Lugar	

NOT VOTING—6

Bennett	Gregg	Menendez
Bond	Harkin	Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. I now ask unanimous consent that on Tuesday, April 13, following a period of morning business, the Senate resume postcloture debate on the motion to proceed to H.R. 4851; that at 2:15 p.m., all postcloture time be yielded back, the motion to proceed be agreed to, and the Senate proceed to consideration of H.R. 4851.

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

Mr. REID. I would say I have had a number of conversations with the majority leader and Senator COBURN and I think we have a way to move forward tomorrow afternoon.

Madam President, I was talking to the distinguished Senator from Ohio and we were saying, he and I, how much Lula Davis knows. She even recognized I made a mistake. I don't do it very often. I was referring to the Republican leader, not the majority leader. I would like the RECORD to reflect that.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. I would agree about the part about Lula Davis, for sure.

We have all been back in our State for the last 2 weeks. I have been everywhere from Marietta to Cleveland to Toledo to Defiance to Youngstown to Columbus to Dayton—all over my State. There are a lot of things I hear. Of course there is a lot of pain. There are a lot of people who are looking for work, a lot of people who believe they are about to lose their health care or they have lost their health care.

I heard a lot, frankly, of gratitude that Congress moved on this health insurance bill so that now, immediately, small business people in Ohio, whether they are in Marion or Mansfield, whether they are in Warren or Wapakoneta, have a much better chance because of these tax breaks that take effect immediately to insure their employees, something that most small businesses I know, whether they are in New Hampshire or Ohio, want to do.

Also, we did not hear much of this during this debate, but the number of people who came up to me—and the majority leader was talking to me and he sees this in Nevada too—the number of people who came up to me in Youngstown or Cleveland or Bay Village or different places who have 22-year-old daughters or 20-year-old sons who might be home from the Army or home from college, finished college, finished their time in the Army and they do not have insurance and they cannot find a job with insurance. As a 23-year-old, it is pretty hard to find a job with decent health insurance. They like this new law because it means they can stay on their parents' health insurance until the age of 26. I heard people all over the State, in the 2 weeks I traveled in Ohio in the time since we have been talking here, talking with senior citizens in senior centers, talk about closing the doughnut hole. So the bill President Bush pushed through more than anything gave huge subsidies and giveaways to the drug companies and the insurance industry but now we are taking care of the seniors by closing the doughnut hole at the same time this health care bill will provide the seniors once a year an opportunity to get a physical with no copay.

In spite of the difficulties people face, there is good news that way.

There is some light at the end of the tunnel.

When I was at a GM plant in Defiance, they are beginning to hire people to build the engine for the Cruise. The Cruise will be assembled in Lorantville, OH. They are hiring 1,100 people on the third shift. That was a decision President Obama made at the urging of many of us in the Senate—Senator CASEY, Governor Strikland in Ohio, many others—to enforce U.S. trade laws on oil country tubular steel which we use for piping for oil and gas lines—oil and gas drilling. That company in Youngstown, V&M Star Steel, is hiring 400 people and probably more in the future.

We are hearing some pieces of good news. That doesn't mean anyone thinks this recession is over. It does not mean there is yet that much good news. It means people are still struggling and it shows how important it is to do what we did today. In spite of 34 Republicans opposed to the bill, we were able to get 4 Republican votes. I applaud the four of them: the newest Senator here, Senator BROWN from Massachusetts; Senators COLLINS and SNOWE from Maine, the neighboring State of the Presiding Officer; and Senator VOINOVICH, the senior Senator from my State—Senator VOINOVICH, who is retiring at the end of the year. They all voted to move forward on unemployment compensation.

It is too bad that Senator COBURN and Senator BUNNING, day after day, tried to block the extension of unemployment. It looks as though we are going to be able to move forward now.

There seems to be some misunderstanding about what unemployment is. It is not called unemployment welfare, it is called unemployment insurance. That means all of us who are lucky enough, in this economy we have been in in the last couple or 3 years, to have jobs, all pay into an unemployment fund, we pay into an insurance fund. If we lose our jobs, the money we have paid in as insurance, we get assistance. Many people never receive unemployment insurance, just as some people don't use their health insurance if they are healthy. But those who are sick sometimes get more money out of their health insurance than they put in. Some people put into unemployment insurance, get more out if they lose their jobs and they are unemployed for a long time. That is why this bill is so important, because it is unemployment insurance.

That means if people lose their jobs, they should get some help. It is the right thing to do morally. It is also the right thing to do for the economy because if people are getting unemployment insurance, they are spending that money in Zanesville at the local drugstore, they are spending that money in Cambridge at the local grocery store, in Springfield and Xenia, OH, to buy books and to buy clothes for their kids for school. So unemployment insurance gives the economy a bump and some help and some stimulus. It goes back into the economy quicker than anything else government can do—unemployment insurance. That is the other reason it is important.

Then I heard my colleagues say we are for unemployment insurance extension and we are for helping with COBRA, the health care subsidy, so people can stay in their health care plan after they have lost their job and get some assistance from the government to do that because it is expensive. My colleagues say we want—we are OK with that, we think it is all right, but we have to pay for it.

There are certain emergency situations over the years that government has made a decision that you need to respond to quickly. You don't have to cut spending somewhere else or increase taxes to pay for it.

That is what I hear my colleagues say, but they never talk about how, when they voted for tax cuts for the richest Americans, that was added to the budget deficit. So a few rich people got huge tax cuts and my kids and grandchildren pay for it. They don't mention that.

They don't mention this war in Iraq which they enthusiastically supported, costing us $1 trillion in terms of the costs of war and the costs of veterans' benefits and the costs of veterans' health care. They did not pay for that.

They don't talk about the Medicare privatization bill, the giveaway to the drug companies and the insurance companies and how they did that and didn't pay for that.

It is only unemployment. It is only unemployed workers. Now they get some fiscal religion. All of a sudden they are for a balanced budget. They are not for a balanced budget in paying for the war, not for a balanced budget in paying for tax cuts for the rich, not for a balanced budget when they are shoveling subsidies to the insurance companies and drug companies, but all of a sudden it is unemployed workers, people who are struggling, people who have paid into this insurance fund, people who send out—listen to them in your State in Hanover or in Mansfield, OH, listen to people say how they are sending out 10 and 20 and 30 and 50 résumés a week to try to find jobs and they still can't find them. We are going to penalize them and say we are not going to pay for it, but they will not on the cost of war or the cost of veterans' benefits or the cost of tax cuts for the rich and the cost of the giveaways to the drug and insurance companies.

Let me close with this. As we were home the last 2 weeks—most of us were back in our States. Some were elsewhere. We talked to people more, but we also get letters when we get back. We see the kinds of letters that I am getting all the time from people at home. Let me read two of these letters. James from Franklin County, OH—that is the middle of the State where Columbus is, the State capital.

At this point in my life my future is uncertain. I have been unemployed for almost a year. Along with my other former co-workers from the optical lab, we continue to look for jobs.

I am an American to the bone. I have worked nearly every day of my life. I am now 55 years old.

Like many thousands of fellow Ohioans, our current unemployment benefits are about to expire.

I can make it financially with two or three part-time jobs to make sure I can pay for my daughter's nursing school. I will live in my car if I lose my apartment, but I will make sure my daughter continues her education. Please help the hard-working people of Ohio.

''I will live in my car if I lose my apartment, but I will make sure my daughter continues her education.'' How can you say those people do not matter as much as giving tax cuts to the rich? How can anybody in this institution stand and with a good conscience and a straight face say that James from Franklin County is not doing everything right in order to provide for his family and for the future?

Do not blame James for this budget deficit that this crowd in this body voted for; the war, unpaid for; the tax cuts, unpaid for; the drug company subsidies, unpaid for; that James is not trying to do the right thing to provide for the future for his daughter to get her through nursing school.

Derek from Cuyahoga County, the State's largest county on Lake Erie, the Cleveland area, writes:

I have just exhausted my unemployment benefits. I have been sending resumes like crazy, but there is just no work in this part of Northeastern Ohio. Pretty soon I won't be able to afford my bills—or anything for that matter. I'm 26 years old, don't have health insurance, and need help while I look for a job. We bailed out large corporations when they were in a financial jam. Why can't we help the American people who are in their own financial struggle?

Unemployment benefits do not make you comfortable. They do not make you rich. They are not what you plan for in the future. They are not something anybody wants to live on for very long. But they help people while they are trying to find a job. Unemployment insurance gives people that helping hand. It may be another week, it may be another month or 3 months. At least four of my colleagues today voted to extend unemployment for a month. It should have been longer. I wish we could do better. I wish we could get some Republican votes to do this right and to help get us on the track so people can plan better in their lives and can continue to go out and try to get jobs. That is what we need to do. It is what this economy needs.

I urge my colleagues to do the right thing this week with the unemployment extension and to do the right thing with the jobs bill to begin to put more people in this country back to work.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

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

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

EARLY CHILDHOOD EDUCATION

Mr. REID. Madam President, I rise today to call attention to the importance of quality early childhood education programs throughout our country that promote and support the growth and development of our Nation's youngest citizens.

Research has shown that the quality of early relationships and experiences contributes to school success, overall health, and future workforce productivity. During a young child's life, there are 700 new neural connections formed every second, thus creating the foundation for learning and more complex brain development. In fact, more than 85 percent of the foundation for communication: critical thinking, problem solving and team work, is developed by age 5—before children enter kindergarten.

To reach their full potential, these connections need to be nurtured with positive and developmentally appropriate cognitive and social-emotional stimuli. Quality prekindergarten programs reduce placement in special education, lower the risk of grade retention, and decrease incidences of juvenile crime. Improving the success rate of high school graduation and adult earning potential is critical for our Nation's children. The implementation of quality early childhood education programs results in both social and economic benefits for the child into adulthood, as well as for the community and the Nation as a whole. Even conservative estimates yield a benefit/cost ratio of 2.36 and a significant long term increase in the gross national product.

Quality early childhood programs require the commitment and dedication of a professional early childhood education work force. Today, I recognize not only the importance of quality early childhood education programs throughout our country but also the professionals who have dedicated their careers to ensuring the highest levels of achievement in early learning for our Nation's children, thus creating lifelong benefits for the child, family, community, and country.

SCHOOL SAFETY PATROL LIFESAVING AWARD

Mr. REID. Madam President, I rise today to show my profound appreciation for the actions of five young Americans who comprise this year's School Safety Patrol Lifesaving Award recipients as chosen by the American Automobile Association.

In 1920, the American Automobile Association, AAA, began the School Safety Patrol Program in hopes of promoting traffic safety amongst school children. The AAA School Safety Patrol Program has been awarding its highest honor, the Lifesaving Award, to those patrollers who have acted to save the life of another since 1949. This year, five heroic school safety patrollers are receiving this award, and it is my great honor to recognize their courageous actions.

Ian Valles, a sixth grader from Heights-Murray Elementary School in Wilkes-Barre, PA, bore witness to a tragic accident the morning of January 9, 2009. While standing at a busy intersection, Ian witnessed a van strike adult crossing guard Edward Martin, who jumped in front of the van to save a mother and child in its way. Ian stayed calm and called 911 with a cell phone, staying by Mr. Martin's side until he was safely taken to the hospital by paramedics. Ian's heroism along with his calm composure saved the life of Mr. Edward Martin.

On April 20, 2009, Lauren Micolichek prevented a young girl at South View Elementary in Chippewa Falls from being struck by a fast approaching car about to make a left turn into the crosswalk. Lauren thought quickly when she saw the student walking toward the crosswalk and saved her life by shouting ''wait.'' Her immediate response to the situation prevented the young girl from being hit by the vehicle.

Charles Tate, a fifth grade safety patroller from Second District Elementary School in Meadville, PA, also demonstrated quick action when he saved a kindergarten student from crossing an intersection. The kindergartner began to cross the intersection while a large truck came down the road. Charles ran into the middle of the road and swiftly grabbed the student by his shirt, keeping him out of harm's way.

Michael Grady, a student at Defer Elementary School in Grosse Pointe Park, MI, responsibly checked both intersections before allowing a group of students to cross. He noticed a car moving toward the students and courageously placed himself in front of the group with his arms outstretched, diligently responding to the incident before the car reached them. Thanks to his prompt actions, Michael prevented a tragedy.

Jerome Manning was patrolling at the same elementary school in Michigan the morning of January 12, 2010. Jerome had been assisting the children as they crossed the intersection when he spotted a vehicle speeding toward a student. Jerome's alertness enabled him to grab the boy by his backpack before the car could hit him. His alertness saved the child from the car by about 6 inches. Jerome's quick actions have made him a hero in his community.

These five heroic individuals epitomize values of leadership qualities such as courage, alertness, and a commitment to safety. Moreover, these traits are what the AAA School Safety Patrol Program embodies as an institution. Patrollers exemplify the kind of services that are needed so that young people safely navigate traffic hazards to and from school. I applaud their commitment to positively impacting our community.

HOLOCAUST

Mr. COCHRAN. Madam President, it is my pleasure to be able to recognize an important project being undertaken by students at Horn Lake Middle School in Horn Lake, MS, to learn lessons from the Holocaust.

This project was brought to my attention by Miss Sadie Hopkins who, with her seventh grade classmates, has worked months to collect 1.5 million pennies—each coin representing one child lost in the Holocaust. Led by their teacher Susan Powell, these young people plan to use the pennies to understand the tragic and significant impact the Holocaust had on Jewish children during World War II and the ripple effects of that terrible time on families today.

I am pleased that Miss Hopkins made me aware of this project, which should be viewed as an innovative endeavor in making history more real for our youth today. It has opened these students' minds to an important era in history and put them in touch with some of those whose lives were directly affected by the Holocaust. I commend the Horn Lake community for supporting this ongoing educational effort.

Madam President, I ask unanimous consent to have printed in the RECORD an article titled, ''Horn Lake Middle School students collecting pennies for Holocaust project,'' from the DeSoto Appeal.

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

[From the Commercial Appeal, Nov. 25, 2009]

HORN LAKE MIDDLE SCHOOL STUDENTS COLLECTING PENNIES FOR HOLOCAUST PROJECT

(By Chris Van Tuyl)

A teaching wall just inside the front entrance of Horn Lake Middle School is really doing its job.

Posted squares urge those passing by to consider this: ''The estimated population of DeSoto County is 154,748. If each person gave 10 pennies, we would have 1.5 million pennies.''

It would be an awful lot of coinage for an awfully worthwhile cause. It's a school project spearheaded by seventh-grade Spotlight students currently studying World War II—with a significant focus on the Holocaust. Each penny would stand for one child lost in the Holocaust.

''The pennies will be used in an online museum,'' Horn Lake Spotlight teacher Susan

Powell said. ''We will host a (virtual) room, and this is being done through an organization (Christian Friends of Israel) in Memphis. We are going to assist them. The kids are brainstorming on what to do with the pennies.''

Seventh-grade language arts teacher Melissa Swartz has an idea, and it involves her artistic husband.

''We've talked about getting enormous frames built, lay the pennies out side by side, have Michael come in and help the kids create some kind of Holocaust scene,'' Swartz said. ''It's about getting the kids involved because we want them to have the biggest part of this.''

On Monday, students were on the receiving end of a speech from an 81-year-old Holocaust survivor.

''Lovely lady,'' Powell said. ''Many of the children are the same age (12) that the survivor was when she was taken from her home. They would feel her pain if they were moved and their family members were killed. She knew immediately that her parents were sent to the concentration camp.''

Added Swartz: ''They were just entranced. I've never had a group of students as involved as mine are this year. They've totally embraced everything about it.''

Studying this part of history hits home for Melissa and Michael, as both are Jewish.

''My husband's family cannot be traced back past World War II,'' said Melissa, ''and I have wonderful and not-so-wonderful stories that I relay to the kids. Some have happy endings and some don't.

''So many of our kids have extended family right here with them—a grandmother, a great-grandmother—they have all of that. My husband doesn't.''

As part of the penny project, the Horn Lake students are writing letters to community leaders and to President Barack Obama.

''We would like for this to be something that all the students in DeSoto County help us with,'' Powell said. ''We know we can reach our goal.''

Swartz is also attempting to contact Jewish celebrities such as Whoopi Goldberg, Jerry Seinfeld, Ben Stiller and David Beckham.

''I'm going to get their fan mail addresses or whatever,'' she said. ''We're going to send (letters) and tell them, 'We want your pennies!' ''

Pennies from the community can be dropped off at the school, 6125 Hurt Road.

HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010

Mr. GREGG. Madam President, I wish to take a moment to thank my staff who helped make this bill go as smoothly as it could have gone.

Usually people start with the chief of staff and go down the list. But I would like to single out my health policy director, Elizabeth Wroe, for her extraordinary commitment of energy and time on these issues starting over 1 year ago.

Of course I have a whole team on my Budget Committee staff who have been working on issues related to this reconciliation bill for nearly as long.

A special thank you goes to staff director Cheri Reidy who has been assisted by her colleagues: Jim Hearn, Allison Parent, Gordon Gray, Matt Giroux, Jeff Gonzalez, Greg D'Angelo, Roger Mahan, Nicole Foltz, Giovanni Gutierrez, Dan Kowalski, Betsy Holahan, Dave Myers, Winnie Chang, Adam Hechavarria, Mike Lofgren, Kim Proctor, Greg McNeill, Jim Carter and Andrea Wuebker.

JOINT COMMITTEE ON TAXATION HEALTH CARE EXPLANATION

Mr. BAUCUS. Madam President, I want colleagues and those who read the RECORD to know that the nonpartisan Joint Committee on Taxation has made available to the public a technical explanation of the revenue provisions of the Health and Education Reconciliation Act, as amended, in combination with the Patient Protection and Affordable Care Act. This technical explanation provides information on the committees' understanding and legislative intent behind those provisions. It is available on the Joint Committee's Web site at www.jct.gov under the title ''Technical Explanation of the Revenue Provisions of the 'Reconciliation Act of 2010,' as Amended, in Combination with the 'Patient Protection and Affordable Care Act,' '' and is listed as document number JCX—18—10.

RECOGNIZING THE CENTER FOR EXCELLENCE IN EDUCATION'S LAUNCHING OF NATIONAL LAB SKILLS SYMPOSIUM

Mr. LIEBERMAN. Madam President, I rise today to honor the Center for Excellence in Education, CEE, for launching the first National Lab Skills Symposium. As an honorary member of the board of trustees for the center, I have witnessed firsthand the important work CEE had undertaken, and I could not be more impressed and excited about its newest endeavor.

Improving science education is an essential investment toward the future of our Nation and world. Since it was founded in 1983 by Joann DiGennaro and the late ADM H.G. Rickover, CEE has been an influential leader in championing efforts to provide science, technology, engineering, and mathematics initiatives for this Nation's top achieving students.

With over 25 years of experience as a leader in STEM academic programs for high school students, CEE understands exactly what it takes to prepare future innovators for the 21st century; and it is prepared to take further steps to ensure that students develop the skills they need. Consequently, after data from both of CEE's world-renowned scientific enrichment programs, the Research Science Institute and the USA Biology Olympiad, demonstrated that even our Nation's best and brightest students are receiving inadequate training in laboratory skills and practices, CEE initiated the National Lab Skills Symposium to address the poor quality of instruction and learning in our Nation's science and technology labs.

CEE held its first such symposium from April 8–9, in Washington, DC, to discuss best practices in laboratory education and to determine the ways in which high school teachers throughout the country can use these best practices for the teaching of laboratory skills to students for success in STEM careers.

Before holding the symposium, CEE examined laboratory education programs across the United States, seeking those programs that follow the most cost-effective, sustainable, and replicable models for teaching students practical lab skills. CEE found six programs it deemed exemplary, which were recognized at the symposium. These programs also served as a framework that attendees, which included influential members of academia at the high school and university levels, nongovernmental organizations, governmental agency representatives, and corporate leaders, could evaluate and reference when developing a set of best practices for laboratory education. CEE plans to implement the symposium's best practice recommendations in several States within 2 years and hopes to eventually adopt them nationwide.

I applaud the efforts of CEE to address the crisis in lab skills, and I am confident that this new initiative will help us to ensure that the United States fields a talented and diverse workforce in science and technology for years to come. I commend CEE's president, Joann DiGennaro, for the leadership and vision she has demonstrated in putting together the National Lab Skills Symposium. I have no doubt that Admiral Rickover is saluting this latest effort.

I ask that all of my colleagues join me in recognizing the Center for Excellence in Education for all it has done to assure the Nation's economic growth and national security.

TRIBUTE TO JOYCE REVELL

Mr. CARDIN. Madam President, I would like my colleagues to join me in thanking Joyce Revell for 21 years of exemplary service to the U.S. Senate and on wishing her well during her retirement.

Joyce Revell has dedicated her life to the service of our Nation and to the citizens of Maryland. At age 18, she joined the U.S. Army, where she served for 2 years. In 1977, she joined the staff of Senator Paul Sarbanes, where she became an integral part of his State office staff, providing information and service to constituents. In 2007, I was fortunate and privileged when Joyce agreed to join my staff when I was sworn into the U.S. Senate.

Joyce is one of the most outstanding caseworkers I have ever met, and she has developed an expertise in a field that is often difficult and heartbreaking. Joyce's knowledge of immigration law rivals any attorney in the field, and thousands of Marylanders over the years have sought her advice and counsel when navigating our Nation's immigration process. Her advocacy on behalf of those who need a

voice has often resulted in new American citizens, reunited families and helped place adopted babies and children in loving homes.

Through her years of service to the Senate, Joyce has become familiar with a number of Federal agencies and departments and she has been more than willing to share her considerable institutional knowledge. In fact, her expertise and knowledge is so extensive that employees of the U.S. Customs and Immigration Service, as well as other congressional and Senate offices, often look to Joyce for guidance and information.

I also want to take a moment to mention Joyce's professional skills and her approach to her cases. She has an emotional connection to the constituents who contact her, but she is always calm, professional and informative, even in the face of the most severe hardship. She will provide constituents with the right answer, even if it is not the one they want to hear.

I urge my colleagues to join me in congratulating Joyce on her many years of dedicated service to our Nation. I also want to take this opportunity to thank Joyce's husband Paul, daughter Kate, and son Paul Michael for sharing Joyce with the U.S. Senate. I wish her the all best in her future endeavors. She will be greatly missed.

TRIBUTE TO LIEUTENANT COLONEL MARC HOFFMEISTER

Mr. BEGICH. Madam President, I wish to recognize a fine Alaskan, brave warrior, dedicated military leader, and inspiration to all who know him. LTC Marc Hoffmeister is an Army engineer and wounded warrior currently serving on the staff of Alaska Command on Elmendorf AFB, AK. Lieutenant Colonel Hoffmeister may well be one of the most outstanding and motivational military leaders I have had the pleasure of knowing.

Wounded by a roadside bomb while deployed to Iraq in 2007, he suffered both traumatic brain injury and a very serious physical injury to the left side of his body, injuries that threatened possible long-term disability and a possible end to his military career. Lieutenant Colonel Hoffmeister had long been committed to his career as well as a life focused on the outdoors. He and his wife Gayle had a long reputation of intense physical training and extreme outdoor adventure. Now he was facing the very real possibility of a life without either.

Today Lieutenant Colonel Hoffmeister, through sheer determination, dedication, and the help of his wife Gayle, is still serving our country and still taking on the most extreme outdoor challenges. This fact did not happen overnight and came at a cost—a long stay in the hospital, intense rehabilitation, and much physiological effort to come to grips with a life that would be different but not debilitated.

During his recovery Lieutenant Colonel Hoffmeister came in touch with scores of other wounded warriors all dealing with life-changing challenges and the need to rise above them and continue living. His ability to help these young warriors who had made selfless sacrifices in service to our country turned out to be a significant motivation for his own recovery.

Recently Lieutenant Colonel Hoffmeister completed climbing the tallest mountain in North America. At 20,320 feet, Mount McKinley, Denali, is referred to as ''The Great One'' and is located about 150 miles north of Anchorage. On this climb, Lieutenant Colonel Hoffmeister took other wounded warriors, two of whom were amputees. Three members of this team, including Lieutenant Colonel Hoffmeister, made the summit. The climb, called Operation Denali, was planned and lead by Lieutenant Colonel Hoffmeister and was designed to show wounded warriors around the country their physical and mental injuries are not the end but rather a beginning of a new life.

Marc and his wife recently went to South Africa and climbed Mount Kilimanjaro in Tanzania as another example of ''anything is possible,'' even in the face of extreme physical adversity. They both continue to be involved in the wounded warrior program and are routinely asked to provide motivational speeches to organizations around Alaska. Lieutenant Colonel Hoffmeister was recently chosen as the National Geographic Readers Choice Adventurer of the Year for 2009.

Madam President and colleagues, please join me in recognizing the efforts of true warrior, hero, leader, and humanitarian, LTC Marc Hoffmeister, U.S. Army Alaska. We thank him for his dedication, drive, and selfless service both to his fellow wounded warriors as well as the United States of America.

2010 ALASKA WINTER OLYMPIANS

Mr. BEGICH. Madam President, I wish to recognize the athleticism of the Alaska members of the 2010 U.S. Winter Olympic team. These six outstanding Alaskans represent not only some of the finest and most skilled athletes in the United States but are also incredible examples of Alaska's grit and determination. Alaska is very proud to have these six outstanding athletes competing in this year's Winter Olympics.

Callan Chythlook Sifsof of Girdwood, AK, competed in the snowboard cross competition. Callan is the first Alaska Native to make the U.S. Winter Olympic team. She grew up in a part of Alaska known as ''the Bush'' and spent her first years in a village along the Bering Sea. Before moving to Girdwood, Callan never imagined herself as an Olympian. She holds the double title of 2007 U.S. national champion and junior national champion in boardercross.

Jeremy Teela's home town is Anchorage, AK. He finished ninth in the 10-kilometer biathlon sprint during the 2010 Winter Olympics, the best American result to date in biathlon. A member of the 2002, 2006, and 2010 U.S. Olympic teams, Teela's career has spanned more than a decade of impressive finishes. He has been a member of the U.S. national team since 1996.

Jay Hakkinen, of Kasilof, AK, is a three-time Olympian, and his 10th place finish in the Olympic 20-kilometer individual biathlon competition in 2006 solidified his reputation as one of the top biathletes in the United States. Jay's career began when he spent his junior year of high school in Norway as a foreign exchange student. There he found a biathlon club; it was then he decided to focus on biathlon and began pursuing the sport.

Kikkan Randall, from Anchorage, AK, made her Olympic debut in the 2002 Winter Olympics. At the 2006 Winter Olympics, Kikkan finished ninth in the Olympic sprint, the best Olympic result in cross-country skiing by an American woman. She topped that in 2010, finishing eighth in individual sprint classic. Kikkan helped her team finish in sixth place in the 2010 Winter Olympics women's team sprint freestyle race.

James Southam is from Anchorage, AK. He started racing in high school, and, after training for 10 years, he won his first ski race at age 25. Since then, James has been one of the top distance racers in the country, representing the United States in the 2006 Olympic winter games and the past three world championships. In the 2010 Olympic winter games he placed 34th in the men's 30-kilometer pursuit.

Holly Brooks moved to Alaska in 2004. Upon her arrival, she started her second coaching job as the head ski coach for West Anchorage High School and worked part time at a ski shop and for a local consulting firm. In 2006, she was offered a full-time ski coaching position at Alaska Pacific University Nordic Ski Center. In 2010, Holly competed in the 10-kilometer freestyle and 15-kilometer pursuit at the Olympics.

Kerry Weiland is originally from Palmer, AK. Kerry started playing hockey at age 5 and later excelled on the Palmer High School boys' hockey team and continued on at the University of Wisconsin, where she was a two-time All-American. Kerry scored a key goal in the game against Sweden, which moved the United States onto the gold medal round. She is now a proud member of the 2010 U.S. Winter Olympic silver medal hockey team.

Madam President and colleagues, please join me in recognizing the efforts of Alaska's finest winter athletes. We thank them for their dedication, hard work, and representation of the United States and Alaska at the 2010 Winter Olympics.

ADDITIONAL STATEMENTS

REMEMBERING DOUGLAS L. SHRIVER AND RAYMOND BRETT WRIGHT

• Mr. BENNET. Madam President, on March 19, 2010, Colorado lost two great public servants dedicated to protecting Colorado's water. Douglas L. Shriver, 53, and Raymond Brett Wright, 56, both of Colorado's San Luis Valley, lost their lives in an accident near Creede, CO. These men were active leaders in their communities and particularly engaged in water-related issues across Colorado and in the San Luis Valley.

Water is a scarce and precious resource in Colorado. In working to protect Colorado's water, Doug and Raymond also worked to protect public health, sustain agriculture, support Colorado's economic interests, and maintain the vast parks, wildlife, and wilderness for which Colorado is world-renowned. Our State is forever indebted to Doug and Ray, for their hard and generous work has been to the benefit of all who live in Colorado.

Doug served as chairman of the Rio Grande Water Users Association and as the vice chair for the Rio Grande Basin Roundtable. He was an avid outdoorsman who enjoyed golf, boating, fishing, hunting, sporting clays, snow machining, and cross country skiing. Beyond his leadership in protecting Colorado's water supply, he gave back to his community by tutoring fourth and fifth graders at the Bill Metz Elementary School. He is survived by his wife Karla, his mother Zola, and siblings Deanna, Larry, Kay, Randy, Jean, and David.

Ray served as board president for the Rio Grande Water Conservation District. He also had a strong passion for the outdoors and enjoyed hunting, fishing, skiing, and building and flying his own bamboo fly fishing rods. A keen intellect and sharp memory made Ray stand out, and he will be remembered by those who love him as an affectionate man who lived life to its fullest. He is survived by his daughters Susan, Sara, and Lauren, granddaughter Brynn, and siblings Diana and Greg.

Doug and Ray were well respected for their hard work, intelligence, and congeniality. I join Coloradans in grieving the loss of these public servants, and my prayers go out to their families. Colorado is a better place as a result of these two men. The works of Doug Shriver and Ray Wright will affect Coloradans for generations to come.•

REMEMBERING EDWARD EUGENE CLAPLANHOO

• Ms. CANTWELL. Madam President, today I wish to remember and pay tribute to a beloved and revered tribal leader, Edward Eugene Claplanhoo, who died on March 14, 2010.

Mr. Claplanhoo served three terms as chairman of the Makah Tribe, and many years on the Tribal Council, the tribe's Whaling Commission, higher education and election boards. Mr. Claplanhoo was also chair of the United Indians of All Tribes Foundation Board for 5 years. He was known for his ability to build consensus with his calm and steady leadership.

Mr. Claplanhoo was chair of the tribe in the 1970s when the Ozette archaeological dig was underway in the Makah village of Ozette. He worked with Dr. Richard Dougherty of Washington State University to ensure that the artifacts from the site remained on the reservation, and was instrumental in the foundation of the Makah Cultural and Research Center, a museum which now displays the heritage of the community.

A proud graduate of Washington State University, Mr. Claplanhoo believed strongly in the power of education and encouraged young people to seek advance degrees. He was also an Army veteran and last year donated land to establish a monument to veterans and to the Spanish influence at Neah Bay.

Mr. Claplanhoo will always be remembered for his many contributions to the Makah Tribe and all the tribes of Washington State, as well as the many others in the State whose lives he touched. His legacy will be cherished for years to come.•

50TH ANNIVERSARY OF NĀ HAUMĀNA O HAWAI'I

• Mr. MERKLEY. Madam President, today I recognize the 50th anniversary of Nā Haumāna O Hawai'i and its annual lu'au. The Nā Haumāna O Hawai'i is a culture club at Pacific University in Forest Grove, OR. For half a century, Nā Haumāna O Hawai'i has been spreading the culture and traditions of Hawaii to Pacific University, enriching the school and surrounding communities.

Nā Haumāna O Hawai'i was founded in 1959 by 16 students from the islands of Hawaii. Since then, it has expanded its membership to more than 200 students and includes Native Hawaiians as well as those interested in learning more about Hawaiian culture. One of the ways that Nā Haumāna O Hawai'i shares the Hawaiian culture with the local community is through its annual lu'au. It is the only completely student-run and student-directed lu'au in the Northwest. Each year, about 2,000 people attend the lu'au and celebrate the Island heritage, which includes an authentic lu'au meal and traditional Polynesian dance, music and entertainment.

Nā Haumāna O Hawai'i has made a tremendous impact on Pacific University, Oregon, and our Nation. By bringing to the mainland a taste of Hawaii's cultural tapestry, Oregonians and Americans have been able to enjoy the State's rich Aloha spirit. I know that all Oregonians will join me in congratulating Nā Haumāna O Hawai'i on the occasion of its 50th anniversary and annual lu'au.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3194. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

ENROLLED BILL PRESENTED

The Secretary of the Senate announced that on March 26, 2010, during the adjournment of the Senate, she had presented to the President of the United States the following enrolled bill:

S. 3186. An act to reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004 through April 30, 2010, and for other purposes.

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–5235. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Research and Development Contract Type Determination'' (DFARS Case 2006–D053) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Armed Services.

EC–5236. A communication from the Secretary of the Air Force, transmitting, pursuant to law, the report of an Average Procurement Unit Cost (APUC) breach relative to

the Joint Strike Fighter (JSF); to the Committee on Armed Services.

EC–5237. A communication from the Assistant Secretary of Defense (Reserve Affairs), Department of Defense, transmitting, pursuant to law, a report relative to the modernization priority assessments provided by the Chiefs of the Reserve and National Guard Components; to the Committee on Armed Services.

EC–5238. A communication from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, a report relative to waiving the minimum notification of 30 days provided to reserve component service members prior to mobilization in support of humanitarian assistance and disaster relief to the victims of the earthquake in Haiti; to the Committee on Armed Services.

EC–5239. 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: Risk-Based Adjustment of Transportation Security Plan Requirements'' (RIN2137–AE22) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5240. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Damage Tolerance Data for Repairs and Alterations'' ((RIN2120–AI32)(Docket No. FAA–2005–21693)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5241. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Extended Operations (ETOPS) of Multi-Engine Airplanes; Technical Amendment'' ((RIN2120–AI03)(Docket No. FAA–2002–6717)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5242. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Jet Routes and VOR Federal Airways in the Vicinity of Gage, OK'' ((RIN2120–AA66)(Docket No. FAA–2010–0004)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5243. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of VOR Federal Airway V–422 in the Vicinity of Wolf Lake, IN'' ((RIN2120–AA66)(Docket No. FAA–2010–0006)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5244. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Restricted Area R–2204 High and R–2204 Low; Oliktok Point, AK'' ((RIN2120–AA66)(Docket No. FAA–2009–0693)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5245. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (44); Amdt. No. 3365'' (RIN2120–AA65) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5246. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (96); Amdt. No. 3364'' (RIN2120–AA65) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5247. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D and Class E Airspace; Panama City, FL'' ((RIN2120–AA66)(Docket No. FAA–2009–0710)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5248. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Koyukuk, AK'' ((RIN2120–AA66)(Docket No. FAA–2009–0692)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5249. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Skaktoolik, AK'' ((RIN2120–AA66)(Docket No. FAA–2009–0142)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5250. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Battle Mountain, NV'' ((RIN2120–AA66)(Docket No. FAA–2009–1057)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5251. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Hailey, ID'' ((RIN2120–AA66)(Docket No. FAA–2009–0954)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5252. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; West Bend, WI'' ((RIN2120–AA66)(Docket No. FAA–2009–1149)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5253. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment and Modification of Class E Airspace; Gunnison, CO'' ((RIN2120–AA66)(Docket No. FAA–2009–0949)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5254. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Rawlins, WY'' ((RIN2120–AA66)(Docket No. FAA–2009–0880)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5255. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Cedar Rapids, IA'' ((RIN2120–AA66)(Docket No. FAA–2009–0916)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5256. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Huntingburg, IN'' ((RIN2120–AA66)(Docket No. FAA–2009–0736)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5257. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Georgetown, TX'' ((RIN2120–AA66)(Docket No. FAA–2009–0934)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5258. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Gadsden, AL'' ((RIN2120–AA66)(Docket No. FAA–2009–0955)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5259. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Dumas, TX'' ((RIN2120–AA66)(Docket No. FAA–2009–1151)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5260. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Scammon Bay, AK'' ((RIN2120–AA66)(Docket No. FAA–2009–1038)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5261. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Dillingham, AK'' ((RIN2120–AA66)(Docket No. FAA–2009–1055)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5262. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Iliamna, AK'' ((RIN2120–AA66)(Docket No. FAA–2009–1036)) received in the Office of the President of the Senate on March 26, 2010; to

the Committee on Commerce, Science, and Transportation.

EC–5263. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Honeywell International Inc. TFE731 Series Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–0331)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5264. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company CF6–45 and CF6–50 Series Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–0331)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5265. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model AS 332 C, L, L1, and L2; AS 350 B3, AS355 F, F1, F2, and N; SA 365N and N1; AS 365 N2 and N3; SA 366G1; EC 130 B4; and EC 155B and B1 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2009–0663)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5266. A communication from the Paralegal Specialist, 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, –300ER, and 777F Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0221)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5267. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 767 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0642)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5268. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Thielert Aircraft Engines GmbH (TAE) Models TAE 125–02–99 and TAE 125–01 Reciprocating Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–0948)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5269. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; MD Helicopters, Inc. Model MD–900 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2009–0953)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5270. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model AS355E, AS355F, AS355F1, AS355F2, and AS355N Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2009–1090)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5271. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Learjet Inc. Model 45 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0226)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5272. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76C Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2010–0242)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5273. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; International Aero Engines (IAE) V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2007–29060)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5274. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt & Whitney JT8D–209, –217, –217C, and –219 Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–0883)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5275. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 737–100, –200, –200C, 300, 400, and 500 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0452)) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5276. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a report certifying for fiscal year 2010 that no United Nations agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization; to the Committee on Foreign Relations.

EC–5277. A communication from the Acting Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2008–027, Federal Awardee Performance and Integrity Information System'' ((RIN9000–AL38)(FAC 2005–40)) received in the Office of the President of the Senate on March 25, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5278. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–40; Introduction'' (FAC 2005–40) received in the Office of the President of the Senate on March 25, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5279. A communication from the Deputy Director, Court Services and Offender Supervision Agency for the District of Columbia, transmitting, pursuant to law, the Agency's Fiscal Year 2009 annual report relative to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Homeland Security and Governmental Affairs.

EC–5280. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the quarterly report of the Department of Justice's Office of Privacy and Civil Liberties for the first quarter of fiscal year 2010; to the Committee on the Judiciary.

EC–5281. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a quarterly report to Congress relative to complaint referrals under the Uniformed Services Employment and Reemployment Rights Act of 1994; to the Committee on the Judiciary.

EC–5282. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Inclusion of Fugitive Emissions; Final Rule; Stay'' (FRL No. 9131–9) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Environment and Public Works.

EC–5283. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Revisions to Chapter 116 Which Relate to the Voting Permits and Extension of Permits'' (FRL No. 9132–3) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Environment and Public Works.

EC–5284. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''1—Propene, 2,3,3,3—tetrafluoro—; Withdrawal of Significant New Use Rule'' (FRL No. 8816–9) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Environment and Public Works.

EC–5285. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the General Conformity Regulations'' (FRL No. 9131–7) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Environment and Public Works.

EC–5286. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Regulatory Impact Analysis: Changes to Renewable Fuel Standard Program''; to the Committee on Environment and Public Works.

EC–5287. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program'' (FRL No. 9112–3) received in the Office of the President of the Senate on March 26, 2010; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 1830, a bill to establish the Chief Conservation Officers Council to improve the energy efficiency of Federal agencies, and for other purposes (Rept. No. 111–167).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 469. A bill to amend chapter 83 of title 5, United States Code, to modify the computation for part-time service under the Civil Service Retirement System.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 629. A bill to facilitate the part-time reemployment of annuitants, and for other purposes.

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. SPECTER:

S. 3192. A bill to amend title 38, United States Code, to provide for the tolling of the timing of review for appeals of final decisions of the Board of Veterans' Appeals, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KERRY (for himself and Mrs. GILLIBRAND):

S. 3193. A bill to establish within the office of the Secretary of State a Coordinator for Cyberspace and Cybersecurity Issues; to the Committee on Foreign Relations.

By Mr. REID:

S. 3194. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; read the first time.

By Mr. CARDIN (for himself and Ms. LANDRIEU):

S. 3195. A bill to prohibit air carriers from charging fees for carry-on baggage and to require disclosure of passenger fees, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LUGAR:

S. Res. 476. A resolution honoring the lives of President of Poland Lech Kaczynski, his wife, and 94 others who perished on April 10, 2010, in a plane crash while en route to memorialize those Polish officers, officials, and civilians who were massacred by the Soviet Union 70 years ago; to the Committee on Foreign Relations.

By Mr. MENENDEZ (for himself, Mr. REID, Ms. STABENOW, Mr. DURBIN, Mrs. BOXER, Mr. UDALL of Colorado, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. BINGAMAN, Mr. BROWN of Ohio, Mr. UDALL of New Mexico, and Mr. WYDEN):

S. Res. 477. A resolution honoring the accomplishments and legacy of Cesar Estrada Chavez; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 624

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 624, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 678

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 678, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 696

At the request of Mr. CARDIN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 696, a bill to amend the Federal Water Pollution Control Act to include a definition of fill material.

S. 729

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 732

At the request of Mr. AKAKA, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 732, a bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

S. 752

At the request of Mr. DURBIN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 841

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 866

At the request of Mr. REED, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 866, a bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 1425

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1425, a bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries.

S. 1442

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1442, a bill to amend the Public Lands Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service-learning opportunities on public lands, establish a grant program for Indian Youth Service Corps, help restore the Nation's natural, cultural, historic, archaeological, recreational, and scenic resources, train a new generation of public land managers and enthusiasts, and promote the value of public service.

S. 1481

At the request of Mr. MENENDEZ, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1481, a bill to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

S. 1549

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1549, a bill to protect United States citizens from unlawful arrest and detention.

S. 1550

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1550, a bill to ensure that

individuals detained by the Department of Homeland Security are treated humanely, provided adequate medical care, and granted certain specified rights.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1596

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1596, a bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California.

S. 1933

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1933, a bill to establish an integrated Federal program that protects, restores, and conserves natural resources by responding to the threats and effects of climate change, and for other purposes.

S. 2816

At the request of Mr. BUNNING, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2816, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs and to allow the adoption credit to be claimed in the year expenses are incurred, regardless of when the adoption becomes final.

S. 2920

At the request of Mr. LAUTENBERG, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2920, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 2993

At the request of Mr. SANDERS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2993, a bill to increase the quantity of solar photovoltaic electricity by providing rebates for the purchase and installation of an additional 10,000,000 solar roofs and additional solar water heating systems with a cumulative capacity of 10,000,000 gallons by 2019.

S. 3020

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3020, a bill to direct the Administrator of the Small Business Administration to reform and improve the HUBZone program for small business concerns, and for other purposes.

S. 3036

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Michigan (Mr. LEVIN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3062

At the request of Mr. CARPER, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 3062, a bill to extend credits related to the production of electricity from offshore wind, and for other purposes.

S. 3111

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3111, a bill to establish the Commission on Freedom of Information Act Processing Delays.

S. 3165

At the request of Ms. LANDRIEU, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 3165, a bill to authorize the Administrator of the Small Business Administration to waive the non-Federal share requirement under certain programs.

S. 3172

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3172, a bill to support counternarcotics and related efforts in the Inter-American region.

S. RES. 409

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. Res. 409, a resolution calling on members of the Parliament in Uganda to reject the proposed ''Anti-Homosexuality Bill'', and for other purposes.

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 409, supra.

S. RES. 410

At the request of Mr. BAYH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 410, a resolution supporting and recognizing the goals and ideals of ''RV Centennial Celebration Month'' to commemorate 100 years of enjoyment of recreation vehicles in the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3192. A bill to amend title 38, United States Code, to provide for the tolling of the timing of review for appeals of final decisions of the Board of Veterans' Appeals, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to urge passage of the bill I have just introduced, the Fair Access to Veterans Benefits Act of 2010. Its main provision would require the United States Court of Appeals for Veterans Claims, known as the Veterans Court, to hear appeals by veterans of administrative decisions denying them benefits when circumstances beyond their control—sometimes the very service-related disabilities that entitle them to benefits—render them unable to meet the deadline for filing an appeal. Let me briefly explain why this legislation is so urgently needed.

Until 1988, veterans denied benefits by the administrative Board of Veterans' Appeals had no right to appeal their cases to any court. Congress responded that year with legislation establishing the Veterans Court. The legislation's purpose was to ''ensure that all veterans are served with compassion, fairness, and efficiency and that each individual veteran receives . . . every benefit and service to which he or she is entitled under law'', S. Rep. 100–418, 110th Cong., 2d Sess. 30–31. Proceedings of the Veterans Court were to be ''informal, efficient, and fair'' rather than ''formalized'', H.R. Rep. No. 100–963, 110th Cong., 2d Sess. 26, 1988. This was important because most veterans handle their own appeals without a lawyer.

Veterans Court has, by and large, served its intended function well. It regularly corrects many erroneous denials of benefits. The court's last-published annual report notes that, in 2008, veterans prevailed in about eighty percent of the appeals.

A recent court decision, however, will close the Veterans Court to too many deserving veterans. I refer to last year's decision of the United States Court of Appeals for the Federal Circuit, which hears appeals from Veterans Court, in Henderson v. Shinseki, 589 F.3d 1201. Mr. Henderson suffered from paranoid schizophrenia as a result of his active-duty service in the Korean War. His appeal of an administrative denial of benefits to the Veterans Court was filed just 15 days late. He asked the Veterans Court to excuse his late filing—in legal parlance, to ''equitably toll'' the filing period—because it was caused by his service-related disability. The Veterans Court refused to do so, and a divided Federal Circuit affirmed its decision. Like the Veterans Court, the Federal Circuit held that

this unjust result was compelled by a controversial 2007 decision of the Supreme Court, Bowles v. Russell, 551 U.S. 205, which held that the deadline for filing a notice of appeal from a district court's order is ''jurisdictional'' and hence not waivable. Three judges dissented in Henderson on the ground that Bowles was distinguishable.

Whether or not correctly decided in the wake of Bowles, Henderson cannot stand. It creates, in the words of the three dissenting judges, a ''Kafkaesqe adjudicatory process in which those veterans who are most deserving of service-connected benefits will frequently be those least likely to obtain benefits. It is the veteran who incurs the most devastating service-related injury who will often be least able to comply with rigidly enforced deadlines.'' Even two of the judges in the majority felt constrained to note, in a concurring opinion, ''that the deadline of the existing statute can and does lead to unfairness. This is particularly so in many cases where the veteran is not represented by counsel . . . and/or is suffering from a mental disability. These circumstances can make it extremely difficult for a veteran to navigate the system and meet the statutory deadlines.'' Mr. Henderson's situation is not unique. Already a disturbing number of veterans just like him have been denied their day in court.

The two concurring judges in Henderson called upon Congress to ''amend the statute to provide for a good cause exception. My bill would do just that. It would require the Veterans Court to excuse late filings upon a showing by the veteran of ''good cause.'' This simple amendment will ensure that each year upwards of a hundred of veterans will receive the benefits to which they are so justly entitled.

My bill will also require the Veterans Court to reinstate untimely appeals already dismissed as a result of that court's failure to equitably toll the filing period. The veterans who filed those appeals should also have their day in court.

There are no countervailing policy considerations. As the dissenting judges in Henderson persuasively noted, ''because it takes many years—in some cases several decades—to obtain service-connected benefits, the government is hardly in a position to complain that equitable tolling will result in inordinate delays.''

I urge my colleagues on both sides of the aisle, whatever their views on the issue addressed in Bowles, to support our veterans by passing my bill without delay.

By Mr. REID:

S. 3194. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; read the first time.

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

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

S. 3194

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 ''Public Safety Employer-Employee Cooperation Act of 2009''.

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies, it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

(5) Many States and localities already provide public safety officers with collective bargaining rights comparable to or greater than the rights and responsibilities set forth in this Act, and such State and local laws should be respected.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) CONFIDENTIAL EMPLOYEE.—The term ''confidential employee'' has the meaning given such term under applicable State law on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) is designated as confidential; and

(B) is an individual who routinely assists, in a confidential capacity, supervisory employees and management employees.

(3) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(4) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' mean any State, or political subdivision of a State, that employs public safety officers.

(5) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)).

(6) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

(7) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

(8) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(9) PERSON.—The term ''person'' means an individual or a labor organization.

(10) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory, management, or confidential employee.

(11) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and any territory or possession of the United States.

(12) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'', when used with respect to the rights and responsibilities described in section 4(b), means compliance with each right and responsibility described in such section.

(13) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work to exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b).

(2) CONSIDERATION OF ADDITIONAL OPINIONS.—In making the determination described in paragraph (1), the Authority shall consider the opinions of affected employers and labor organizations. In the case where the Authority is notified by an affected employer and labor organization that both parties agree that the law applicable to such employer and labor organization substantially provides for the rights and responsibilities described in subsection (b), the Authority shall give such agreement weight to the maximum extent practicable in making the Authority's determination under this subsection.

(3) LIMITED CRITERIA.—In making the determination described in paragraph (1), the Authority shall be limited to the application of the criteria described in subsection (b) and shall not require any additional criteria.

(4) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(5) JUDICIAL REVIEW.—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider a State's law to substantially provide the required rights and responsibilities unless such law fails to provide rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees, supervisory employees, and confidential employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Providing for the right to bargain over hours, wages, and terms and conditions of employment.

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement of all rights, responsibilities, and protections provided by State law and enumerated in this section, and of any written contract or memorandum of understanding between a labor organization and a public safety employer, through—

(A) a State administrative agency, if the State so chooses; and

(B) at the election of an aggrieved party, the State courts.

(c) COMPLIANCE WITH REQUIREMENTS.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State substantially provides rights and responsibilities described in subsection (b), then this Act shall not preempt State law.

(d) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), then such State shall be subject to the regulations and procedures described in section 5 beginning on the later of—

(A) the date that is 2 years after the date of enactment of this Act;

(B) the date that is the last day of the first regular session of the legislature of the State that begins after the date of the enactment of this Act; or

(C) in the case of a State receiving a subsequent determination under subsection (a)(4), the date that is the last day of the first regular session of the legislature of the State that begins after the date the Authority made the determination.

(2) PARTIAL FAILURE.—If the Authority makes a determination that a State does not substantially provide for the rights and responsibilities described in subsection (b) solely because the State law substantially provides for such rights and responsibilities for certain categories of public safety officers covered by the Act but not others, the Authority shall identify those categories of public safety officers that shall be subject to the regulations and procedures described in section 5, pursuant to section 8(b)(3) and beginning on the appropriate date described in paragraph (1), and those categories of public safety officers that shall remain subject to State law.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in any appropriate district court of the United States to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

(a) IN GENERAL.—Subject to subsection (b), an employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other organized job action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

(b) NO PREEMPTION.—Nothing in this section shall be construed to preempt any law of any State or political subdivision of any State with respect to strikes by public safety officers.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State that provides greater or comparable rights and responsibilities than the rights and responsibilities described in section 4(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on the employee's own behalf with respect to the employee's employment relations with the public safety agency involved;

(4) to preempt or limit any State law in effect on the date of enactment of this Act

that provides for the rights and responsibilities described in section 4(b) solely because such State law excludes from its coverage employees of a State militia or national guard;

(5) to permit parties in States subject to the regulations and procedures described in section 5 to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours;

(6) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees; or

(7) to preempt or limit the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) solely because such law or ordinance does not require bargaining with respect to pension, retirement, or health benefits.

For purposes of paragraph (6), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—

(1) ACTIONS OF STATES.—Nothing in this Act or the regulations promulgated under this Act shall be construed to require a State to rescind or preempt the laws or ordinances of any of the State's political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section 4(b).

(2) ACTIONS OF THE AUTHORITY.—Nothing in this Act or the regulations promulgated under this Act shall be construed to preempt—

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section 4(b);

(B) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) with respect to certain categories of public safety officers covered by this Act solely because such rights and responsibilities have not been extended to other categories of public safety officers covered by this Act; or

(C) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) LIMITED ENFORCEMENT POWER.—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section 5 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section 4(b).

(4) EXCLUSIVE ENFORCEMENT PROVISION.—Notwithstanding any other provision of the Act, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this Act with respect to employees of a State.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 476—HONORING THE LIVES OF PRESIDENT OF POLAND LECH KACZYNSKI, HIS WIFE, AND 94 OTHERS WHO PERISHED ON APRIL 10, 2010, IN A PLANE CRASH WHILE EN ROUTE TO MEMORIALIZE THOSE POLISH OFFICERS, OFFICIALS, AND CIVILIANS WHO WERE MASSACRED BY THE SOVIET UNION 70 YEARS AGO

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 476

Whereas, on April 10, 2010, the President of the Republic of Poland Lech Kaczynski, his wife Maria, and a cadre of current and former Polish statesmen, family members, and others departed Warsaw by plane to the Russian region of Smolensk;

Whereas the purpose of the delegation's visit was to hold a ceremony in solemn remembrance of the more than 22,000 Polish military officers, police officers, judges, other government officials, and civilians who were executed by the Soviet secret police, the NKVD, 70 years ago, between April 3 and the end of May 1940;

Whereas more than 14,500 Polish victims have been documented at 3 sites in Katyn (in present day Belarus), in Miednoye (in present day Russia), and in Kharkiv (in present day Ukraine), while the remains of an estimated 7,000 Polish victims have yet to be precisely located;

Whereas the Soviet Union failed to acknowledge responsibility for the massacres until President Mikhail Gorbachev's statement on April 13, 1990;

Whereas, on April 7, 2010, Russian Prime Minister Vladimir Putin became the first Russian or Soviet leader to join Polish officials in commemorating the anniversary of the murders;

Whereas the plane carrying the Polish delegation on April 10, 2010, crashed in Smolensk, tragically killing all 96 persons on board, including President Kaczynski, his wife, and other current and former Polish statesmen;

Whereas President Kaczynski was a steadfast proponent of consolidating freedom and prosperity in Poland and advancing them throughout Central and Eastern Europe and was a close friend of the United States of America; and

Whereas the deep friendship between the Governments and people of Poland and the United States is grounded in our mutual respect, shared values, and common priorities on nuclear nonproliferation, counterterrorism, human rights, regional cooperation in Eastern Europe, democratization, and international development: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the terrible tragedy that took place on April 10, 2010, when an aircraft carrying a delegation of current and former Polish officials, family members, and others crashed en route from Warsaw to Smolensk to memorialize the 1940 massacres, killing all 96 passengers;

(2) honors the life and legacy of the late President of Poland Lech Kaczynski and the lives and legacies of all Poles who perished in the plane crash on April 10, 2010;

(3) honors the lives and legacies of the more than 22,000 Polish government officials, military officers, and civilians who were executed by the NKVD 70 years ago, between April and May 1940;

(4) expresses deep sympathy for the surviving family members of those who perished at the hands of the NKVD in 1940 and for the surviving family members of those who perished in the tragic plane crash of April 10, 2010;

(5) supports the people of Poland as they restore leadership in the institutions of the Government of Poland that were impacted by the crash of April 10, 2010; and

(6) requests that the Secretary of the Senate transmit an enrolled copy of this resolution to the Ambassador of Poland to the United States.

Mr. LUGAR. Mr. President, I rise to honor the lives of President Lech Kaczynski, his wife, and 94 others who perished in a plane crash on April 10, 2010. President Kaczynski was a steadfast supporter of advancing freedom and prosperity in Poland and throughout Central and Eastern Europe and was a close friend of the United States. It is with tragic irony that this devastation has occurred at a time of solemn remembrance of the massacre of Polish officers and civilians in the Katyn Forest and elsewhere 70 years ago. Together with the Polish nation and friends of Poland worldwide, I mourn this unbelievably tragic loss. With these sentiments in mind, I am introducing this resolution honoring the lives of President of Poland Lech Kaczynski, his wife, and 94 others who perished on April 10, 2010 in a plane crash while en route to memorialize those Polish officers, officials, and civilians who were massacred by the Soviet Union 70 years ago.

SENATE RESOLUTION 477—HONORING THE ACCOMPLISHMENTS AND LEGACY OF CÉSAR ESTRADA CHÁVEZ

Mr. MENENDEZ (for himself, Mr. REID, Ms. STABENOW, Mr. DURBIN, Mrs. BOXER, Mr. UDALL of Colorado, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. BINGAMAN, Mr. BROWN of Ohio, Mr. UDALL of New Mexico, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 477

Whereas César Estrada Chávez was born on March 31, 1927, near Yuma, Arizona;

Whereas César Estrada Chávez spent his early years on a family farm;

Whereas, at the age of 10, César Estrada Chávez joined the thousands of migrant farmworkers laboring in fields and vineyards throughout the Southwest, when a bank foreclosure resulted in the loss of the family farm;

Whereas César Estrada Chávez, after attending more than 30 elementary and middle schools and achieving an 8th grade education, left school to work full-time as a farmworker to help support his family;

Whereas, at the age of 17, César Estrada Chávez entered the United States Navy and served the United States with distinction for 2 years;

Whereas, in 1948, César Estrada Chávez returned from military service to marry Helen Fabela, whom he had met while working in the vineyards of central California;

Whereas César Estrada Chávez and Helen Fabela had 8 children;

Whereas, as early as 1949, César Estrada Chávez was committed to organizing farmworkers to campaign for—

(1) safe and fair working conditions;

(2) reasonable wages;

(3) livable housing; and

(4) the outlawing of child labor;

Whereas, in 1952, César Estrada Chávez joined the Community Service Organization, a prominent Latino civil rights group, and worked with the organization—

(1) to coordinate voter registration drives; and

(2) to conduct campaigns against discrimination in East Los Angeles;

Whereas César Estrada Chávez served as the national director of the Community Service Organization;

Whereas, in 1962, César Estrada Chávez left the Community Service Organization to found the National Farm Workers Association, which eventually became the United Farm Workers of America;

Whereas César Estrada Chávez was a strong believer in the principles of nonviolence practiced by Mahatma Gandhi and Dr. Martin Luther King, Jr.;

Whereas César Estrada Chávez effectively used peaceful tactics that included fasting for 25 days in 1968, 25 days in 1972, and 38 days in 1988, to call attention to the terrible working and living conditions of farmworkers in the United States;

Whereas under the leadership of César Estrada Chávez, the United Farm Workers of America organized thousands of migrant farmworkers to fight for—

(1) fair wages;

(2) health care coverage;

(3) pension benefits;

(4) livable housing; and

(5) respect;

Whereas, through his commitment to nonviolence, César Estrada Chávez—

(1) brought dignity and respect to the organized farmworkers; and

(2) became an inspiration and a resource to individuals engaged in human rights struggles throughout the world;

Whereas the influence of César Estrada Chávez extends far beyond agriculture and provides inspiration for those working—

(1) to better human rights;

(2) to empower workers; and

(3) to advance the American Dream that includes all inhabitants of the United States;

Whereas César Estrada Chávez died on April 23, 1993, at the age of 66 in San Luis, Arizona, only miles from his birthplace;

Whereas more than 50,000 people attended the funeral services of César Estrada Chávez in Delano, California;

Whereas César Estrada Chávez was laid to rest at the headquarters of the United Farm Workers of America, known as Nuestra Señora de La Paz, located in the Tehachapi Mountains at Keene, California;

Whereas since the death of César Estrada Chávez, schools, parks, streets, libraries, and other public facilities, as well as awards and scholarships, have been named in his honor;

Whereas since the death of César Estrada Chávez, 10 States and dozens of communities across the United States honor the life and legacy of César Estrada Chávez on March 31 of each year;

Whereas César Estrada Chávez was a recipient of the Martin Luther King, Jr. Peace Prize during his lifetime;

Whereas, on August 8, 1994, César Estrada Chávez was posthumously awarded the Presidential Medal of Freedom; and

Whereas the United States should continue efforts to ensure equality, justice, and dignity for all people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the accomplishments and example of César Estrada Chávez, a great hero of the United States;

(2) pledges to promote the legacy of César Estrada Chávez; and

(3) encourages the people of the United States to commemorate the legacy of César Estrada Chávez and to always remember his great rallying cry, ''Sí, se puede!''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing before the Subcommittee on Public Lands and Forests previously announced for March 23, has been rescheduled and will now be held on Wednesday, April 21, 2010, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office

S. 1546, to provide for the conveyance of certain parcels of land to the town of Mantua, Utah;

S. 2798, to reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of the National Forest System and adjacent land, and for other purposes;

S. 2830, to amend the Surface Mining Control and Reclamation Act of 1977 to clarify that uncertified States and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects; and

S. 2963, to designate certain land in the State of Oregon as wilderness, to provide for the exchange of certain Federal land and non-Federal land, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to: allison_seyferth@energy.senate.gov.

For further information, please contact Scott Miller at (202) 224–5488 or Allison Seyferth at (202) 224–4905.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has scheduled a hearing entitled, ''Wall Street and the Financial Crisis: The Role of Bank Regulators.'' This hearing will be the second in a series of Subcommittee hearings examining some of the causes and consequences of the recent financial crisis. This second hearing will focus on the role of bank regulators in the financial crisis, using as a case history oversight efforts by the Office of Thrift Supervision (OTS) and the Federal Deposit Insurance Corporation (FDIC) with respect to Washington Mutual Bank and its affiliate, Long Beach Mortgage Company. Washington Mutual Bank, the nation's largest thrift with $300 billion in assets, $188 billion in deposits and 43,000 employees, was closed by OTS on September 25, 2008, and immediately sold by FDIC to JPMorgan Chase, resulting in the largest bank failure in U.S. history.

The Subcommittee hearing has been scheduled for Friday, April 16, 2010, at 9:30 a.m., in Room 106 of the Dirksen Senate Office Building. For further information, please contact Elise Bean of the Permanent Subcommittee on Investigations at 202–224–9505.

NOTICE: REGISTRATION OF MASS MAILINGS

The filing date for 2010 first quarter Mass Mailings is Monday, April 26, 2010. If your office did no mass mailings during this period, please submit a form that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 9:00 a.m. to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

TRICARE AFFIRMATION ACT

Mr. BROWN of Ohio. Madam President, I ask unanimous consent the Finance Committee be discharged of H.R. 4887, the TRICARE Affirmation Act, and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4887) to amend the Internal Revenue Code of 1986 to ensure that health coverage provided by the Department of Defense is treated as minimal essential coverage.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. I ask unanimous consent the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD.

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

The bill (H.R. 4887) was ordered to a third reading, was read the third time, and passed.

MEASURE READ THE FIRST TIME—S. 3194

Mr. BROWN of Ohio. I understand that S. 3194, introduced earlier today by Senator REID, is at the desk. I ask for its first reading.

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

The assistant legislative clerk read as follows:

A bill (S. 3194) to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

Mr. BROWN of Ohio. I now ask for its second reading and I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive a second reading on the next legislative day.

ORDERS FOR TUESDAY, APRIL 13, 2010

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, April 13; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, 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; that following morning business, the Senate resume the motion to proceed to H.R. 4851, as provided for under the previous order, with the time during any period of morning business, adjournment, and recess count postcloture; finally, I ask that the Senate recess from 12:30 until 2:15 p.m. tomorrow to allow for the weekly caucus luncheons.

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

PROGRAM

Mr. BROWN of Ohio. Under the previous order, the Senate will adopt the motion to proceed to the bill after the caucus luncheons. Votes are possible tomorrow afternoon in relation to amendments to the bill.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

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

There being no objection, the Senate, at 6:37 p.m., adjourned until Tuesday, April 13, 2010, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

ELECTION ASSISTANCE COMMISSION

THOMAS HICKS, OF VIRGINIA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2013, VICE GRACIA M. HILLMAN, TERM EXPIRED.

DEPARTMENT OF THE TREASURY

S. LESLIE IRELAND, OF MASSACHUSETTS, TO BE ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF THE TREASURY, VICE JANICE B. GARDNER, RESIGNED.

FEDERAL HOUSING FINANCE AGENCY

STEVE A. LINICK, OF VIRGINIA, TO BE INSPECTOR GENERAL OF THE FEDERAL HOUSING FINANCE AGENCY. (NEW POSITION)

DEPARTMENT OF DEFENSE

TERESA TAKAI, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE JOHN G. GRIMES.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) ALTON L. STOCKS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) ELIZABETH S. NIEMYER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) WILLIAM A. BROWN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MARGARET G. KIBBEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. DAVID M. BOONE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. ELAINE C. WAGNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. COLIN G. CHINN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. ROBERT J. A. GILBEAU
CAPT. GLENN C. ROBILLARD

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DENNIS J. HEJLIK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL RONALD L. BAILEY
BRIGADIER GENERAL JON M. DAVIS
BRIGADIER GENERAL DAVID C. GARZA
BRIGADIER GENERAL TIMOTHY C. HANIFEN
BRIGADIER GENERAL JAMES A. KESSLER
BRIGADIER GENERAL RICHARD M. LAKE
BRIGADIER GENERAL JAMES B. LASTER
BRIGADIER GENERAL KENNETH F. MCKENZIE, JR.
BRIGADIER GENERAL ANGELA SALINAS
BRIGADIER GENERAL PETER J. TALLERI
BRIGADIER GENERAL ROBERT S. WALSH

WITHDRAWALS

Executive Message transmitted by the President to the Senate on April 12, 2010 withdrawing from further Senate consideration the following nominations:

DAWN ELIZABETH JOHNSEN, OF INDIANA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE JACK LANDMAN GOLDSMITH III, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 20, 2010.

MAJOR GENERAL ROBERT A. HARDING, UNITED STATES ARMY (RETIRED), OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE EDMUND S. HAWLEY, RESIGNED, WHICH WAS SENT TO THE SENATE ON MARCH 8, 2010.