United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156 WASHINGTON, MONDAY, MARCH 8, 2010 *No. 32*

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, March 9, 2010, at 12.30 p.m.

Senate

MONDAY, MARCH 8, 2010

The Senate met at 2:01 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.

Eternal Spirit, hope for all who seek You, strength for all who find You, lead our lawmakers through the turbulence of another week. Deliver them from anxiety, fear, and perplexity, as they become ever more aware of Your presence. Surprise them today with some unexpected gift of Your grace, providing them with some needed insight and guidance, some vision of new possibilities, some fresh resource of courage and strength. Guide them to seek first Your kingdom and righteousness, so that everything they need You will provide.

We pray in Your sovereign 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, March 8, 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.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE

Mr. MCCONNELL. Mr. President, for more than a year now, Democrats in Washington have been focused—some would say fixated—on making dramatic changes to the American health care system as we know it.

It is an open debate as to whether spending so much time and energy on this issue was in the best interest of the public at a time of record unemployment and a need to address jobs and the economy. But what is not open to debate is, the plan they came up with was fundamentally flawed—that it focused too much on expanding the size and cost of government and not enough on the core problem with our health care system, which is cost.

This is why Americans have been telling Democrats in Washington to scrap their plan and start over. This is why so many Americans are so frustrated with government right now. The administration says we need to pass its health spending bill to show Americans government still works. Americans are saying the opposite. They are saying the first thing Washington can do to show it is working is to listen to what the public is saying, to scrap this bill and to start over.

Unfortunately, Democratic leaders in Congress are not interested. They are still clinging to the same old bill and the same old process Americans rejected last year. They are more determined than ever to jam their bill through Congress by any means necessary.

So over the next few weeks, we are going to see a replay of the same kind of arm-twisting and deal-making we saw in the runup to Christmas. I say we are going to see it, but in reality we will not see any of it. We will have to read about it—the deals and the arm-

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

twisting—only after the final bill hits the floor because all the arm-twisting and deal-making is going on behind closed doors, and it has already started.

Somehow the administration seems to think all this arm-twisting and deal-making will prove to the American people government works. I should think Americans will draw the opposite conclusion. Americans do not like the bill any more today than they did 3 months ago. They do not like the frantic, backroom deal-making any more now than they did then.

In the midst of all this, it is understandable that a lot of Democrats are on the fence about whether to vote for this bill, about whether to vote for this process as well. But the reasons they are giving for being on the fence do not square with reality, and they are not going to fly with the public.

Some say they like the current bill because they say it reduces costs. It does not. The administration's own experts say the bill increases health spending by $222 billion more than if we took no action at all. In other words, this bill would bend the cost curve up, not down.

Others say they like the current bill because it reduces the deficit. But even if you grant that highly speculative premise, the one bill the Senate will be voting on tomorrow would wipe away every dime of those projected savings with one stroke of the President's pen. If you believe the health bill will save $100 billion, then you have to also acknowledge the bill the Senate will pass this week increases it by $100 billion.

So far from moving in a more fiscally responsible direction, the health spending bill the White House now wants Congress to pass before Easter would move us in a less fiscally responsible direction. This undercuts the entire point of reform.

The administration recognizes the weakness of its argument. That is why it is trying to create a sense of inevitability about this bill. Once again, it is imposing an artificial deadline to put pressure on Members. It is talking about how we are in the middle of the final chapter of this debate.

The administration wants Members to believe they are characters in a screenplay and that the ending of the play is already written. This is an illusion. House Members are not buying these arguments anymore. In fact, many of them are already walking off the set. My guess is, a lot more are about to.

They know we may be nearing the final act for this bill and the legislative process but that it is just the beginning for those who support it. Americans do not want this bill. They are telling us to start over. The only people who do not seem to be getting the message are Democratic leaders in Washington. But they can be sure of this—absolutely sure of this: If they cut their deal, if they somehow convince enough Members to come on board, then they will get the message. The public will let them know how they feel about this bill.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak in morning business for 20 minutes.

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

SCHEDULE

Mr. KAUFMAN. Mr. President, following morning business, the Senate will resume consideration of H.R. 4213, the tax extenders legislation. Last week, the majority leader filed cloture on the tax extenders legislation. As a result, there is an agreement for a 3 o'clock filing deadline of first-degree amendments. As previously announced, there will be no rollcall votes today. Senators should expect a series of votes to begin tomorrow morning.

INCREASING ENGINEERING SCHOOLS GRADUATES

Mr. KAUFMAN. Mr. President, I rise to speak today about the importance of engineering education. As my colleagues know, this is an issue near and dear to my heart.

I believe we are at a crucial moment for STEM—for science, technology, engineering, and mathematics—that often reminds me of sailing. Whether you have done much sailing or not, we all know that you can construct the perfect sailboat, outfit it with the best sails, man it with the greatest crew, and if the wind is not blowing, you will not move. The wind is blowing for STEM and I believe we must work effectively to capitalize on it now.

Today, America's engineers have a central role to play in developing the innovative technologies that will help our economy recover and promote real job growth. In particular, as the global economy turns increasingly competitive, many nations are investing heavily in training their future scientists and engineers.

We don't know where the next generation of innovation will come from. That is the nature of innovation. But we want to do what we can to make sure it comes from the United States. This means we must have an innovation policy, one that helps to generate greater interest in STEM and actually leads to the production of greater numbers of engineers.

A few weeks after I took office, I began meeting with groups of engineering deans and other leaders in the engineering community to discuss these issues. I have learned many important things from these conversations. For example, while all the surveys today say that young people want to ''make a difference'' with their lives, they do not see engineering as the way to do that.

To someone of my generation, this is an astounding revelation. Engineers have always been the world's problem solvers. We need to make sure students are aware of that—so they will aspire to take on the challenges we face today.

I also learned about a challenge occurring on many of our Nation's college campuses. In talking to engineering deans it is clear that the present economic downturn has exacerbated a problem that has been with us for quite a while—that is the additional cost of educating an engineering student, which requires an investment in labs and other costly facilities. Simply put, most universities make more money on liberal arts students than STEM students.

We must start educating college and university administrators about the long-term benefits to the university and to the United States of spending the additional money required to graduate more engineering students.

Many administrators do get it. One is Pat Harker, president of the University of Delaware and an engineering graduate from Penn. Working with his engineering dean Mike Chajes they have increased last year's entering engineering class by 25 percent, but they do not have the lab space to accommodate these students. They now have to hold lab classes for engineering students on Saturday.

To figure out how to address these issues and grow the engineers and scientists we need, I again met with a small group of deans in the fall and worked with the American Society of Engineering Education to give them a homework assignment.

Yes, I turned the tables on them. This time the professors had homework. We sent out an informal survey to solicit ideas on how to increase the number of graduates from our engineering schools. We received some very thoughtful feedback from nearly 25 deans across the country. These comments provide a very clear picture of what needs to be done. Several common themes emerged from the surveys.

To begin, many of these deans said that we need a better way to communicate to parents, teachers, students, and school counselors about what it means to be an engineer. There was a great idea from Maryland about creating a web site on the rock stars of engineering such as Bill Gates, Steve Jobs, Alan Mullaly, and others.

They also agreed that green jobs are an excellent way to show young people how engineers make a difference. I think this comment from New York sums it up best: ''Service to the community and the belief in great causes

resonates with the millennial generation. This makes green energy and clean tech the perfect vehicle to entice youth into considering careers in science and engineering.''

Overwhelmingly, they told me that students need better preparation in K–12 science, technology, engineering, and mathematics education. For the past 5 years, the College of Engineering at Marquette University has been engaged in a range of STEM activities to increase the number of K–12 students who are interested in studying engineering and prepared for college courses in the field.

Marquette hosts nearly 50 Discovery Learning Academies every year. At these events, students spend several days engaging in hands-on learning activities in robotics, water quality, biomedical engineering, energy, bridges, and more.

The university also supports Project Lead the Way courses that provide an engaging, hands-on curriculum in STEM education. They support First Robotics teams that inspire young people to be science and technology leaders through team robotics competitions.

They created a scholarship fund to aid students in pursuing engineering who could not otherwise afford to attend school there. And to bring school administrators and teachers into the effort, Marquette holds a conference to motivate educators to begin STEM-related activities in their schools.

Marquette's dean told us, ''We have been at this for five years now and over that time, our incoming freshman classes have increased by 46 percent.'' This is great news.

The surveys also told us that, even if our campuses had the physical space to teach more engineering students, these deans would need additional faculty members and research dollars. I have to tell my colleagues, I am so encouraged by what they are doing in Utah.

In 2002, Utah's Governor challenged the higher education community through what they call the ''Engineering Initiative,'' to double—and then triple—the number of engineers and computer scientists they graduate. Each year since, the legislature has allocated funds to support engineering education. These funds have been matched first by the university, then by corporate donations, and, finally, by the Federal Government.

Utah's Governor also prioritized building requests from the college of engineering, while the State legislature started the Utah Science, Technology, and Research—or U–STAR—Initiative. U–STAR provides salaries and startup packages to hire faculty who are doing research that can find commercial applications.

Tenure-track faculty members grew by 46 percent since Utah's Engineering Initiative began. From 2002 to 2009, engineering research expenditures went from $25 million to $56.9 million.

The number of engineering degrees granted by the University of Utah rose 76 percent in the past decade, and roughly 80 percent of these undergraduates accept engineering jobs right there in Utah.

What is more, the College of Engineering spun off 35 companies in the past 3 years. For the past 2 years, the University of Utah as a whole ranked second only to MIT in the number of startups. These results are just remarkable.

I truly am impressed with the work some of our Nation's engineering colleges are doing and I am inspired by their ideas. On our end, I think there are 4 things the Federal Government can do to bolster these efforts:

First, we can help inspire more young people to pursue engineering in the growing green economy. That is why I am so pleased that President Obama launched the ''Educate to Innovate'' campaign. This campaign is a nationwide effort of private companies, universities, foundations, nonprofits, and science and engineering societies working with the Federal Government to improve student performance and engagement in STEM subjects.

As part of the ''Educate to Innovate'' effort, President Obama announced an annual science fair at the White House, so that ''scientists and engineers stand side by side with athletes and entertainers as role models.'' I think that is a very powerful message to America's youth.

Second, we can build a new generation of engineers through policies that promote STEM education. The fiscal year 2011 Department of Education budget submitted by the administration includes $833 million for STEM education. This includes funding to improve teaching and learning of STEM subjects, to support STEM projects in the ''Investing in Innovation'' education program, to create a new STEM initiative to attract undergraduates to STEM fields, and to close the gender gaps in STEM disciplines.

In addition, I was pleased to join Senator GILLIBRAND and a number of my other colleagues in introducing legislation last week that will further these initiatives.

This bill is the Engineering Education for Innovation Act, or the E-squared for Innovation Act. This legislation authorizes the Secretary of Education to award competitive planning and implementation grants to States to integrate engineering education into K–12 instruction and curriculum. It also funds the research and evaluation of these efforts.

Based largely on recommendations from the National Academy of Engineering and the National Research Council's ''Engineering in K–12 Education'' report, 77 organizations have voiced their support for the E-squared Innovation Act.

The third important step the Federal Government can take is to promote policies that encourage women and underrepresented minorities to enter engineering. While women earn 58 percent of all bachelor's degrees, they constitute only 18.5 percent of bachelor's degrees awarded in engineering. We cannot let that go on. That is ridiculous. African Americans hold only 4.6 percent of bachelor's degrees awarded in engineering, and Hispanics hold only 7.2 percent. How can we move into the 21st century? How can we be the great country we are going to be if we are so underrepresented by women and minorities? We can and must do better.

Last year, a bipartisan group of 13 Senators joined me in writing the Appropriations Subcommittee on Agriculture to urge greater funding to increase participation of women and underrepresented minorities in rural areas in STEM fields. That is the second thing I talked about for STEM education where there is clear bipartisan support. STEM education is not a partisan issue; it gets bipartisan support. It is important for all of us, and we all agree.

I am grateful that in response, the Agriculture appropriations bill we enacted last October included $400,000 to fund research and extension grants at land grant universities for women and minorities in STEM fields. This was a small but important step that we can continue to build on from year to year.

Last, we must continue to support research and development, a challenge that requires significant Federal as well as private investment. In our current economy, it is often hard, especially in this body, to imagine investing more in anything. But as Congress has recognized over the years and what was reinforced in the survey responses I received is funding is the lifeblood of research institutions. To yield more innovation, we need more R&D funding so universities can hire more graduate assistants and faculty, accept more engineering students, and ultimately create more jobs.

Utah is a great example of the importance of investing in research and development. The Bureau of Economic and Business Research estimates that for every $1 million of research generated by Utah's research universities, $1.5 million is created in increased business activity.

Listen to that. We are all talking about how to generate business activity. For every $1 million of research generated by Utah's research universities, we get back $1.5 million in increased business activity.

Moreover, a forthcoming report from the Science Coalition features 100 companies that can be directly traced to influential research conducted at a university and sponsored by a Federal agency. Examples include Google, Cisco Systems, SAS.

I become more encouraged every day that we have growing support for engineering. Engineers and scientists will foster the research and innovation that continues to lead America on a path to economic recovery and prosperity. Likewise, these discoveries and innovations will create millions of new jobs,

and they will help us to invest in our future security and prosperity. This is the target. This is the way to get to long-term economic health.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator JOHANNS be recognized next and I be recognized following his remarks for up to 20 minutes; that following my remarks, Senator KYL be recognized, and following Senator KYL, Senator FRANKEN be recognized.

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

The Senator from Nebraska.

ABORTION FUNDING

Mr. JOHANNS. Mr. President, I rise today to speak for about 10 minutes about the health care debate that continues to be in front of us. For much of our country, the health care debate has been a long and confusing trail. As details have emerged over the last weeks and months, constituents ask me: What is going to happen to my health care? Will I be able to continue to see the doctor I have always seen? They heard both sides argue the merits and the detriments of various pieces of legislation. Citizens are understandably skeptical and perplexed by the debate that has transpired.

One of the things I suggest that is very clear, one situation that is clear as a matter of policy and conscience is that Americans are against the Federal funding of abortion, whether they support or oppose the bill. Unfortunately, the Senate-passed health care bill allows taxpayer funds to fund abortion.

The current Senate language says people who receive a new government subsidy could enroll in an insurance plan that covers abortion. Nothing would stop them from doing that.

Some say: Yes, but States could opt out. What I point out is that in those States that opt out, the taxpayers would still see their tax dollars funding elective abortions in other States.

Additionally, the Office of Personnel Management can provide access to two multistate plans in each State, and only one of them would exclude abortions. OPM's current health care program, the Federal Employees Health Benefits Program, now prohibits any plans—any plans—that cover elective abortion. For the first time, a federally funded and managed health care plan will cover elective abortions.

Those who have looked at this language have said very clearly that it is woefully inadequate. I say that. It does not apply a decades-old policy—an agreement really—that was reached many years ago that was embodied in the Hyde amendment. The Hyde language bars Federal funding for abortion except in the cases of rape and incest or where the life of the mother is at stake. The public has clearly rejected advancing the abortion agenda under the guise of health care reform.

Yet as we have seen the language of the Senate bill proceed, it seems very clear my colleagues are refusing to listen. They seem bent on forcing this very unpopular bill upon us via a rather arcane process called reconciliation.

The important point to be made today is this: Reconciliation will not allow us to fix the egregious abortion language.

This is not the first time I have come to the floor to speak about this issue. Last November, I came here to urge pro-life Senators to vote no on cloture if they wanted any chance to address the Federal funding of abortion in the Senate bill. I said then that if the language was not fixed before the debate began, there would be no way to fix it. We would not have any leverage to fix it.

I wish I were here on the floor today to say that I was wrong about that. Unfortunately, though, I was not wrong. Unfortunately, when an amendment was offered to match the Stupak language in the House bill with the Senate bill, only 45 Senators supported it.

The sad reality is that this Senate, as a matter of the majority, is not a pro-life body. There are not 60 Senators who are willing to vote for that.

Back in November, some of my colleagues disagreed with my assessment. There was a big debate. They said: Whoa, wait a second. We can fix this provision via an amendment, they said. But they were wrong. When the dust settled, we were left with a Senate bill that allows Federal funding of abortion.

The House is now being asked to vote on the Senate bill. You see, that is going to be the pathway: vote on the Senate bill so any fix on other provisions can come through a reconciliation sidecar.

According to the National Right to Life committee, the Senate bill is—and I am quoting their language—''the most pro-abortion single piece of legislation that has ever come to the House floor for a vote since Roe v. Wade.''

They go on to warn:

> Any House Member who votes for the Senate health bill is casting a career-defining pro-abortion vote.

There is talk that Democratic leaders might try to appease pro-life House Members by promising to change the Senate bill through a separate bill or the reconciliation sidecar I mentioned.

I urge pro-life supporters and pro-life House Members to think through this very carefully. Don't be fooled. Don't be lulled into thinking there are 60 votes in the Senate that will somehow rescue this situation. There are not. You do not have to take my word for it. It is in black and white in the CONGRESSIONAL RECORD. It is the same situation we faced in November.

The Senate specifically rejected the amendment that would have blocked Federal funding for abortion. Nothing—nothing—has changed to suggest the Senate would have anywhere near 60 votes to support it now.

It was recently reported that some in the pro-life community support adding pro-life language in the reconciliation sidecar or maybe in a separate bill with the hope and the promise that somehow the Senate will swoop in and waive the rules and keep that language there. Let me be abundantly clear. As much as I might want that to happen, it will not happen here, as demonstrated by November's vote.

If the Senate rejects it again, the language in the Senate bill would become law. Current law would be reversed, and taxpayer dollars would, in fact, fund abortions.

There was recently a column in the Washington Post. It issued a warning to pro-life Democrats to be wary of this strategy. I am quoting again:

> The only way they can ensure that the abortion language and other provisions they oppose are eliminated is to reject reconciliation entirely—and demand that the House and Senate start over with clean legislation.

I come to the Senate floor again to encourage my pro-life colleagues in the House to recognize the reality in the Senate. I tell them what they know already, and that is that many innocent lives are depending on their courage.

This issue should not be an issue of political gamesmanship, especially when the game is so rigged against prolifers. This is an issue of conscience. On this one, you are pro-life or you are not.

Agreeing to a strategy that is guaranteed to fail, one that has failed already in this health care debate in November, in my judgment, is not leadership at all. It is surrendering your values.

I leave the floor today, and I pray that my House colleagues will have the wisdom to understand this in their decisionmaking.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

STEEL INDUSTRY FUEL TAX CREDIT

Mr. SPECTER. Mr. President, I have sought recognition to talk about two subjects—first, an amendment filed by Senator ROCKEFELLER, amendment No. 3371 to amendment No. 3336, cosponsored by Senator HATCH, Senator BAUCUS, Senator CASEY, Senator BAYH, and myself.

This amendment would extend the steel industry fuel tax credit and make minor technical corrections to ensure that the steel industry will continue to recycle the hazardous waste called coal waste sludge. The recycling process which converts coal waste sludge into steel industry fuel eliminates a hazardous waste, ends the need to landfill or incinerate the waste, displaces fuel from the coking process, and increases the efficiency of coke-making. This recycling process makes the production

of coke more efficient and cost-effective. Additionally, this provision will create jobs across the country and preserve thousands of fuel-making jobs in economically hard hit States.

The technical corrections made by this amendment cover minor issues such as who has title to the coal in the few minutes before it enters the coke ovens and whether a minuscule percentage of the feedstock is pure coal or a material called pet coke.

The extension of the tax credit and these minor technical corrections will ensure this credit can actually be used by processors and the steel industry. I am advised that all of the integrated steel companies and the representatives of their workers support this provision, which is a rarity in any industry.

We have been working for nearly a decade to ensure the widespread use of this technology in coke ovens across the country. Across Pennsylvania, coke ovens continue to be used as the engine that drives the American industrial machine. I have long been committed to ensuring we use the cleanest and most efficient method for making steel and in this case, the coke that is an ingredient in the steel-making process.

This is an extender right in line with the thrust of the legislation, an extender which would save many jobs and add many more jobs. So it is right in line with what we are seeking to accomplish.

GRIDLOCK AND RECONCILIATION

Mr. SPECTER. Mr. President, I am now going to speak about the subject of gridlock which confronts this body and the use of the reconciliation process to enact comprehensive health care reform.

We have seen an extraordinary display of gridlock, evidenced at the present time. We have some 30 judicial nominees which are pending, and I ask unanimous consent to have printed in the RECORD the list of nominees following my remarks.

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

(See exhibit 1.)

Mr. SPECTER. We have some 64 executive branch nominees who are now pending, and I ask unanimous consent to have printed in the RECORD a list of these nominees following my remarks.

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

(See exhibit 2.)

Mr. SPECTER. We have some 13 ambassadorial positions pending, only 1 of which I am advised is controversial, and I ask unanimous consent to have printed in the RECORD a list of these 13 positions following my remarks.

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

(See exhibit 3.)

Mr. SPECTER. On many occasions, the majority leader has been compelled to file a cloture petition, which is well known on this Senate floor. I don't believe it even has to be explained to C–SPAN viewers, even though it is technical and arcane, because it has been used so often. But in case anyone new is watching C–SPAN2—or perhaps I should say in case anybody is watching C–SPAN2—just a word of explanation. If a Senator places a hold on a nomination, that is a signal for a filibuster.

Unfortunately, we don't have filibusters. I have been in the Senate now since being elected in 1980 and I have been part of only one real filibuster. Had we utilized that procedure, perhaps there would be fewer holds and fewer moves toward filibuster. People really had to stand up here and argue, as Senator Thurman did historically once, for some 26 hours. But when the majority leader is compelled to file a cloture petition, cloture is invoked, and then some 30 hours must be consumed where the Senate can take care of no additional business, the two lights are on, there is a quorum call, and it is a colossal waste of time.

I am going to recite the facts in five of these cloture petitions to demonstrate that there was never really a controversy. Christopher Hill, Ambassador to the Republic of Iraq, had a cloture vote. Yet his vote in favor was 73 to 17—hardly controversial. Robert M. Groves, of Michigan, to be the Director of the Census, the cloture vote was 76 to 15—not really a contest there at all. Nobody seriously contested his confirmation. David Hamilton to be a judge of the Seventh Circuit, 70 yeas, 29 nays. A cloture petition was filed on Martha N. Johnson to be Administrator of General Services. The vote was 82 to 16. The nomination of Barbara Keenan to be a circuit judge in the Fourth Circuit, 99 to 0.

Mr. President, I ask unanimous consent to have printed in the RECORD the details of these cloture motions and confirmations following my remarks.

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

(See exhibit 4.)

Mr. SPECTER. So the stage is now set where we have gridlock on the issue of comprehensive health care reform. In this situation, we have had the bills passed by both the House and the Senate, and we are now looking to use reconciliation, a procedure which has been employed some 22 times in analogous circumstances. Illustrative of the analogous circumstances are the use of cloture to pass Medicare Advantage and the passage of COBRA, the passage of SCHIP—health care for children—and the passage of the welfare reform bill in 1996.

In a learned article in the New England Journal of Medicine, Dr. Henry J. Aaron, an expert on budgetary matters, had this to say:

[reconciliation] can be used only to implement instructions contained in the budget resolution relating to taxes or expenditures. Congress created reconciliation procedures to deal with precisely this sort of situation. . . .

And he is referring here to what we have with the Senate-passed bill and the House-passed bill.

Quoting him further:

The 2009 budget resolution instructed both Houses of Congress to enact health care reform. The House and the Senate have passed similar but not identical bills. Since both Houses have acted but some work remains to be done to align the two bills, using reconciliation to implement the instructions in the budget resolution follows established congressional procedure.

I ask unanimous consent to have printed in the RECORD the full text of this article following my remarks.

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

(See exhibit 5.)

Mr. SPECTER. So what we have here, essentially, is gridlock created by the composition of the two Houses of Congress. We have a situation where not one Member on the other side of the aisle voted in favor of the health care bill. In the House of Representatives, the vote was 176 to 1; that is, among the 177 Republicans voting, only 1 out of 177 in the House voted in favor. It is hard to see a more precise definition of ''gridlock'' than what appears here.

It would be my hope that we would be able to resolve the issue without resorting to reconciliation. If there is any doubt about the procedure, our institutional integrity would be enhanced without going in that direction. But if you have to fight fire with fire and since it is a legitimate means, then we can use it.

Five years ago, in 2005, the Senate faced a somewhat similar situation when the roles were reversed, when it was the Democrats filibustering judicial nominees of President Bush. And we find that so often it depends on whose ox is being gored as to who takes the position. Some of the most vociferous objectors to the use of reconciliation on comprehensive health care reform have filled the CONGRESSIONAL RECORD with statements in favor of using reconciliation in analogous circumstances when it helped their cause. But in the year 2000, it was the Democrats stymying Republican judicial nominees. During the Clinton administration, it was exactly reversed—it was Republicans stymying Clinton's judicial nominees. Fortunately, in 2005 we were able to work out the controversy. We were able to confirm some of the judges, some of the judges were withdrawn, and we did not move for what was called the nuclear option, which would have confirmed judges by 51 votes.

The procedural integrity of the Senate is very important. Without going into great detail, it was the Senate that saved the independence of the Federal judiciary when the Senate acquitted Supreme Court Justice Chase

in 1805, and it was the Senate that preserved the power of the Presidency on the impeachment proceeding of Andrew Johnson in 1868. Congress sought to have limited the President's power to discharge a Cabinet officer in the absence of approval by the Senate. Well, the Senate has to confirm, but the Senate doesn't have standing to stop the President from terminating the services of a Cabinet officer. And there, the Senate saved it through the courageous vote of a single Senator—a Kansan, I like to mention, being one originally myself.

So it would be fine if we could find some way to solve the problem, but absent that, this Senate reconciliation procedure is entirely appropriate. We have gotten much more deeply involved in the research and analysis as this issue has come to the floor on comprehensive health coverage.

The gridlock that faces the Senate and the country today has profound implications beyond the legislation itself. It is hard to find something more important than insuring the millions of Americans now not covered or to find something more important than stopping the escalating cost of health insurance, driving many people to be uninsured and raising the prices for small businesses where it cannot be afforded. But the fact is, this gridlock is threatening the capacity in this country to govern—really threatening the capacity to govern.

Secretary of State Hillary Clinton was before the Subcommittee on Foreign Operations of the Committee on Appropriations, and I asked her about this issue. I asked her about the President not being able to:

. . . project the kind of stature and power that he did a year ago because he is being hamstrung by Congress. And it has an impact on foreign policy which we really ought to do everything we can not to have partisanship influence.

Secretary of State Clinton replied as follows:

Senator, I think there is certainly a perception that I encounter in representing our country around the world that supports your characterization. People don't understand the way our system operates, they just don't get it. Their view does color whether the United States is in a position—not just this President but our country—is in a position going forward to demonstrate the kind of unity and strength and effectiveness that I think we have to in this very complex and dangerous world.

She continued a little later:

We have to be attuned to how the rest of the world sees the functioning of our Government. Because it's an asset. It may be an intangible asset, but it's an asset of great importance and as we sell democracy, and we're the lead democracy in the world, I want people to know that we have checks and balances, but we also have the capacity to move too.

So what we find is a diminution of the authority and stature of the President, a diminution of the authority and stature of the Presidency, and ultimately a diminution and reduction in the stature of our country unable to deal with these problems. So it would be my hope we could yet resolve this issue with a little bipartisanship. It would not take a whole lot, but at the moment there is none, with 40 Senators voting no, all those on the other side of the aisle, and 176 out of 177 Republicans in the House voting no. That simply is no way to govern.

EXHIBIT 1—JUDICIAL NOMINEES

Name	Court	Nomination date	Days since nom
Black, Timothy S.	Southern District of Ohio	12/24/2009	74
Butler, Louis B. Jr.	Western District of Wisconsin	9/30/2009	159
Chatigny, Robert Neil	Second Circuit	2/24/2010	12
Childs, J. Michelle	District of South Carolina	12/22/2009	76
Chin, Denny	Second Circuit	10/6/2009	153
Coleman, Sharon Johnson	Northern District of Illinois	2/24/2010	12
Conley, William M.	Western District of Wisconsin	10/29/2009	130
DeGuilio, Jon E.	Northern District of Indiana	1/20/2010	47
Diaz, Albert	Fourth Circuit	11/4/2009	124
Feinerman, Gary Scott	Northern District of Illinois	2/24/2010	12
Fleissig, Audrey Goldstein	Eastern District of Missouri	1/20/2010	47
Foote, Elizabeth Erny	Western District of Louisiana	2/4/2010	32
Freudenthal, Nancy D.	District of Wyoming	12/3/2009	95
Gergel, Richard Mark	District of South Carolina	12/22/2009	76
Goldsmith, Mark A.	Eastern District, Michigan	2/4/2010	32
Goodwin, Liu	Ninth Circuit	2/24/2010	12
Jackson, Brian Anthony	Middle District of Louisiana	10/29/2009	130
Koh, Lucy Haeran	Northern District of California	1/20/2010	47
Magnus-Stinson, Jane E.	Southern District of Indiana	1/20/2010	47
Marshall, Denzil Price Jr.	Eastern District, Arkansas	12/3/2009	95
Martinez, William Joseph	District of Colorado	2/24/2010	12
Navarro, Gloria M.	District of Nevada	12/24/2009	74
Pearson, Benita Y.	Northern District of Ohio	12/3/2009	95
Stranch, Jane Branstetter	Sixth Circuit	8/6/2009	214
Thompson, Rogeriee	First Circuit	10/6/2009	153
Treadwell, Marc T.	Middle District of Georgia	2/4/2010	32
Tucker, Josephine Staton	Central District of California	2/4/2010	32
Vanaskie, Thomas I	Third Circuit	8/6/2009	215
Walton Pratt, Tanya	Southern District of Indiana	1/20/2010	47
Wynn, James A. Jr.	Fourth Circuit	11/4/2009	124

EXHIBIT 2

Earl J. Gohl was nominated to be the Federal Co-Chairman of the Appalachian Regional Commission on Nov. 17, 2009 and has been waiting 111 days since his nomination.

Michael C. Camunez was nominated to be the Assistant Secretary for Market Access and Compliance of the Commerce Department on March 2, 2010 and has been waiting 6 days since his nomination.

Eric L. Hirschhorn was nominated to be the Under Secretary for Export Administration of the Commerce Department on Sept. 14, 2009 and has been waiting 175 days since his nomination.

Timothy McGee was nominated to be the Assistant Secretary for Observation and Prediction on Dec. 21, 2009 and has been waiting 77 days since his nomination.

Larry Robinson was nominated to be the Assistant Secretary of Commerce for Conservation and Management, NOAA of the Commerce Department on Feb. 4, 2010 and has been waiting 32 days since his nomination.

Francisco ''Frank'' J. Sanchez was nominated to be the Under Secretary for International Trade of the Commerce Department on April 20, 2009 and has been waiting 322 days since his nomination.

Sharon E. Burke was nominated to be the Director of Operational Energy Plans and Programs of the Defense Department on Dec. 11, 2009 and has been waiting 87 days since her appointment.

Solomon B, Watson IV was nominated to be the General Counsel of the Army of the Defense Department on Nov. 20, 2009 and has been waiting 108 days since his nomination.

Joseph F. Bader was nominated to be a member of the Defense Nuclear Facilities Safety Board on Oct. 16, 2009 and has been waiting 143 days since his nomination.

Jessie H. Roberon was nominated to be a member of the Defense Nuclear Facilities Safety Board on Oct. 16, 2009 and has been waiting 143 days since his nomination.

Peter S. Winokur was nominated to be the Chairman of the Defense Nuclear Facilities Safety Board on Oct. 16, 2009 and has been waiting 143 days since his nomination.

Jim R. Esquea was nominated to be the Assistant Secretary for Legislation of the Department of Health and Human Services on Aug, 6, 2009 and has been waiting 214 days since his appointment.

Sherry Glied was nominated to be the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services on July 9, 2009 and has been waiting 119 days since her appointment.

Nicole Lurie was nominated to be the Assistant Secretary for Preparedness and Response of the Department of Health and Human Services on June 1, 2009 and has been waiting for 280 days since her nomination.

Richard Sorian was nominated to be the Assistant Secretary for Public Affairs of the Department of Health and Human Services on Oct. 5, 2009 and has been waiting 154 days since his nomination.

Alan D. Bersin was nominated to be the Commissioner of U.S. Customs and Border Protection of the Department of Homeland Security on Sept. 29, 2009 and has been waiting 160 days since his nomination.

Rafael Borras was nominated to be the Under Secretary for Management of the Department of Homeland Security on July 6, 2009 and has been waiting 245 days since his nomination.

Steven Jacques was nominated to be the Assistant Secretary for Public Affairs of the Department of Housing and Urban Development on Sept. 29, 2009 and has been waiting 160 days since his nomination.

Eduardo M. Ochoa was nominated to be the Assistant Secretary for Postsecondary Education of the Education Department on Feb. 24, 2009 and has been waiting 377 days since his nomination.

Kathleen S. Tighe was nominated to be the Inspector General of the Education Department on Nov. 20, 2009 and has been waiting 108 days since her nomination.

Donald L. Cook was nominated to be the Deputy Administrator for Defense Programs, National, Nuclear Security Administration of the Energy Department on Dec. 3, 2009 and has been waiting 95 days since his nomination.

Patricia A. Hoffman was nominated to be the Assistant Secretary for Electricity Delivery and Energy Reliability of the Energy Department on Dec. 9, 2009 and has been waiting 89 days since her nomination.

Jeffrey A. Lane was nominated to be the Assistant Secretary for Congressional and Intergovernmental Affairs of the Energy Department on Feb. 1, 2010 and has been waiting 35 days since his nomination.

Arthur Elkins, Jr. was nominated to be the Inspector General of the Environmental Protection Agency on Nov. 18, 2009 and has been waiting 110 days since his nomination.

Jacqueline A. Berrien was nominated to be the Chairman of the Equal Employment Opportunity Commission on July 16, 2009 and has been waiting 235 days since her nomination.

Chai R. Feldblum was nominated to be the Commissioner of the Equal Employment Opportunity Commission on Sept. 15, 2009 and has been waiting 174 days since his nomination.

Victoria Lipnic was nominated to be the Commissioner of the Equal Employment Opportunity Commission on Nov. 3, 2009 and has been waiting 125 days since her nomination.

David P. Lopez was nominated to be the General Counsel of the Equal Employment Opportunity Commission on Oct. 26, 2009 and has been waiting 133 days since his nomination.

Jill Long Thompson was nominated to be a member of the Farm Credit Administration on Oct. 16, 2009 and has been waiting 143 days since her nomination.

Patrick K. Nakamura was nominated to be a member of the Federal Mine Safety and Health Review Commission on Nov. 30, 2009 and has been waiting 98 days since his nomination.

Beatrice Hanson was nominated to be the Director of the Office for Victims of Crime for the Justice Department on Dec. 23, 2009 and has been waiting 75 days since her nomination.

Dawn E. Johnson was nominated to be the Assistant Attorney General for Office of Legal Counsel for the Justice Department on Feb. 11, 2009 and has been waiting 390 days since her nomination.

John E. Laub was nominated to be the Director of the National Institute of Justice for the Justice Department on Oct. 5, 2009 and has been waiting 154 days since his nomination.

Michele Marie Leonhart was nominated to be the Drug Enforcement Administrator for the Justice Department on Feb. 2, 2010 and has been waiting 34 days since her nomination.

James P. Lynch was nominated to be the Director of the Bureau of Justice Statistics for the Justice Department on Oct. 29, 2009 and has been waiting 130 days since his nomination.

Christopher H. Schroeder was nominated to be the Assistant Attorney General for Legal Policy for the Justice Department on June 4, 2009 and has been waiting 277 days since his nomination.

Mary L. Smith was nominated to be the Assistant Attorney General for Tax Division for the Justice Department and has been waiting 322 days since her nomination.

J. Patricia Wilson Smoot was nominated to be the Parole Commissioner for the Justice Department on Feb. 1, 2010 and has been waiting 35 days since her nomination.

James L. Taylor was nominated to be the Chief Financial Officer for the Labor Department on March 3, 2010 and has been waiting 5 days since his nomination.

Craig Becker was nominated to be a board member of the National Labor Relations Board and has been waiting 242 days since his nomination.

Brian Hayes was nominated to be a board member of the National Labor Relations Board on July 9, 2009 and has been waiting 242 days since his nomination.

Mark Pearce was nominated to be a board member of the National Labor Relations Board on July 9, 2009 and has been waiting 242 days since his nomination.

Mark R. Rosekind was nominated to be a member of the National Transportation Safety Board on Oct. 1, 2009 and has been waiting 158 days since his nomination.

George Apostolakis was nominated to be the Commissioner of the Nuclear Regulatory Commission on Oct. 13, 2009 and has been waiting 146 days since his nomination.

William D. Magwood, IV was nominated to be the Commissioner of the Nuclear Regulatory Commission on Oct. 13, 2009 and has been waiting 146 days since his nomination.

William C. Ostendorrf was nominated to be the Commissioner of the Nuclear Regulatory Commission on Dec. 11, 2009 and has been waiting 87 days since his nomination.

Benjamin Tucker was nominated to be the Deputy Director for State, Local and Tribal Affairs of the Office of National Drug Control Policy on Aug. 6, 2009 and has been waiting 214 days since his nomination.

Philip E. Coyle was nominated to be the Associate Director for National Security and International Affairs of the Office of Science and Technology Policy on Oct. 27, 2009 and has been waiting 132 days since his nomination.

Larry Persily nominated to be Federal Coordinator for the Office of the Federal Coordinator Alaska Natural Gas Transportation Projects on Dec. 9, 2009, waiting 89 days.

Michael W. Punke nominated to be Deputy United States Trade Representative for Geneva with the Office of the United States Trade Representative on Sept. 14, 2009, waiting 175 days.

Islam A. Siddiqui nominated to be Chief Agricultural Negotiator for the Office of the United States Trade Representative on Sept. 24, 2009, waiting 165 days.

Elizabeth Littlefield, nominated to be President of the Overseas Private Investment Corporation on Nov. 20, 2009, waiting 108 days.

Carrie Hessler Radelet, nominated to be Deputy Director of the Peace Corps on Nov. 9, 2009, waiting 119 days.

Joshua Gotbaum, nominated to be Director of the Pension Benefit Guaranty Corporation on Nov. 9, 2009, waiting 119 days.

Marie Collins Johns, nominated to be Deputy Administrator of the Small Business Administration on Dec. 17, 2009, waiting 81 days.

Winslow Sargeant, nominated to be Chief Counsel for Advocacy of the Small Business Administration on June 8, 2009, waiting 273 days.

Robert Blake, nominated to be Assistant Secretary for South Central Asian Affairs at the State Department on April 27, 2009, waiting 315 days.

Ann Stock, nominated to be Assistant Secretary of Educational and Cultural Affairs of the State Department on Dec. 4, 2009, waiting 95 days.

Leocadia I. Zak, nominated to be Director of the Trade and Development Agency on Nov. 16, 2009, waiting 112 days.

Michael P. Huerta, nominated to be Deputy Administrator of the Transportation Department on Dec. 8, 2009, waiting 90 days.

David T. Matsuda, nominated to be Administrator of Maritime Administration of the Transportation Department on Dec. 17, 2009, waiting 81 days.

Lael Brainard, nominated to be Under Secretary for International Affairs for the Treasury Department on March 23, 2009, waiting 350 days.

Jeffery Goldsteing nominated to be Under Secretary for Domestic Finance.

Michael F. Mundaca, nominated to be Assistant Secretary for Tax Policy at the Treasury Department on Oct. 6, 2009, waiting 153 days.

EXHIBIT 3

Three other nominations are still awaiting final vote:

Laura E. Kennedy, a Career Member of the Senior Foreign Service for the rank of Ambassador during her tenure of service as U.S. Representative to the Conference on Disarmament. (Reported out of SFRC on Dec 08, 2009).

Eileen Chamberlain Donahoe, for the rank of Ambassador during her tenure of service as the United States Representative to the UN Human Rights Council. (Reported out of SFRC on Dec 08, 2009).

Islam A. Siddiqui, to be Chief Agricultural Negotiator, Office of the United States Trade Representative (USTR), with the rank of Ambassador (Reported by Mr. Baucus, Committee on Finance on Dec 23, 2009).

The Senate Foreign Relations Committee reported the following 10 nominees out on February 26, 2010. They are awaiting final vote by the Senate to take up their posts.

Donald E. Booth, to be Ambassador to Ethiopia.

Scott H. DeLisi, to be Ambassador to Nepal.

Beatrice Wilkinson Welters, to be Ambassador to Trinidad and Tobago.

David Adelman, to be Ambassador to Singapore.

Harry K. Thomas, Jr., to be Ambassador to the Philippines.

Allan J. Katz, to be Ambassador to Portugal.

Ian C. Kelly, to be U.S. Representative to the Organization for Security and Cooperation in Europe (OSCE), with the rank of Ambassador.

Brooke D. Anderson, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Rosemary Anne DiCarlo, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Deputy Representative of the United States of America in the Security Council of the United Nations.

Judith Ann Stewart Stock, to be an Assistant Secretary of State (Educational and Cultural Affairs).

EXHIBIT 4

Question: On the Cloture Motion (Motion to Invoke Cloture on the Nomination of

Christopher R. Hill, of R.I. to be Ambassador to the Republic of Iraq)

Vote Number: 158; Vote Date: April 20, 2009, 06:51 PM; Required for Majority: 3/5; Vote Result: Cloture Motion Agreed to; Nomination Number: PN171; Nomination Description: Christopher R. Hill, of Rhode Island, to be Ambassador to the Republic of Iraq; Vote Counts: YEAs: 73; NAYs: 17; Not Voting: 9. AS: Y.

Question: On the Cloture Motion (Motion to Invoke Cloture on the Nomination of Robert M. Groves, to be Director of the Census)

Vote Number: 230; Vote Date: July 13, 2009, 05:41 PM; Required for Majority: 3/5; Vote Result: Cloture Motion Agreed to; Nomination Number: PN387; Nomination Description: Robert M. Groves, of Michigan, to be Director of the Census; Vote Counts: YEAs: 76; NAYs: 15; Not Voting: 9. AS: Y.

Question: On the Motion (Motion to Invoke Cloture on the Nomination of David F. Hamilton, of Indiana, to be U.S. Circuit Judge for the Seventh Circuit.)

Vote Number: 349; Vote Date: November 17, 2009, 04:37 PM; Required for Majority: 3/5; Vote Result: Motion Agreed to; Nomination Number: PN187; Nomination Description: David F. Hamilton, of Indiana, to be United States Circuit Judge for the Seventh Circuit; Vote Counts: YEAs: 70; NAYs: 29; Not Voting: 1. AS: Y.

Question: On the Cloture Motion (Motion to Invoke Cloture on the Nomination of Martha A. Johnson to be Administrator of General Services Administration)

Vote Number: 19; Vote Date: February 4, 2010, 02:47 PM; Required for Majority: 3/5; Vote Result: Cloture Motion Agreed to; Nomination Number: PN393; Nomination Description: Martha N. Johnson, of Maryland, to be Administrator of General Services; Vote Counts: YEAs: 82; NAYs: 16; Not Voting: 2. AS: Y.

Question: On the Cloture Motion (Motion to Invoke Cloture on the Nomination of Barbara Milano Keenan, of VA, to be U.S. Circuit Judge)

Vote Number: 29; Vote Date: March 2, 2010, 12:15 PM; Required for Majority: 3/5; Vote Result: Cloture Motion Agreed to; Nomination Number: PN937; Nomination Description: Barbara Milano Keenan, of Virginia, to be United States Circuit Judge for the Fourth Circuit; Vote Counts: YEAs: 99; NAYs: 0 Not Voting: 1. AS: Y.

EXHIBIT 5

[From the New England Journal of Medicine]

FORGING AHEAD—EMBRACING THE ''RECONCILIATION'' OPTION FOR REFORM

The course of health care reform in 2009 resembled the silent movie series ''The Perils of Pauline,'' in which each episode began with a threat to the heroine's life but ended with her salvation.

Despite repeated near-death experiences, reform legislation passed both houses of Congress. After so many obstacles had been surmounted, the remaining task of reconciling the House and Senate bills seemed doable.

Then, a political earthquake hit. Republican Scott Brown won the Massachusetts senatorial seat that had been held for 47 years by the late Senator Edward M. Kennedy, thwarting the capacity of the remaining 57 Democrats and two independents to bring anything to a vote in the Senate over the united opposition of the 41 Republicans. The election also caused something approaching a panic attack among White House and congressional Democrats, who called variously for dropping health care reform, trying to pass one scaled-back bill or several smaller bills, moving slowly on doing anything, seeking compromise with Republicans on some (unspecified) new approach, or having the House pass the Senate bill subject to modifications, which both houses would pass separately, to make the Senate bill acceptable to the House. Passing the fixes in the last of these options hinged on using ''reconciliation,'' a procedure that requires only a majority vote but that can be used only to implement instructions contained in the budget resolution relating to taxes or expenditures. Passage of the modifications would follow House approval of the Senate-passed bill.

The idea of using reconciliation has raised concern among some supporters of health care reform. They fear that reform opponents would consider the use of reconciliation high-handed. But in fact Congress created reconciliation procedures to deal with precisely this sort of situation—its failure to implement provisions of the previous budget resolution. The 2009 budget resolution instructed both houses of Congress to enact healt care reform. The House and the Senate have passed similar but not identical bills. (Since both houses have acted but some work remains to be done to align the two bills, using reconciliation to implement the instructions in the budget resolution follows established congressional procedure.)

Furthermore, coming from Republicans, objections to the use of reconciliation on procedural grounds seem more than a little insincere. A Republican president and a Republican Congress used reconciliation procedures in 2001 to enact tax cuts that were supported by fewer than 60 senators. The then-majority Republicans could use reconciliation only because they misrepresented the tax cuts as temporary although everyone understood they were intended to be permanent—but permanent cuts would have required the support of 60 senators, which they did not have.

The more substantive objection to the use of reconciliation for passing health care reform derives from the fact that, according to polls, more Americans oppose than support what they think is in the reform bills. It is hardly surprising that people are nervous about health care reform. Most Americans are insured and are reasonably satisfied with their coverage. In principle, large-scale reform could upset current arrangements.

If public perceptions of the intended and expected effects of the current bills were accurate, democratically elected representatives might be bound to heed the concerns. Because the perceptions are inaccurate, reform supporters have a duty to do a better job of explaining what health care reform will do. When participants in focus groups are informed about the bills' actual provisions, their views become much more positive. The prevailing views have clearly been shaped by opponents' misrepresentations of the reform plans, which supporters have done little to rebut. Opponents have described as a ''government takeover'' plans that would cause tens of millions of people to buy insurance from private companies. They have told people that a plan deemed by the Congressional Budget Office to be a deficit reducer is actually a budget buster. They have fostered the canard that end-of-life counseling would mean the creation of ''death panels'' (a claim that PolitiFact.com labeled ''the lie of the year''). They have persuaded Americans that their insurance arrangements would be jeopardized by plans that would in fact leave most coverage untouched, add coverage for millions of Americans, and protect millions of others from cancellation of their coverage and from unaffordable rate increases in the event of serious illness.

Meanwhile, supporters have spent most of their time on seemingly endless debates with one another about specific legislative provisions—whether to include a public option in the reform legislation, whether to have a single national insurance exchange or separate state exchanges, how to enforce a mandate that everyone carry insurance and how much to spend on subsidies to make that mandate acceptable, how to enforce a mandate on all but small employers to sponsor and pay for basic coverage for their workers, and scores of other complex and bewildering technical provisions.

Health care reformers in the administration and Congress have a powerful case to make and, on an issue of such enormous importance, a duty to make it. In addition to reminding Americans that reform will protect, not jeopardize, coverage by preventing insurance companies from canceling coverage or jacking up premiums for the sick, reform advocates should remind them that the proposed legislation will bring coverage to tens of millions of currently uninsured Americans and protect it for scores of millions of others. Reform advocates should explain the legislation's legitimate promise of cost control and quality improvement.

President Barack Obama has announced a bipartisan meeting on moving the reform process forward. It is an opportunity for all sides to present ideas for improving the bills that already have been passed by both houses of Congress. If modifications are identified that will command the support of simple majorities in both houses, they should be adopted through reconciliation. Then the House should pass the Senate bill.

Other strategies, in my view, have no prospect of success. Abandoning the reform effort is the worst strategy of all—not only for reform advocates, but for the nation. Reform advocates are already on record as supporting reform. Voters who oppose reform will not forget that fact come November, and those who support it will find little reason to make campaign contributions to or turn out to vote for lawmakers who were afraid to use large congressional majorities to implement legislation that would begin long-overdue efforts to extend coverage, slow the growth of spending, and improve the quality of care.

The start-from-scratch and piecemeal-legislation strategies are invitations to time-consuming failure. The Senate would need 60-vote majorities for every component of such reforms. To be sure, lawmakers could craft a different bill that would extend coverage to fewer people than the current bills do. But they could not institute serious insurance market reforms without assuring a balanced enrollee pool—or assure such a pool without mandating coverage. Nor is it politically possible or ethically fair to mandate coverage without offering subsidies for low- and moderate-income people. And it is not possible to prevent those subsidies from increasing deficits without tax increases or spending cuts, which reform opponents won't support and which would require 60 Senate votes. The call to start anew is naive at best. At worst, it is a disingenuous siren song, luring health care reformers into a political swamp.

Reformers' best choice is to embrace the democratic process and attempt to persuade voters that the current legislation is in the national interest. They have 10 months to succeed before the midterm elections.

If would-be reformers retreat in the face of current public opinion polls, they will be sent packing in November. Arguably, they will deserve to lose. If they stand up for their genuinely constructive legislation, they can prevail—and will deserve to win.

Mr. SPECTER. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I opened the newspaper, the New York Times, on

Sunday morning and was surprised—shocked—at a full-page advertisement I saw. It had a big headline that said: ''What will it be, Mr. President? Change or more of the same?'' Then it had four photographs or artist's renderings. The first one was of President Barack Obama. It gradually morphed from Barack Obama into George W. Bush, so the last in the frame of four was clearly a likeness of President George W. Bush.

This was an advertisement paid for by the American Civil Liberties Union, the ACLU. I do not know what surprised me more, whether it was the audacity and the blatant partisanship of the ad or its ignorance and misrepresentation of the law. Either way, it deserves some comment today.

The essence of the ad was to obviously try to put some pressure on President Obama not to change his initial decision to transfer the trial of Khalid Shaikh Mohammed to the Manhattan Federal district court, the so-called article III court, back to a military commission where it had originally been. The ad makes the point that ''Barack Obama vowed to change Bush-Cheney policies''—I am quoting now—''and restore America's values of justice and due process.''

Of course, those values didn't exist under the Bush administration, according to the ACLU. They then say they are ''shocked and concerned'' the President is considering changing the 9/11 defendants' trials from criminal court back to military commissions. They say that: ''Our criminal justice system will resolve the cases more quickly and more credibly than the military commissions.'' That is a matter of dispute, which I will get back to in a moment, but then there is this sentence: ''Obama can vigorously prosecute terrorists and keep us safe without violating our Constitution.'' The implication, of course, being if you go to a military commission, you are violating the Constitution.

If that is what they mean to convey, and it is clear they do, the writers of this ad are obviously intentionally misrepresenting the law. The U.S. Supreme Court has upheld military commissions. You can go back to the 1950s case of Johnson v. Eisentrager, involving German war prisoners.

The current U.S. Supreme Court in the Hamdan decision made it clear the President, with authority from Congress, could establish military commissions to try the very people we are talking about, these Islamic terrorists. Indeed, the President came to Congress and, with changes from the administration recommended by the Justice Department, Congress passed the Military Commissions Act of 2006. That act is available to try many of these same terrorists. Indeed, the Attorney General has made it clear there are four categories of these terrorists held at Gitmo. They want to try to release some of them back to their country of origin; they believe some of them should be tried in article III courts—that is like the Federal district court in Manhattan; others of them should be tried before the military commissions that the ACLU seems to think would violate due process; and, finally, that they intend to hold some of them for the duration of the conflict, which is also authorized.

Here you have one of the, at least I thought, preeminent legal authorities in the country—granted they always seem to take the side of the little guy without representation or the person who is not looked upon with great favor who needs legal representation, frequently to represent cases that represent different points of view—certainly, performing a service to our legal community over the years, most people I think would acknowledge. But now they have turned into a blatant partisan political entity that I think can have no more credibility in court for both reasons: First, because of the nature of this, morphing President Obama's face into President George W. Bush's face and talking about changing the Bush-Cheney policies, which obviously they believe do not represent America's values of justice and due process, contending that you have to go to article III courts to try these people or else you are violating our Constitution.

The final conclusion: ''The President must decide whether he will keep his solemn promise to restore our Constitution and due process or ignore his vow and continue the Bush-Cheney policies,'' which in their view, I gather, means not having constitutional rights and due process.

Again, this administration helped the Congress write the military commissions law. That law is in effect today. The administration intends to try many of these same terrorists before those military commissions. The constitutionality of military commissions has been upheld in the past. The constitutionality of the President and the Congress doing so in the future was acknowledged by the Supreme Court in the Hamdan case. No court has ruled that the military commissions that were thus created in the 2006 act would, as the ACLU suggests, violate our Constitution or due process. So what exactly is the ACLU talking about?

Moreover, I said I would get back to it, the ad suggests that the ''criminal justice system,'' meaning the article III courts, ''will resolve these cases more quickly and more credibly than the military commissions.''

Absolutely false, demonstrably false. Khalid Shaikh Mohammed, the kind of poster child here, the mastermind of 9/11, was before the military commission at Guantanamo, and he said he wanted to plead guilty in the military commission. That case could have been over with had his guilty plea been accepted.

I cannot think of a quicker and more successful outcome than accepting the guilty plea of Khalid Shaikh Mohammed.

When the Attorney General came before the Judiciary Committee and hemmed and hawed about what his reason was for moving this trial to the Manhattan Federal district court, he basically settled on the proposition that it would represent a more sure way to gain a conviction. I asked him: ''Mr. Attorney General, this defendant has agreed to plead guilty before the military commission. How much surer of a conviction do you get than that?''

Well, the Attorney General said he wasn't sure he still wanted to plead. But he also assured us, pursuant to a question one of my colleagues asked—what would happen if, for some reason, the court decided to let him go—the Attorney General said: ''Failure of conviction is not an option.''

In other words, he will be convicted, and both he and the President have talked about execution. If the ACLU and the administration are so intent on showing off the great American judicial system which presumes innocence over guilt—and it is literally unethical for prosecutors to go out before the public and guarantee the conviction and execution of a defendant—then it seems to me to be rather odd that this Attorney General would say: Oh, failure is not an option. He will be convicted and, by inference, he will be executed by our wonderful article III courts which, of course, presume innocence.

How the ACLU can say he would be more quickly and more credibly treated than through military commissions is beyond me, after these particular statements.

I go back to my original perplexity: As I say, I don't know whether to be more surprised by the audacity of this organization with a blatantly partisan political ad, obviously highly critical of the Bush-Cheney administration, implying it did not believe in America's values of justice and due process or by the ignorance and misrepresentation of the law by the ACLU. They have smart lawyers, so I assume it is not ignorance, but they are clearly misleading anyone who reads this ad in suggesting both that military commissions would not be pursuant to the Constitution or due process but would rather be a continuation of Bush-Cheney policies. Bear in mind, the new Military Commissions Act of 2006 is not a Bush-Cheney military commission, this is a current U.S. Congress Obama administration military commission law, signed into law by President Bush.

When the ACLU says prosecuting them in the article III courts would keep us safe without violating our Constitution, one has to assume they believe the Military Commissions Act would be violative of the U.S. Constitution, and that is incorrect.

It is unclear to me what is gained by politicizing this issue. My colleague, LINDSEY GRAHAM, has talked about the idea of some kind of bipartisan arrangement, whereby the President will acknowledge the will of the American

people, which is very strongly against trying these terrorists in the article III courts and in favor of trying them in military commissions. It seems to me there is sufficient understanding. The administration certainly agrees with the Military Commissions Act. It has said it would use that act to try some of these terrorists. It doesn't believe that act represents an unconstitutional approach to deal with these people. According to public opinion surveys, the American public opinion is very strongly of the view that these cases should be tried before military commissions.

That being the case, it seems to me there is an opportunity for us not to try to make this a partisan issue but to try to follow what the American people believe should be the case; that these cases can and should be tried before military commissions when appropriate; that there is also a place for them to be tried before article III courts; that some of them potentially can be returned to their country of origin, although that represents a significant danger, considering the fact that about 20 percent of them return to the battlefield to fight our forces or that there is a category that cannot be tried in either article III courts or before military commissions.

It seems to me we can have a legitimate discussion of this; that the law that the previous President signed into law that represents the point of view of both Democrats and Republicans, that allows for military commissions, can be used; that the President would be well within his rights to use military commissions; that it would comport with the law as acknowledged by the U.S. Attorney General and would reflect the views of the American people that it is important these terrorists be treated, first and foremost, as enemies of the United States and only if appropriate in article III courts as common criminals.

Finally, the last point I would make is, to some extent, the location of the trial is a lot less important than the primary objective when an enemy terrorist is captured; that is, to get intelligence.

I think this is what upset the American people: when, the first thing that happened, after 50 minutes of questioning of the so-called Christmas Day bomber, that he was read his Miranda rights and he stopped providing intelligence to those who were interrogating him.

Subsequently, that intelligence interrogation has resumed. But we will never know what kind of real-time intelligence was lost as a result of the reading of Miranda rights. When we try people in article III courts, we are going to have to quickly provide these Miranda rights. That ordinarily will mean we give up important—potentially give up important intelligence that we could gain by interrogating the individual.

Now, it is not the case that necessarily we would be foreclosed from trying the individual in an article III court because we can rely on something other than the confession of the individual to gain his conviction. In the case of the would-be bomber on Christmas Day, there was plenty of physical evidence: he was burned badly, there were eyewitnesses, and we did not need a confession of the individual.

So the Mirandizing in that case was largely irrelevant; the point being that what we ought to be doing is getting the intelligence first and then deciding which is the appropriate court in which to try the individual. In many cases, that will be military commissions. An organization which has studied the history of the ACLU should appreciate the fact that military commissions are constitutional. They do not violate due process rights. A defendant such as Khalid Sheikh Mohammed could be tried before a military commission in a perfectly appropriate and constitutional way, and it takes nothing away from our article III court system or from President Obama's leadership as President of the United States to hold those trials of this kind of individual in the military commissions.

To describe this advertisement, I ask unanimous consent that a Fox News article dated March 7 be printed in the RECORD at the conclusion of my remarks.

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

ACLU LIKENS OBAMA TO BUSH IN AD SLAMMING POSSIBLE REVERSAL ON KSM TRIAL

The possibility that President Obama could send the self-professed mastermind of the Sept. 11 attacks to a military tribunal has earned him the highest insult from the left—that he's another George W. Bush.

A full-page ad in Sunday's New York Times left no doubt as to how the American Civil Liberties Union feels about the possibility of the president reversing the decision to send Khalid Sheikh Mohammed and his alleged co-conspirators to civilian court.

''What will it be Mr. President?'' the ad asks in boldfaced type. ''Change or more of the Same?''

In the middle of those words are four photos that show Obama's face morphing into Bush's.

''Many of us are shocked and concerned that right now, President Obama is considering reversing his attorney general's decision to try the 9/11 defendants in criminal court,'' the advertisement continues. ''Our criminal justice system has successfully handled over 300 terrorism cases compared to only 3 in the military commissions.''

The ad follows a series of reports that reflect a softening of the administration's position that the accused Sept. 11 architects must be tried in federal court instead of military tribunals.

The public softening is part of a test, a source told Fox News, to gauge how infuriated the left would be by reversing course. The White House knows Republicans like the idea of the tribunals being used—and needs their support on other key national security matters—but a shift on this issue could poison the waters between the president and the liberal base, as demonstrated by the ACLU ad.

''As president, Barack Obama must decide whether he will keep his solemn promise to restore our Constitution and due process, or ignore his vow and continue the Bush-Cheney policies,'' the ACLU ad said.

Republican Sen. Lindsey Graham, R–S.C., speaking on CBS' ''Face the Nation,'' said the ACLU ad was out of line.

''The president is getting unholy grief from the left,'' said Graham, who supports moving the defendants to tribunals. ''The ACLU theory of how to manage this war I think is way off base.''

Some are urging groups like the ACLU to look at the bigger picture.

Attorney General Eric Holder announced in November that the defendants would be heading to Manhattan civilian court, but that move has generated a huge backlash from New Yorkers, including the mayor and police chief, as well as Republicans in Congress. The backlash has forced the administration to reconsider not just the location of the trial but the forum.

''Foreign terrorists ought not to be tried in U.S. courts. Period,'' Senate Minority Leader Mitch McConnell told Fox News. ''They ought to be taken to Guantanamo, detained there, interrogated there and adjudicated there in military tribunals.''

A source told Fox News that if the administration decides to send the case back to the commissions, it could be part of a larger bargain to get support to close the detention center at Guantanamo Bay and bring those detainees to the U.S. Congress has barred the transfer of prisoners who don't have a path to trial—those who appear to be detained indefinitely—and refused to give the president the money for a facility to house them on American soil.

Mr. KYL. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

RED RIVER VALLEY FLOODING

Mr. FRANKEN. I rise today to commend the communities of Minnesota's Red River Valley for their extraordinary flood mitigation efforts this year. Spring flooding in the Red River Valley is an enormous challenge to my constituents in Moorehead and in surrounding communities and the communities downstream.

Last year, these communities experienced record flooding with snow melt draining into the Red River and resulting in over 40 feet of water filling the valley. The families of the Red River Valley saw severe overland flooding resulting in the devastation of their homes, road closures, and the cutting off of transportation in and out of the area.

This year, the Red River Valley is getting ready for what is generally forecast to be a major flood. Right now the National Weather Service is forecasting a 90-percent chance of major flooding of over 35 feet. I spent this past weekend in Moorehead, MN, and surrounding communities and communities downstream meeting with local leaders and talking to folks on the ground getting ready for the flooding.

Their flood preparation efforts this year are truly impressive. The city of Moorehead and Clay County have been acquiring houses in the floodplain and moving them out of harm's way. As a result, Moorehead is going to need one-third fewer sandbags this year compared to last year.

Volunteers are already at work sandbagging, getting ready to fortify the levees. I went to the Moorehead facility building this weekend to bag sandbags. We do that inside. They cannot freeze; the sandbags cannot freeze. It would be like stacking frozen turkeys. They have to be unfrozen when we stack them.

The sense of community solidarity in tackling this challenge is incredible. I was struck by how much the community has unified once again around preparing for these floods, and it was fun. So I would urge folks in the area to go down to the Moorehead facility building in the next few days and weeks and sandbag.

What I took away from being there this weekend and from talking to local and community leaders is that they are doing all that they can to prepare for these floods with the resources they have. But they need our help. I am determined to make sure we are doing all we can on a Federal level to help these communities through the next few months.

Right now, Congress needs to appropriate supplemental funding for FEMA's Disaster Relief Fund. FEMA has said they are reserving their remaining disaster relief funds for immediate needs until we appropriate the supplemental funding. Yet the longer we wait, the longer communities in the Red River Valley have to wait on important flood mitigation efforts such as removing the remaining homes in the floodplain.

I have contacted the FEMA Administrator urging him to exhaust all available options while Congress approves the President's request of $5.1 billion in supplemental funding for the Disaster Relief Fund.

I stand ready to support Chairman INOUYE in any of his efforts on this or any other bill on the Senate floor to approve this $5.1 billion in supplemental funding.

Once again, I commend the communities in Minnesota's Red River Valley for their flood mitigation preparation for this year.

As the ice melts and the water rises, I will continue to fight to get Federal funding out to these communities to make sure we are doing all we can to support them in their flood preparations and in their recovery over the coming months.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

TAX EXTENDERS ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4213, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4213), to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Baucus amendment No. 3336, in the nature of a substitute.

Reid (for Murray/Kerry) further modified amendment No. 3356 (to amendment No. 3336), to extend the TANF Emergency Fund through fiscal year 2011 and to provide funding for summer employment for youth.

Coburn amendment No. 3358 (to amendment No. 3336), to require the Senate to be transparent with taxpayers about spending.

Baucus (for Webb/Boxer) amendment No. 3342 to (amendment No. 3336), to amend the Internal Revenue Code of 1986 to impose an excise tax on excessive 2009 bonuses received from certain major recipients of Federal emergency economic assistance, to limit the deduction allowable for such bonuses.

Feingold/Coburn amendment No. 3368 (to amendment No. 3336), to provide for the rescission of unused transportation earmarks and to establish a general reporting requirement for any unused earmarks.

Reid amendment No. 3417 (to amendment No. 3336), to temporarily modify the allocation of geothermal receipts.

McCain/Graham amendment No. 3427 (to amendment No. 3336), to prohibit the use of reconciliation to consider changes in Medicare.

Lincoln amendment No. 3401 (to amendment No. 3336), to improve a provision relating to emergency disaster assistance.

Baucus (for Isakson/Cardin) amendment No. 3430 (to amendment No. 3336), to modify the pension funding provisions.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we are now on our sixth day of consideration of this important legislation to create jobs and extend vital safety net and tax provisions.

This legislation would prevent millions of Americans from falling through the safety net. It would put cash into the hands of Americans who would spend it quickly, boosting the economy. And it would extend critical programs and tax incentives that help create jobs.

Now, we had a productive week on the bill last week. By my count, the Senate has considered 29 amendments on this bill. We have conducted 10 rollcall votes.

As I count it, there are nine amendments pending. Those amendments are:

The underlying substitute amendment, the Murray-Kerry amendment on the TANF emergency fund and summer employment for youth, the Coburn amendment on transparency, the Webb amendment on executive bonuses, the Feingold-Coburn amendment rescinding unused transportation earmarks, the amendment by Senator REID of Nevada on geothermal receipts, the McCain amendment on the use of reconciliation to change Medicare, the Lincoln amendment on disaster assistance, and the Isakson amendment on pension funding.

On Friday, we reached a unanimous consent agreement that, after the Senate resumes consideration of the bill tomorrow, we will conduct up to four rollcall votes in relation to the following amendments: the side-by-side amendment to the Coburn amendment on transparency, the Coburn amendment, the Murray amendment on youth jobs, and the side-by-side amendment to the Murray amendment.

And so Senators should be aware that we will have up to four rollcall votes at about 10:15 tomorrow morning.

We further agreed that at 2:30 p.m. tomorrow, the Senate will vote on the motion to invoke cloture on the substitute amendment. And we hope that we might conclude action on the bill thereafter.

Today, we will continue to process cleared amendments throughout the day.

I thank all Senators for their cooperation.

The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent to speak in morning business for up to 6 minutes.

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

VIRGINIA JOB FAIR

Mr. WARNER. Mr. President, I rise today, and while I am speaking as in morning business, it is actually speaking in support of the legislation the chairman of the Finance Committee talked about, just taking it in a slightly different direction.

We spend a lot of time talking in this body about the necessity for us to focus on jobs and how Americans feel about that search for jobs. We read about unemployment numbers at 9.7 percent. While we say, with some relief, the numbers did not pop up during February, those numbers are still way too high.

I had a personal experience—I was not planning on speaking on the Senate floor, but I wanted to share with my colleagues and others an event that happened—actually is still happening—about 45 minutes south of this Chamber.

My office had decided to sponsor a jobs fair, where we would bring together more than 30 Federal agencies. We located this jobs fair down 45 minutes, as I mentioned, south of here at the University of Mary Washington at their Stafford campus.

For those who do not follow all of the ins and outs of Northern Virginia, we are blessed in Northern Virginia and Virginia overall with actually a rather low unemployment rate. Statewide our unemployment is about 7 percent, and in Northern Virginia our numbers are even much lower.

As I mentioned, we put together this jobs fair, not unlike what the Chair has done or other Senators have done. We were well represented with over 30 Federal agencies—from TSA to the Peace Corps to the Fish and Wildlife Service. We put out the word, not knowing exactly what kind of response we would get. This is the first jobs fair I have hosted as a U.S. Senator.

At first we were a little worried. Last week, last Wednesday we only had about 75 RSVPs for this jobs fair on a

college campus south of Washington. But by that Friday night we had almost 3,000 folks signed up. By yesterday afternoon, we realized, oh, my gosh, our numbers were topping out about 5,000, and we were warning people that perhaps all of the accommodations we put in place were not ready to handle this many folks. We extended the hours of the jobs fair from noon to 12 to actually 4 o'clock today.

When my staff started showing up this morning about 6:30 or 7, there were 500 people waiting in cars, many of whom had been sleeping there for hours. By 9 o'clock, when the jobs fair was supposed to start, 3,000 people were in line. I showed up there about 9:30, and, regrettably, before noon, we had topped out over 5,000, probably closer to 7,000 folks clogging the roads trying to come to this jobs fair in Stafford County, VA.

Unfortunately, we had to cut it off at that point and put out the word that we would try to have another jobs fair with these Federal agencies and some private sector partners within the next few weeks. The response was overwhelming.

As I mentioned earlier, I spent an hour simply going up and down the line of folks who were waiting. Many of these folks were people who had graduate degrees; almost all of them had college degrees. They looked like any of the kind of workforce we would see crossing any parts of our Nation's Capital today.

I heard story after story of folks who had never ever expected to show up at a Federal jobs fair, folks who had never ever expected to see their lives turned topsy-turvy by unemployment, or by folks who were still unable to change jobs because of their constraints on health care.

None of these folks were looking for a handout. They were just looking for that opportunity to talk with some of the 35-plus representatives from Federal agencies about the possibilities of getting a job. All they wanted to do was try to do a better job for themselves and their families.

So as we return to the debate on the so-called tax extenders bill, and when we work, as I know I have with the Presiding Officer, on efforts to kind of free up credit for small business owners or when we talk about how we can provide other kinds of incentives with the private sector to jumpstart the economy, while it was great to provide the possibility of these jobs in the public sector, the vast majority of jobs will and should be created in the private sector.

As we think about this piece of legislation right now, to make sure our Tax Code is supportive enough of those private sector efforts, I saw the reason for those efforts this morning in the thousands in one of the most prosperous parts of our country, in Northern Virginia.

I came back more charged up than ever that what we do here is terribly important and that the folks there in that line didn't understand rules about filibusters or holds or all the other procedural back and forth that sometimes seems to dominate the floor. What they did want us to do was to put that aside, put our partisanship aside and get the job done of trying to create more and more jobs all across the country. It is my hope in the coming weeks, when we have the next jobs fair, we will have the same kind of response. I look forward to the day, hopefully in the not too distant future, when we have a jobs fair, whether it be in Virginia or in Minnesota, that we get a few folks but that we don't get overwhelmed with the kind of literally unprecedented number of the 7,000 folks we saw today.

I yield the floor and 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. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE SPACE PROGRAM

Mr. NELSON of Florida. Mr. President, that great philosopher, that observer of the national scene, Yogi Berra, once said: ''You better be very careful if you don't know where you're going, because you may not get there.'' A bit of that policy is now the perception of President Obama's manned space program. There is a concern that the administration doesn't know where they are going and they may not get there.

I said ''perception'' because in reality the President has laid out a visionary manned space program. However, the way the administration rolled out the space program—much to the chagrin of a number of us who were trying to get through to the White House about the way they should roll it out—it was rolled out as a part of the budget and left for people to draw their own conclusions.

Among the aerospace and space community, particularly in areas such as Houston at the Johnson Space Center, Huntsville at the Marshall Space Flight Center, and Florida at the Kennedy Space Center, I can tell my colleagues that the perception is that the President has killed the manned space program. In fact, that is the farthest thing from President Obama's mind. He is an enthusiastic fan of the space program. As a matter of fact, we heard him speak many times about how as a little boy his grandfather took him to see the return of some of the Apollo astronauts coming back from the Moon. When he tells that story, his face lights up and you can see the enthusiasm he has. As he interacts by radio with the astronauts on board the space station and on board the space shuttle, you can see the enthusiasm he has.

Unfortunately, some of his advisers have not given him correct information about how to lay out his vision. So, happily, over the course of the weekend, the President has said he is going to come to Florida on April 15 and he is going to lay out his vision for the space program. What is it? Well, we can anticipate that the President will say what he already had his Administrator of NASA say in our committee hearing last week, which is that the goal is Mars. Mars is the next logical goal. We were on the Moon 40 years ago. There could well be interim steps on the way to Mars: possibly the Moon; possibly rendezvousing and landing on an asteroid; possibly—and very likely—to go to one of the moons of Mars such as Fobos, before going actually to Mars. Why? Because it would expend a lot less energy to land on a moon of Mars and return than it would to go on down to the red planet.

The President actually laid out in his robust budget proposal to the Congress a $6 billion increase for NASA over the course of the next 5 years. Compared to other agencies of the government, NASA did very well. The President is also to be commended for his budget proposal in which he said what everybody knew he had to say—which the Bush administration had ignored—which was we have this $100 billion asset up there in orbit called the International Space Station. We are completing it now and we are equipping it now where we can get a crew of several astronauts—not just one, two, or three—on board to use it as a national laboratory, as it is technically designated. What he said was that we are not going to stop it in 2015. We are going to at least carry it out to 2020. Again, that was the logical thing that everybody knew. But if you can believe it, in the previous administration, it had not been budgeted to continue beyond 2015 the International Space Station which we haven't even completed yet, and of which the last four flights will not only complete the construction, the equipping, but will take up major scientific experiments such as the alpha magnetic spectrometer which, if it works, is going to open our understanding of the universe and what the origins of the universe are.

So the President laid out a fairly good plan that had some good things in it, but he left himself open to misinterpretation so that not only is there the perception that the President has killed the manned space program, but there is outright hostility toward President Obama and his proposals for the Nation's human space program.

Why did that occur? Well, No. 1, the President didn't make the declaration. Why is that important? Because only a President can lead the Nation's human space program. Of course, the best example of that was that after the Soviets had surprised us in the late 1950s

with Sputnik and then they surprised us again in 1961 by putting the first human in orbit, Yuri Gagarin—and we didn't even have a rocket that was strong enough to get us into orbit with our little Mercury spacecraft. We had the plan to go into suborbit with Alan Shepard, and after Shepard came back, it took that bold stroke of President Kennedy to say, In 9 years, we are going to the Moon and will return safely. That is leadership. That is a declaratory judgment. That is stepping out and being bold.

If we are going to Mars, it is going to take the President to say that; not to tell his NASA Administrator in the Space Subcommittee hearing in the Senate last week that the Administrator can say that the goal is Mars. It has to take the President to say that and he has to set out a specific timeframe. It can be approximate, but it has to be a reasonable timeframe. He then has to say to NASA: You figure out the architecture; you set the benchmarks. So is it to go back to the Moon for a temporary mission? Is it to go to an asteroid? Is it to go on and try to go straight to Mars? Then we will unleash the creative spirit, the human ingenuity of Americans as we have seen in this extraordinary program. The heartbeat of every American is a little faster when they see some of the extraordinary, heroic accomplishments we have had in the American space program, both manned and unmanned space accomplishments.

The President let himself be misinterpreted. He said in his budgetary message that he was cancelling the Constellation program. The Constellation program was a program that was announced 5 or 6 years ago by President George W. Bush, but the Bush administration never funded it. In fact, they starved NASA so that the building of the new rocket is not ready when the space shuttle is now being set for retirement. Why is that? Well, that decision on the space shuttle came as a result of the destruction of *Columbia* over the skies of Texas on reentry back in 2003.

The investigation commission, headed by a Navy admiral named Gehman, called the Gehman Commission, otherwise known as CAIB, the Columbia Accident Investigation Board—they refer to it as the acronym CAIB—they said, after a decade, at the end of the decade: If you are going to continue to fly the space shuttle, you are going to have to recertify all these orbiters that have been going on since the early eighties.

The decisions were made to shut down the space shuttle program at the end of the last decade. We find the shuttle program is, in fact, coming to an end without the new rocket being ready and, therefore, we have the angst that is in this aerospace community, this close-knit family called the NASA family who are going to be seeing so many of the men and women who are so dedicated to this program being laid off because if you are not launching Americans on American rockets, then the jobs are not there.

Unfortunately, those decisions we tried to avert over and over. In the last 5 or 6 years in the Senate, we put additional money into NASA's exploration program to try to speed the development of the rocket. Over and over, the previous administration cut us off at the knees, would not support it, and we could not get the votes in the House of Representatives to keep that additional money. As a result, we have a rocket that is just in its testing stages, a capsule that has not been built, and, as the President's advisers looked at it, they saw it was going to be well on into this decade before it would be ready, so they up and announced they are going to cancel this program called Constellation, which was the development of the Ares rocket and the development and construction of a capsule called Orion. But they also said: We want the R&D of a heavy-lift vehicle. There came the disconnect because people who do not understand the space program were making decisions. I lay it at the feet of some of the folks in OMB, the Office of Management and Budget. If you are going to build a heavy-lift vehicle, the likelihood is you cannot do that entirely with liquid rockets; you need solid rockets to propel that massive weight up into low Earth orbit.

The solid rockets are what we are testing now. Thus, the President allowed his administration to be perceived that they were killing the manned space program when, in fact, there was nothing further from what he intended.

What are we going to do about it? Let's go back to the announcement made over the weekend. I commend the President. I am very thankful to the President that he has said he is coming to Florida for a major discussion and announcement on the human space program. This will occur April 15. It will occur in Florida. I assume it will be at the Kennedy Space Center or somewhere close by, which is the logical place, from whence we have sent Americans into the cosmos.

I think that is a step in the right direction for the President. But he needs to be prepared with specifics because of the perception that he has killed the manned space program. Because of the hostility he has generated because of that perception, the President needs to be prepared with specifics of the goal, the timeframe, the benchmarks, the suggested architecture, and how he would take his budget to flesh out moving toward that goal.

May I give some suggestions to the President on how he might achieve that. In the first place, there are four additional shuttles manifested to fly and, with that, the completion and the equipping of the International Space Station.

But there is a fifth shuttle that can fly because the external tank is there. It is referred to as the ''mission on demand'' because, in effect, it is a rescue shuttle to go up, if a space shuttle got marooned, and rescue them.

What about a rescue for the last and the fifth shuttle? The risk is minimal because the mission would be to the space station. If the worst happened on launch, just like Columbia, that a piece of the delicate silicon tiles fell off and knocked a hole in the wing, of which they then could not come back into Earth without burning up, then they could take safe sanctuary in the International Space Station because now it is large enough to accommodate additional crew members until a rescue spacecraft could come to rescue them to take them back to Earth.

The risk to safety is minimal on a fifth shuttle flight. The President should announce he is asking NASA to do that fifth flight.

By the way, the money is already there. If the four flights, as scheduled, get off between now and the end of the fiscal year, September 30, there is the money in the first quarter of fiscal year 2011 for an additional flight. You don't have to get any additional money. It is budgeted. The President should announce that.

The next thing the President of the United States should do is say we are going on a full-scale, aggressive R&D program to develop that heavy-lift rocket that is going to get us up into low Earth orbit so we can assemble things and go to whatever the next station is—the Moon, asteroid, the Moon of Mars. That aggressive R&D effort should be the continued testing of a solid rocket booster, not unlike the one that has already been successfully tested.

Concurrent with that, there should be the development of a crew exploration vehicle, otherwise known as a capsule, that would carry astronauts up into low Earth orbit on this heavy-lift vehicle that would allow us to do the assembly and all the other things we want to do. This does not have to take away from the President's proposal that commercial companies are encouraged to compete against each other to have a cargo and human ferry service to and from the International Space Station, for that can go on concurrently. Although I must say, in a couple weeks, we are having a hearing in our Space Subcommittee. We are going to look at the commercial rocket competitors and whether they need the $6 billion the President has recommended over the next 5 years in order for them to get humans to and from the International Space Station. The President should then clearly say we are going to do an aggressive R&D effort to build a heavy-lift vehicle.

Because of the angst among space workers in the middle of a recession, some of whom have already been laid off, others of whom are getting pink slips and others of whom fear for their jobs, let us remember a recession is not a recession if you have been laid off from your job. It is a depression. The angst of this economic recession with

losing their job and not knowing where to turn elsewhere is among them. Therefore, my next recommendation to the President would be that he address those fears.

He has already said he wants to spend $2 billion to help the center that is going to be the most impacted. I have had estimates that with the layoff of the shuttle program, it is about 5,000 jobs. The President should address that point. He should point out in his budget the $2 billion he offered to modernize the Kennedy Space Center, how that will affect jobs, and what part of that 5,000 could be ameliorated.

Then the President should say—and it is my humble, respectful suggestion—there are plenty other jobs in the aerospace community, and he is going to try to bring them into places such as the Kennedy Space Center, that is going to feel the effects of these layoffs, to help people on a temporary basis until we can get back into the business of launching humans.

I humbly, respectfully request that the President say: The commercial boys who are bidding in a competition to be the service to and from the International Space Station have to hire, if they are the successful bidders, those people who are so skilled and who have not missed a beat in all these, lo, many years of which the American space program has been so tremendously successful. That is the next thing I would respectfully ask the President to do.

Then, I think the President has to directly confront his critics, those who, in political parlance, are taking cheap shots at the President—and he has left himself open to those cheap shots—that he would directly confront them head on and say: The American space program is not a partisan program, it is not an ideological program; it is an American program, and it has always been run that way. That is the way he should say he is going to continue to run that program and that he should get those people to quiet down, get in the harness, and let's all pull together what we all want to do, which is go out there and explore the heavens.

By the way, on that fifth shuttle flight, some people have asked me: What can it do? What is its function, other than just flying an additional shuttle? There is a lot of equipment, a lot of experiments that can be put in it, and it can take up an additional component, attach it to the space station and add volume to an already expansive space station that will allow us to do experimentation in the zero gravity of orbit for years and years to come.

For all these reasons, I am so grateful to the President that he has stepped forth and said he is going to come and address this issue. I respectfully request that he consider some of the suggestions I have made.

At the end of the day, it is what he wants, it is what the Nation wants because every American heart beats a little bit quicker when they happen to witness the extraordinary feats of Americans in space and the peeling back of the frontiers and the new knowledge and scientific results that we have of the spinoffs as we develop these incredible flying machines.

Mr. President, it is an urgent plea that I make to the White House. Listen to some advice. Stop listening just to the budget boys and OMB. Listen to the cries of an American people who once again want to be challenged and inspired, as President John F. Kennedy inspired the Nation and the Nation came together and did what was considered to be almost the impossible. It wasn't impossible. It was extraordinary, and it was an American achievement.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IRAQI PARLIAMENTARY ELECTIONS

Mr. MCCAIN. Mr. President, these are days when we Senators take to the floor to express our anger and criticism of actions or events we disagree with. But then there are days we rise happily to pay tribute to great and noble achievements. Today is such a day.

The people of Iraq went to the polls yesterday and struck a blow for freedom and democracy that has resounded across the world. As opposed to Iraq's last national elections in 2005 which saw the country rigidly divided along sectarian lines, with most Sunnis refusing to participate altogether, the election yesterday was broadly inclusive, with a host of cross-sectarian lists competing for the vote.

Early reports indicate turnout was high among Iraq's nearly 19 million registered voters. Over 50,000 polling stations were up and running across the country with more than 200,000 Iraqis observing the election.

Loud speakers in mosques that once implored Iraqis to take up arms and kill Americans appealed to them yesterday with a different purpose: to express their desire for a better Iraq—not with bullets but with ballots, not with bombs but with ink-stained fingers.

Tragically, as most of us feared, yesterday's events did not proceed without incident. Al-Qaida and other terrorists lashed out with acts of barbaric violence against innocent Iraqis—women and men, fellow Muslim and fellow Arabs, even young children. Although these criminals did take the lives of at least 37 people, Iraqis were not deterred. They voted by the millions anyway, and in so doing they defied the enemies of their great nation. The Iraqi people deserve the lion's share of the credit for making yesterday's election such a resounding triumph for democracy.

Iraq's Government, its High Electoral Commission, and its security forces all conducted themselves with distinction. I congratulate them all. It has been Iraqi courage, Iraqi sacrifice, and Iraqi endurance over many years of hardship that are now bringing about the country's emergence as an increasingly free society.

Yet Iraqis have been fortunate to have committed allies in their struggle for justice. I thank America's civilians and diplomats, as well as those of our coalition partners and the United Nations for supporting our Iraqi friends in this election and throughout the countless challenges that preceded it.

Most of all, I want to express my deepest gratitude to America's men and women in uniform who have given more to our mission in Iraq than could ever be asked of them. As our troops return home in the months ahead, as they must, it will be with the knowledge that their mission has been worth fighting for, with the thanks of a grateful nation, and with an honor won for themselves that time will not diminish.

Our fellow citizens who have served in Iraq these past several years have done what many once believed to be impossible. It was once assumed that Iraq was unfit for democracy, that Iraq's people could not practice it, and Iraq's culture would not allow it.

It was once assumed that America was trying to ''impose'' democracy on Iraq, or perhaps ''export'' it to Iraq. It was once assumed that no manner of additional U.S. troops could succeed in helping Iraqis to secure their country. These were all popular assumptions, especially in this town—popular but wrong. Thankfully, the United States followed a different course. Because we did, Iraqis are showing that freedom and democracy are Iraqi dreams and, increasingly, Iraqi realities. Iraqis are choosing to resolve their differences through cooperation and dialogue not violence and repression. They are demonstrating that Iraqis share the same basic aspirations as you and me: safe neighborhoods, opportunity for themselves and their children, equal access to justice, a chance to elect those who would govern them, and to live under laws of their own making.

Yesterday the citizens of Iraq once again reaffirmed that a nation's past need not determine its future when citizens of courage are devoted to a just cause that is greater than themselves.

I will be the first to admit that Iraq still faces many difficulties: a limited but lethal terrorist threat, the unhelpful meddling of some of its neighbors, weak political institutions, a still developing economy, and a culture of distrust that will take a long time to heal.

There is much hard work still to be done in Iraq, and the United States

must remain fully seized with it. In the weeks ahead, we must support our Iraqi friends in the arduous task of forming their new government. In the months ahead, as U.S. troops return home, we must deepen and expand America's diplomatic and economic engagement with Iraq. In the years ahead, the United States, especially our Congress, has a responsibility to continue providing the critical support, including the necessary resources to strengthen Iraq's young democracy.

We have given much to this effort already, but now is not the time to scale back. Although our military mission is ending, our commitment to Iraq will endure, and must endure, for a long time to come. The fruits of this commitment are already becoming evident for the United States. We have not seen eye to eye with the current Iraqi Government at all times. I am fairly certain that we will have our share of disagreements with future Iraqi Governments. But this does not change the fact that Iraq has transformed in just 8 years from a principal enemy of the United States to a rising partner in the fight against violence, extremism; from a generator of insecurity to an emerging source of stability in the midst of a volatile region; and from one of history's most reprehensible tyrannies to a growing inspiration for people across the Middle East who still yearn for freedom and justice in their own countries.

When Iranians look at a democratic Iraq today amid violent and bloody military crackdowns in their own country, they must be thinking: Why not us? When Syrians look at a democratic Iraq today among the stifling climate of oppression in their own country, they must be thinking: Why not us? And when our friends in Egypt, Saudi Arabia, and other nations in the region, where liberty is not assured, watch a peaceful transition of power in Iraq from one freely elected government to another, they must also be thinking: Why not us?

The citizens of Iraq are now writing a new and hopeful chapter for their country, but also for the region as a whole, whose people are increasingly looking to emulate Iraq, its freedoms, its rule of law, its security of human dignity, its equal rights, and equal justice. This is the start of something new and wondrous in the Middle East, a renaissance of sorts, and Iraq is at the very forefront.

The war in Iraq is ending, but America's partnership with the new Iraq is only just beginning. No matter where any of us stood in the old debates of the past, Americans should all be able to agree now that the emergence of a free and democratic Iraq is one of the greatest strategic opportunities in all of U.S. foreign policy.

America and our allies have created this opportunity. Iraqis have expanded it and seized it. Now let's all come together to usher in a new era of liberty not just for Iraq but for the entire Middle East.

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. MERKLEY. 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. MERKLEY. Mr. President, I rise this evening to speak about a simple amendment that would go a long way to save a lot of jobs in our timber industry and our forested communities.

To give a little bit of background, the collapse of the housing market has devastated the timber industry and the many rural communities that depend on it, resulting in major job losses. Because of a fate tied to the housing industry, the timber industry is one of the hardest hit by the current recession, with timber prices at a record low. That precipitous drop in timber prices has created a unique and very threatening problem for companies that harvest timber on federally owned lands. Specifically, a lot of companies bid for contracts to harvest timber and they did so right before the housing market and then the timber market collapsed. So those companies bid. Some won contracts, and those that won those contracts won them at a very high price for the timber. They could make a profit selling that timber when they harvested it, but by the time the process was completed, the timber prices had fallen through the floor. At the current record-low timber prices, harvesting under contract would cost more than the timber is worth. So the companies would lose money by going forward, resulting in major losses and leading to layoffs and lost jobs.

This takes us to an interesting point where there are two possibilities: one is a contract with the Forest Service, and one is a contract with the BLM, Bureau of Land Management. If a company is fortunate enough to have a contract with the Forest Service, they can apply for and receive an extension, giving them more time to act on the contract and harvest the timber. Given the unique circumstances we find ourselves in, that is of great value. It makes sense. It is a simple way to save jobs. But, unfortunately, if your contract is with the Bureau of Land Management—and that Bureau manages 69 million acres of forested land across our Western States, much of it prime timberland—the same rules are not set up for companies that happen to do business with the BLM rather than the Forest Service. Their only alternative is harvesting timber at a loss and to lose the contract and lose the business altogether. This makes no sense as a policy. In Western States such as Oregon where Forest Service and BLM lands are side by side, you can find yourselves on the Forest Service land one moment and BLM land the next. It is practically arbitrary whether a company is working with an agency that can give them a commonsense extension, as the Forest Service can, or an agency that cannot give them that commonsense extension, which is the BLM.

My amendment is simple. It allows companies to apply for a contract extension and authorizes the BLM to review and grant those applications so we can save those jobs. It applies the same rules to the BLM that the Forest Service already has in place. Indeed, the language of the amendment is identical to a companion bill that has already passed the House. Furthermore, the Congressional Budget Office has determined there is no significant financial impact for this bill.

I have spoken to many of my colleagues on both sides of the aisle, and I haven't found anyone who has an objection to this amendment. This is one of those commonsense opportunities to cut a little bit of redtape; a commonsense opportunity to assist companies that were caught in an unexpected trap; a commonsense opportunity to strengthen our rural resource-based companies and the jobs that go with them.

So I put forward this amendment, and, as I noted, everyone I have spoken to on both sides of the aisle says it makes a lot of sense, but some objection has been placed anonymously. So I simply wish to ask that any colleague who has an objection to this effort to help the timber companies, to help our rural resource-based communities, to please come and talk with me because I am sure that whatever concern you have, I should be able to get a good answer for your concern.

We have in this Chamber the opportunity to help some of the hardest hit communities with a simple amendment such as this. I hope we can seize that opportunity. That is the type of bipartisan problem-solving Americans are hoping to see in the Senate.

Thank you. Thank you to my colleagues who have been so helpful in reviewing this amendment on both sides of the aisle. Thank you to my colleagues who will be helpful as we try to put this commonsense amendment in place.

Thank you, Mr. President.

PBGC GOVERNANCE

Mr. KOHL, Mr. President, I rise to talk about the importance of retirement security and the Pension Benefit Guaranty Corporation, the Federal agency responsible for insuring the pension plans of nearly 44 million Americans. Unfortunately, this vital agency in November of 2009 reported a total deficit of nearly $22 billion. Furthermore, the PBGC said its potential exposure from financially weak companies that may not be able to honor their pension payments is currently about $168 billion, an increase of $121 billion from the prior year.

The American Workers, State, and Business Relief Act includes provisions

to offer limited pension funding relief to companies that provide defined benefit plans. While this relief is much needed, I am concerned about any such action that could increase the liability of the PBGC in its current state. As we found at an Aging Committee hearing last year, the agency sorely lacks the oversight and policy direction it requires.

There is little doubt that an improved PBGC governance structure is necessary. The PBGC's boards consist of only three members: the Secretary of Labor, the Secretary of Treasury, and the Secretary of Commerce. These three members obviously have their own agencies to run, and are doing so during an economic crisis.

The Government Accountability Office has indicated for years that the PBGC board members do not have enough time or resources to provide the policy direction and oversight required by the agency. In 28 years, the full board has met only 20 times. These findings have been echoed in reports by the McKinsey & Company consulting group and by the Brookings Institution.

The role of PBGC is too crucial to allow its governance to slip through the cracks. And we have seen devastating results when it has. The former PBGC Director was able to adopt a risky investment strategy just months before the market downturn and inappropriately involve himself in the bidding process, with little more than a rubberstamped approval from the board.

We must ensure that these problems do not impact the ability of the agency to function going forward. I have crafted an amendment based on the PBGC Governance Improvement Act, a bill I introduced with Senators BENNET, MCCASKILL and FEINGOLD, which would significantly improve the PBGC board's governance oversight structure. First and foremost, the amendment would expand the Board's membership, requiring it to meet at least four times a year, and ensuring that the board retains continuity during a change in administration. The amendment would also ensure the PBGC Advisory Council, inspector general, and general counsel have full and direct independent access to the entire board. Finally, the amendment would require the PBGC director to recuse him or herself from potential conflicts of interest, to include any involvement with the agency's technical evaluation panels. These small commonsense changes are a bare minimum needed to make sure the PBGC is secure and taxpayer's are protected.

The role of the PBGC is a vital one, now more than ever. For 44 million Americans with defined benefit pension plans, PBGC is the only thing that stands between the secure retirement they have worked so hard for, and the prospect of living without the retirement income they have earned. We must get the PBGC back on track, or face the possibility of absorbing its obligations as taxpayers.

Mr. HARKIN. Mr. President, I understand the concerns raised by Senator KOHL, and agree that these are serious issues that need to be addressed. While I believe that short-term, targeted pension funding relief is critically important and should move as quickly as possible, I would welcome the opportunity to work with my colleagues to pursue longer term solutions addressing the many challenges facing our defined benefit pension system, including PBGC governance.

I plan to hold hearings in the HELP Committee this year addressing the state of the defined benefit system and the PBGC. I look forward to discussing with Senator KOHL the ideals and goals reflected in the Pension Benefit Guaranty Corporation Governance Improvement Act of 2009, and I thank him for bringing this important legislation to my attention. I hope that we can work collaboratively on legislation to improve the security of defined benefit pensions and the agency that insures these plans, as well as on broader initiatives to build greater retirement security for all working families.

Mr. BAUCUS. I applaud the chairman of the Select Committee on Aging for raising this important issue. I look forward to working with him and the chairman of the Health, Education, Labor and Pensions Committee on addressing the shortcomings he has highlighted.

Mr. KOHL. With those assurances, I will not offer my amendment and look forward to working with Chairman HARKIN and Chairman BAUCUS on improving the PBGC.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that on Tuesday, March 9, after any leader time, the time until 11 a.m. be for a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders, with the Republicans controlling the first portion; that at 11 a.m., the Senate resume consideration of H.R. 4213 and proceed as under the order of March 5, with all provisions of that order remaining in effect.

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

UGANDA RECOVERY ACT

Mr. LEVIN. Mr. President, I am a cosponsor of a bill introduced by Senators FEINGOLD and BROWNBACK, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act. I am one of the 62 cosponsors of this legislation, and I believe this broad bipartisan support speaks to both the urgency of this issue and the importance of this legislation.

On a continent plagued by man-made tragedy, the Lord's Resistance Army stands out as a manufacturer of that tragedy. The U.S. State Department describes the LRA as ''vicious and cultlike.'' Formed in the 1980s to overthrow the Ugandan government, the LRA engaged in such widespread violence that at one time, about 2 million Ugandans were displaced from their homes. The LRA massacred, mutilated and abducted civilians, and forced many into sexual servitude. An estimated 66,000 Ugandan youths were forced to fight for the group.

The good news is that the Ugandan government has now largely pushed the LRA out of Uganda. The bad news is that the scars it has left behind are raw and real for Ugandans; and that meanwhile, the LRA has moved into parts of Sudan, the Democratic Republic of Congo, and the Central African Republic, continuing to spread violence and terror. Between September of 2008 and July of 2009, the United Nations estimates that LRA violence claimed 1,300 civilian lives, that the LRA abducted another 1,400 civilians, and that more than 300,000 were forced from their homes.

This legislation, which 63 Senators support, would take a number of steps to address both the aftermath of the LRA's rampage in Northern Uganda and its continuing violence in Uganda's neighbor nations. The Act would require that within six months, the United States develop a comprehensive strategy for dealing with the LRA, including an outline of steps to protect the civilian population against LRA violence. The act would authorize funding under the Foreign Assistance Act of 1961 to provide humanitarian assistance in areas affected by LRA. And it would provide assistance for reconstruction and for promotion of justice and reconciliation in areas of Uganda recovering from the LRA's depredations.

It is unfortunate that despite the broad and bipartisan support for this legislation, apparently only one Member of the Senate objects to it and is able to block its consideration. As with so many measures before the Senate, there is little doubt that this bill would win overwhelming passage were it allowed to come to the floor.

But the innocent victims of LRA violence, past and present, need our help. The objection of one Senator should not be allowed to thwart us responding to that need.

ADDITIONAL STATEMENTS

REMEMBERING JOEL WAHLENMAIER AND JAVIER BEJAR

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the memory of two respected and dedicated public servants, Fresno County Sheriff's Deputy Joel Wahlenmaier and

Reedley Police Officer Javier Bejar. Deputy Wahlenmaier and Officer Bejar were tragically killed in the line of duty while helping officers with the California Fire Marshal's office serve a warrant on a suspected arsonist in Minkler, CA.

Deputy Wahlenmaier was born in Bakersfield, CA, and raised in Fresno. After spending his early career in construction, Deputy Wahlenmaier joined the Fresno County Sheriff's Department in 1998. During his tenure with the department, he worked as a detective in the homicide and property crime bureaus and he was a longtime member of the department's search and rescue team.

Deputy Wahlenmaier is survived by his wife Beverly and children Amy and Austin. He had a profound love of the outdoors. He was a skilled fisherman and hunter who enjoyed skiing and water sports. Those who knew Deputy Wahlenmaier will always remember him as a trusted, caring, and kind colleague and friend, and above all else, a devoted family man.

Officer Bejar was born in Mexico and moved to the United States with his family at the age of 3. He grew up in Orange Cove in Fresno County. While a student at Reedley High School, he became an Explorer Scout in the Reedley Police Department Police Explorer Program, which teaches young people interested in pursuing a law enforcement career the fundamentals of police service. After graduating from high school, he joined the U.S. Marine Corps, during which time he served a 14-month tour in Iraq and Kuwait and earned the rank of sergeant before he was honorably discharged. Officer Bejar joined the Reedley Police Department in 2005. He was named the Reedley Police Department Officer of the Year in 2007 and he received a lifesaving medal in 2009.

Office Bejar is survived by his wife Miriam, his parents, and seven siblings. He will always be remembered as a gentleman with an engaging personality who was committed to his job and family.

Deputy Wahlenmaier and Officer Bejar dutifully served the residents of Fresno County with great selflessness, integrity, and valor. Their devotion to help others and passion to make a positive impact on the community epitomize the best ideals of law enforcement. Their lasting contributions to public safety and law enforcement are greatly appreciated. They will be sorely missed.

We shall always be grateful for Deputy Wahlenmaier and Office Bejar's heroic service and the sacrifices that they made while serving the community and the people they loved.●

TRIBUTE TO LIEUTENANT GENERAL EMERSON GARDNER, JR.

● Ms. MIKULSKI. Mr. President, today I wish to thank LTG Emerson Gardner, Jr. for his outstanding service to our great Nation and to congratulate him on the occasion of his retirement.

Lieutenant Genera Gardner hails from the great State of Maryland and next week he will retire from the U.S. Marine Corps after 37 years of faithful and superb service. Duty, honor, country—the Marine Corps motto—are not just words to him. I am so proud of General Gardner's accomplishments and service and would like to share a bit more about this great marine.

Lieutenant General Gardner is a 1973 cum laude graduate of Duke University. He was named an Olmsted Scholar in 1978 and studied history and political science for 2 years at Goettingen, Germany. He is a graduate of The Basic School, Defense Language Institute, Marine Corps Command and Staff College, Armed Forces Staff College, the Norwegian Defense College and the National Security Leadership Course at the Maxwell School of Citizenship and Public Affairs at Syracuse University.

As a distinguished naval aviator, Lieutenant General Gardner served as a helicopter pilot in all three Marine air wings. He was hand-picked to serve as a White House liaison officer and Presidential helicopter command pilot for President Ronald Reagan. As commanding officer of HMM–261, Lieutenant General Gardner led the Raging Bulls in Operation Sharp Edge, the evacuation of Liberia, and into major combat operations during Operations Desert Shield and Storm. It is also important to note that during his career, he has accumulated more than 4,300 flight hours in most of the aircraft currently in the Marine Corps inventory.

Lieutenant General Gardner also served as one of seven Marine Expeditionary Unit commanders in the world. As the commanding officer of the 26th Marine Expeditionary Unit, Special Operations Capable, he led Operation Silver Wake, the noncombatant evacuation, NEO, of Albania, Operation Guardian Retrieval, contingency support for a NEO of Kinshasa, Zaire and Dynamic Response, the first employment of SACEUR's Strategic Reserve into Bosnia.

Lieutenant General Gardner has served as G–3 current ops officer with the 9th Marine Amphibious Brigade in Okinawa, deputy G–3 for II Marine Expeditionary Force and as the J–3, operations officer, for the Standing Joint Task Force, MARFORLANT. He was also the assistant chief of staff for operations and logistics at Allied Forces Northern Europe at Kolsas, Norway and at Allied Forces Northwestern Europe, in High Wycombe, England. Soon after this assignment, he served as assistant deputy commandant for aviation at Headquarters Marine Corps, Washington, DC. His tour as the deputy commander of U.S. Marine Corps Forces, Atlantic included extended temporary additional duty as the deputy J–3 for current operations at U.S. Central Command in support of Operation Enduring Freedom. General Gardner served as the director for operations, J3 at U.S. Pacific Command, the deputy commandant for programs and resources at Headquarters, Marine Corps and currently as the director for cost assessment and program evaluation for the Secretary of Defense.

With such an honorable and distinguished career, it is only fitting that I share with you his long list of military awards and decorations which include the Defense Distinguished Service Medal, multiple awards of the Defense Superior Service Medal, Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal, Air Medal, Navy Commendation Medal and the Presidential Service Badge.

Under Lieutenant General Gardner's guidance, the Marine Corps expanded its personnel and strengthened its readiness. He led the Marine Corps' efforts to acquire MRAPs and other vital equipment so needed by our marines, soldiers and airmen in Iraq and Afghanistan. As a result of his work, the force has never been stronger and it is his honesty and integrity which both his subordinates and superiors admire. Anyone who knows General Gardner knows of his commitment to lead and mentor young marines, his dynamic and persuasive personality, his careful, thoughtful and precise preparation of all things—mission or brief—and of course, his steadfast and unwavering dedication to the men and women serving in the U.S. Marine Corps.

The history of our great Nation is comprised of men, just like General Gardner, who have so bravely fought for the ideals of freedom and democracy. It is humbling for those of us who, far from the dangers they have faced, live our lives in relative comfort and ease. Today our country owes General Gardner, as well as his wife Vivian, and children Phil, the oldest Nick, a corporal in the Marine Corps who served in Iraq, Christian, a lance corporal who will deploy to Afghanistan in June as a Marine Corps sniper, and Marc who wants to be an engineer, our warmest of thanks and deepest appreciation for all that they have done. I offer my sincerest gratitude for his decades of service and I salute LTG Emerson Gardner as he retires from the U.S. Marine Corps. Semper Fi!●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, 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 which were referred to the appropriate committees.

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

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–4944. 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; Continuation of Essential Contractor Services'' (DFARS Case 2009–D017) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Armed Services.

EC–4945. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary of the Army (Acquisitions, Logistics and Technology), received in the Office of the President of the Senate on March 3, 2010; to the Committee on Armed Services.

EC–4946. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Unfair or Deceptive Acts or Practices'' (RIN3133–AD47) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4947. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Secondary Capital Accounts'' (RIN3133–AD67) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4948. 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; 1-Hour Ozone Extreme Area Plan for San Joaquin Valley, CA'' (FRL No. 9108–4) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4949. 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 Air Quality Implementation Plans; Wisconsin; NSR Reform Regulations—Notice of Action Denying Petition for Reconsideration and Request for Administrative Stay'' (FRL No. 9123–4) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4950. 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 ''Determination of Nonattainment and Reclassification of the Atlanta, Georgia, 8-Hour Ozone Nonattainment Area; Correction'' (FRL No. 9122–1) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4951. 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 ''Michigan: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL No. 9121–2) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4952. 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 ''National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Paints and Allied Products Manufacturing—Technical Amendment'' (FRL No. 9122–9) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4953. 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 ''National Priorities List, Final Rule—Gowanus Canal'' (FRL No. 9120–8) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4954. 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 ''National Priorities List, Final Rule No. 49'' (FRL No. 9120–7) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4955. 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 ''Source-Specific Federal Implementation Plan for Navajo Generating Station; Navajo Nation'' (FRL No. 9122–3) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4956. 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 ''Technical Amendment to the Outer Continental Shelf Air Regulations Consistency Update; Correction'' (FRL No. 9123–1) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Environment and Public Works.

EC–4957. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Reduced 2009 Estimated Income Tax Payments for Individuals with Small Business Income'' (RIN1545–BI89) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Finance.

EC–4958. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled, ''Report to the Congress: Medicare Payment Policy''; to the Committee on Finance.

EC–4959. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Agency's response to the GAO report entitled ''UN OFFICE FOR PROJECT SERVICES: Management Reforms Proceeding but Effectiveness Not Assessed, and USAID's Oversight of Grants Has Weaknesses''; to the Committee on Foreign Relations.

EC–4960. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Multiemployer Pension Plan Information Made Available on Request'' (RIN1210–AB21) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–4961. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Rules under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008'' (RIN0938–AP65) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–4962. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''District's Earmark Process Needs Improvement''; to the Committee on Homeland Security and Governmental Affairs.

EC–4963. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; Emergency Rule'' (RIN0648–AY52) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4964. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Data Collection for the Trawl Rationailzation Program'' (RIN0648–AX98) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4965. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Initial Implementation of the Western and Central Pacific Fisheries Convention; Correction'' (RIN0648–AV63) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4966. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries in the Western Pacific; Pelagic Fisheries; Vessel Identification Requirements; Correction'' (RIN0648–AY52) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4967. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2009 and 2010 Harvest Specifications for Groundfish; Correction'' (RIN0648–XL28) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4968. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

''Fisheries of the Northeastern United States; Reporting Requirement for Midwater Trawl Vessels Fishing in Closed Area I'' (RIN0648–AX93) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4969. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Black Sea Bass Fishery; 2010 Black Sea Bass Specifications; Emergency Rule'' (RIN0648–XT99) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4970. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf Coast of Alaska'' (RIN0648–XU20) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4971. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer'' (RIN0648–XT93) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4972. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XU11) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4973. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (RIN0648–XU12) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4974. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XU20) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4975. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for American Fisheries Act Catcher-Processors Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XU52) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4976. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XU51) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4977. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Non-American Fisheries Act Crab Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XU37) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4978. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XU36) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4979. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Trawl Limited Access Fishery in the C. opilio Bycatch Limitation Zone of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XU34) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4980. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (RIN0648–XU33) received in the Office of the President of the Senate on March 3, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4981. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction'' (RIN0648–XU24) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4982. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska'' (RIN0648–XU27) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4983. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock for American Fisheries Act Catcher Vessels in the Inshore Open Access Fishery in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XU30) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Commerce, Science, and Transportation.

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. DODD (for himself and Mr. GRASSLEY):

S. 3086. A bill to support high-achieving, educationally disadvantaged elementary school students in high-need local educational agencies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MENENDEZ (for himself and Mr. KERRY):

S. 3087. A bill to support revitalization and reform of the Organization of American States, and for other purposes; to the Committee on Foreign Relations.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 3088. A bill to reduce the number of executive branch political appointments; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. CASEY:

S. Res. 446. A resolution commemorating the 40th anniversary of the Treaty on the Non-Proliferation of Nuclear Weapons; to the Committee on Foreign Relations.

By Ms. MIKULSKI:

S. Res. 447. A resolution expressing the sense of the Senate that the United States Postal Service should issue a semipostal stamp to support medical research relating to Alzheimer's disease; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 348

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 348, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 362

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a

cosponsor of S. 362, a bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes.

S. 678

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) 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. 981

At the request of Mr. REID, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 981, a bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1320

At the request of Mr. TESTER, the name of the Senator from Idaho (Mr. RISCH) was withdrawn as a cosponsor of S. 1320, a bill to provide assistance to owners of manufactured homes constructed before January 1, 1976, to purchase Energy Star-qualified manufactured homes.

At the request of Mr. TESTER, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 1320, supra.

S. 1783

At the request of Mr. FRANKEN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1783, a bill to amend the Agricultural Marketing Act of 1946 to provide for country of origin labeling for dairy products.

S. 2760

At the request of Mr. UDALL of New Mexico, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2760, a bill to amend title 38, United States Code, to provide for an increase in the annual amount authorized to be appropriated to the Secretary of Veterans Affairs to carry out comprehensive service programs for homeless veterans.

S. 2869

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 2869, a bill to increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

S. 2912

At the request of Mr. NELSON of Florida, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2912, a bill to require lenders of loans with Federal guarantees or Federal insurance to consent to mandatory mediation.

S. 3003

At the request of Mr. DODD, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 3003, a bill to enhance Federal efforts focused on public awareness and education about the risks and dangers associated with Shaken Baby Syndrome.

S. 3019

At the request of Mr. LIEBERMAN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3019, a bill to authorize funding for, and increase accessibility to, the National Missing and Unidentified Persons System, to facilitate data sharing between such system and the National Crime Information Center database of the Federal Bureau of Investigation, to provide incentive grants to help facilitate reporting to such systems, and for other purposes.

S. 3059

At the request of Mr. BINGAMAN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 3059, a bill to improve energy efficiency of appliances, lighting, and buildings, and for other purposes.

S. 3074

At the request of Mr. BURR, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3074, a bill to provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011.

S. RES. 440

At the request of Mr. BENNET, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 440, a resolution improving the Senate cloture process.

AMENDMENT NO. 3356

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of amendment No. 3356 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3423

At the request of Mr. BROWNBACK, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New Hampshire (Mr. GREGG), the Senator from South Carolina (Mr. DEMINT) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of amendment No. 3423 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3428

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 3428 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself and Mr. GRASSLEY):

S. 3086. A bill to support high-achieving, educationally disadvantaged elementary school students in high-need local educational agencies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today, joined by my colleague Senator GRASSLEY, to introduce legislation on behalf of the millions of talented, high-achieving American students who every day, despite our best efforts, are being left behind.

When we talk about reducing the achievement gap, we usually think of helping economically disadvantaged kids who are having a tough time in school keep up with their peers.

Unfortunately, there is also a growing gap between high-achieving kids from high-earning families and students with just as much potential and talent who come from difficult economic circumstances.

Potential is being squandered every day. Tragically, some estimates indicate that one in five of our highest-achieving students drops out of school. That is 20 percent of our best and brightest students, the hope of our nation and the key to our economic competitiveness in the 21st century, left behind.

Every child should have the opportunity to reach their full potential. So, today I introduce the Equity in Excellence Act of 2010, designed to eliminate this gap among high-achieving students by helping talented but economically disadvantaged kids find the challenging and enriching materials and programs they need to stay in school and on track.

Here is how it works.

First, our bill will help to evaluate how school districts are challenging their most talented students—and to diagnose the problem when they are not.

Second, it will put in place evidence-based programs—ranging from enrichment programs to academic acceleration strategies to high quality support material—designed to maximize learning among high-potential students.

Third, it provides funding to hire and train personnel—principals, counselors, psychologists—skilled in meeting the needs of high-achieving students.

Fourth, it provides funding to educate and inform parents of these students, so that they can partner with schools in supporting their kids.

This legislation has been endorsed by the National Association for Gifted

Children, an organization of more than 8,000 parents, teachers, education professionals, and community leaders united in support of high-achieving kids and their unique needs.

Of course we all want to ensure that every child—no matter what their strengths and weaknesses, no matter what their grades or test scores, no matter what their economic background—can get a good education that prepares them for the 21st century economy.

Every child who falls through the cracks represents a tragedy. When those who have displayed such tremendous potential are left behind, we all suffer. This legislation offers a step towards keeping those kids challenged, engaged—and in school.

I want to thank Senator GRASSLEY for joining me in this effort, and encourage our colleagues to join as well.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 3088. A bill to reduce the number of executive branch political appointments; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, I am pleased to be joined by my good friend the senior Senator from Arizona, Mr. MCCAIN, in introducing legislation to reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. When I previously introduced this legislation, the Congressional Budget Office estimates it would save $382 million over the next 5 years and over $872 over the next 10 years.

The bill is based on recommendations of a number of distinguished panels, including the 1996 Twentieth Century Fund Task Force on the Presidential Appointment Process. The Task Force findings, which are still very relevant today, are part of a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman and current economic advisor to President Obama, Paul Volcker.

This proposal is also consistent with the recommendations of former Vice President Al Gore's National Performance Review, which called for reductions in the number of federal managers and supervisors, arguing that ''over-control and micro management'' not only ''stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs.''

Those sentiments were also expressed in the 1989 and 2003 Volcker Commission reports, which argued the growing number of presidential appointees may ''actually undermine effective presidential control of the executive branch.'' The first Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does.

It is essential that any administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commissions noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership.

Between 1980 and 2008 the ranks of political appointees rose by more than 27 percent whereas between that same period, excluding the defense sector, the civilian workforce remained consistent at about 1.1 to 1.2 million.

In recommending a cap on political appointees, the 1989 and 2003 Volcker Commission reports noted that the large number of presidential appointees simply cannot be managed effectively by any President or White House. The 1989 Commission argued that this lack of control and political focus ''may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable.''

Adding organizational layers of political appointees can also restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

In commenting on this problem, author Paul Light noted, ''As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them.'' Light added that ''Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively. . .''

The Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in government service or even pursuing a career in government in the first place.

Former Attorney General Elliot Richardson put it well when he noted:

> But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type—a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20–30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

The 2003 Volcker Commission report identified another problem aggravated by the mushrooming number of political appointees, namely the increasingly lengthy process of filling these thousands of positions. As the Commission reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Commission noted that on average, appointees in both administrations were confirmed more than eight months after the inauguration, one-sixth of an entire presidential term. By contrast, the report noted that in the presidential transition of 1960, Kennedy appointees were confirmed, on average, 2½ months after the inauguration.

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a detrimental effect on potential appointees. The 2003 Volcker Commission reported that, ''Potential appointees sometimes decline to enter government service when confronted by this process. Others drop out along the way. But the principal impact of the modern appointments process is the delay it imposes on the staffing of new administrations.''

The Clinton administration made modest reductions in the number of political appointees but the numbers have steadily increased in the past decade.

As we scour the Federal budget for wasteful or unnecessary spending, we can't overlook spending that many in Washington may well wish to retain. The test of commitment to deficit reduction is not simply to support measures that impact someone else. By reducing the number of political appointees, we can ensure a sufficient number remain to implement the policies of any administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Reducing the Federal deficit and balancing the budget is something that has been central to my Senate career, from the 82 point plan I brought to the Senate in 1993 to my most recent Control Spending Now Act, which would cut the deficit by around $500 billion.

The legislation I am introducing today reflects one of the points included on the original 82 point plan calling for streamlining various Federal agencies and reducing agency overhead costs, and it will be added to my Control Spending Now Act. I urge my colleagues to join me in reducing the deficit and reforming government.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 446—COMMEMORATING THE 40TH ANNIVERSARY OF THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

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

S. RES. 446

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force on March 5, 1970, has limited the spread of the most dangerous weapons across the globe for 40 years;

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons (also known as the

NPT) is the cornerstone of the global nuclear nonproliferation regime;

Whereas 189 members of the United Nations have acceded to the Treaty on the Non-Proliferation of Nuclear Weapons, only three states have never signed it, and only one, North Korea, has declared its withdrawal from the Treaty;

Whereas more countries have ratified the Treaty on the Non-Proliferation of Nuclear Weapons than any other arms control or nonproliferation agreement in history;

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons commits non-nuclear weapon states that want to benefit from the peaceful application of nuclear technology not to develop nuclear weapons and commits the 5 recognized nuclear weapon states to take measures to achieve, at the earliest possible date, the elimination of their nuclear weapon stockpiles;

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons assigns to the International Atomic Energy Agency the responsibility of maintaining a safeguards system to verify that non-nuclear weapons states party to the Treaty are not diverting nuclear technology from peaceful uses to nuclear weapons or other nuclear explosive devices;

Whereas, as of December 15, 2009, only 94 countries and one regional organization had brought into force an Additional Protocol to their Comprehensive Safeguards Agreement with the International Atomic Energy Agency;

Whereas President John F. Kennedy stated that nuclear weapons pose ''the greatest possible danger'' to the United States and warned that the United States could soon face a world in which there were 15–20 nuclear weapon states, but today, as a result of the global norms and mutual assurances established by the Treaty on the Non-Proliferation of Nuclear Weapons, the world has only 9 presumed nuclear weapons states;

Whereas United States policies and bilateral and multilateral treaties have reduced the number of nuclear weapons in the world from a Cold War high of approximately 70,000 to approximately 24,000, and the United States has reduced its stockpile of nuclear weapons from a high of 32,000 warheads and bombs to fewer than 10,000 today;

Whereas, at the fifth Non-Proliferation Treaty Review Conference, in 1995, states party to the Treaty on the Non-Proliferation of Nuclear Weapons agreed to extend the Treaty indefinitely;

Whereas the seventh Non-Proliferation Treaty Review Conference, in 2005, failed to respond collectively on a number of issues, including noncompliance, nuclear programs in Iran and North Korea, the withdrawal clause, nuclear terrorism, clandestine nuclear supply networks, negative security assurances, nuclear disarmament, the nuclear fuel cycle, and enforcement mechanisms;

Whereas, on September 24, 2009, a United Nations Security Council summit chaired by President Barack Obama unanimously adopted United Nations Security Council Resolution 1887, which reaffirms the Security Council's commitment to the Treaty on the Non-Proliferation of Nuclear Weapons, calls on states not yet signatories to accede to the Treaty, urges full compliance with the Treaty by member states, including members facing ''major challenges'' with their obligations, and sets goals to strengthen the Treaty on the Non-Proliferation of Nuclear Weapons at the 2010 Review Conference;

Whereas the eighth Non-Proliferation Treaty Review Conference will take place May 3–28, 2010, in New York to discuss disarmament, security assurances, nonproliferation, peaceful uses of nuclear energy, the nuclear fuel cycle, the mandate of the International Atomic Energy Agency, safety and security of nuclear material, universality, Nuclear Weapons-Free Zones, export controls, and the Treaty's withdrawal clause; and

Whereas the eighth Review Conference presents an opportunity to refocus states party to the NPT on the danger that the spread of nuclear weapons poses, to discuss potential ways to deal with countries that continue to pose a nuclear security threat, and to find common solutions so as to further reduce the number of nuclear weapons in the world and enable increased use of nuclear energy while improving safeguards to ensure that illicit nuclear programs are not occurring: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms its support for the Treaty on the Non-Proliferation of Nuclear Weapons to prevent the spread of nuclear weapons, to further reduce the number of nuclear weapons, and to promote the sharing of nuclear energy technology for peaceful purposes;

(2) urges the President to work to achieve universality in adherence to the Treaty on the Non-Proliferation of Nuclear Weapons;

(3) encourages the President to work with international partners of the United States and states party to the Treaty on the Non-Proliferation of Nuclear Weapons to have the Model Additional Protocol to Comprehensive Safeguards Agreements become the global standard for safeguards and a requirement for nuclear commerce;

(4) urges the President to ensure that the International Atomic Energy Agency has the necessary resources, personnel, and technology to conduct its oversight responsibilities as they relate to the Treaty on the Non-Proliferation of Nuclear Weapons; and

(5) encourages the President to work with other states party to the Treaty on the Non-Proliferation of Nuclear Weapons to strengthen enforcement mechanisms and develop collective responses to any notification of withdrawal from the Treaty.

SENATE RESOLUTION 447—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES POSTAL SERVICE SHOULD ISSUE A SEMIPOSTAL STAMP TO SUPPORT MEDICAL RESEARCH RELATING TO ALZHEIMER'S DISEASE

Ms. MIKULSKI submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 447

Resolved, That it is the sense of the Senate that the United States Postal Service should, in accordance with section 416 of title 39, United States Code—

(1) issue a semipostal stamp to support medical research relating to Alzheimer's disease; and

(2) transfer to the National Institutes of Health for that purpose any amounts becoming available from the sale of such stamp.

Ms. MIKULSKI. Mr. President, I rise today to submit a resolution urging the U.S. Postal Service to issue a semipostal stamp to help raise money for Alzheimer's research. A semipostal stamp will fund new research while also raising public awareness about this devastating disease.

Finding new ways to treat Alzheimer's should be a national priority. The disease not only harms patients and their families, it strains our health care system as well. Every 70 seconds, someone in America develops Alzheimer's. An estimated 5.3 million Americans have Alzheimer's disease, including one in eight people over 65. The direct and indirect costs of Alzheimer's and other dementias to Medicare, Medicaid and businesses amount to more than $148 billion each year. By 2050, this disease is likely to affect more than 11 million people 65 and older—unless we can find a medical breakthrough.

In addition to this resolution, I am also the sponsor of the Alzheimer's Breakthrough Act. The act would increase overall funding for Alzheimer's research at NIH, establish a national summit to identify priorities and maximize resources in our fight for better treatments and a cure, and expand the Alzheimer's State Matching Grant Program. I am hopeful the Senate will pass the Breakthrough Act this year in addition to the resolution I am introducing today.

A semipostal stamp is one more way each of us can help in the fight against Alzheimer's. Proceeds from the stamp's sales would fund Alzheimer's research at the National Institutes of Health. By paying more than the normal postage rate for this stamp, the public could contribute directly to the search for a new treatment or even a cure. I ask my colleagues today to join me in the fight against Alzheimer's and support this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3431. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 3432. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3433. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3434. Mr. REED (for himself, Mr. KERRY, Mr. LIEBERMAN, Mr. WHITEHOUSE, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3435. Mr. REED (for himself, Mr. DODD, Mr. KERRY, Ms. CANTWELL, Mr. WHITEHOUSE, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3436. Mr. INOUYE (for himself, Mr. DORGAN, Mr. BYRD, Mr. LAUTENBERG, Mr. FRANKEN, Mr. TESTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3437. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3438. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3439. Mr. REID submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3440. Ms. CANTWELL (for herself, Mr. WYDEN, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 3441. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 3442. Mr. WARNER (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3443. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3444. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3445. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3446. Mr. TESTER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3447. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3431. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 10 and 11, insert the following:

SEC. _____. REPLENISHMENT OF GENERAL FUND THROUGH RESCISSION OF CERTAIN STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116), from the amounts appropriated or made available under division A such Act (other than under title X of such division A), there is rescinded $35,000,000,000 of any remaining unobligated amounts. The Director of the Office of Management and Budget shall apply the rescission in a pro rata manner with respect to such amounts. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 3432. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. TREATMENT FOR CERTAIN EMPLOYEES PAID SAVED OR RETAINED RATES.

(a) IN GENERAL.—Section 1918(a)(3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note) is amended by striking ''January 1, 2012'' and inserting ''January 1, 2010''.

(b) INTERIM PAY ADJUSTMENTS.—

(1) ADJUSTMENTS.—

(A) IN GENERAL.—Until the Director of the Office of Personnel Management prescribes regulations in accordance with the amendment made by subsection (a), for employees receiving a cost-of-living allowance under section 5941 of title 5, United States Code, and a retained rate under section 5363 of that title, agencies shall—

(i) calculate the adjustment under section 5363(b)(2)(B) of that title based on a maximum rate of basic pay, excluding any locality-based comparability payment; and

(ii) provide an additional adjustment reflecting the full increase in the locality-based comparability payment that would apply to the employee but for receipt of a retained rate.

(B) GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall issue guidance for carrying out paragraph (1).

(C) OTHER PAY SYSTEMS.—For employees in another pay system that receive a retained rate equivalent to a retained rate under section 5363 of title 5, United States Code, equivalent treatment shall be provided, consistent with section 1918(b) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

SA 3433. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

SEC. 602. LOAN GUARANTEES FOR SHIPYARDS AND REPROGRAMMING OF FUNDS FOR SEALIFT CAPACITY.

Section 115 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of Public Law 108–199; 118 Stat. 439), as amended by section 1017 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 250), is amended to read as follows:

''SEC. ____. (a)(1) Of the amounts provided in the Department of Defense Appropriations Act, 2002 (Public Law 107–117; 115 Stat. 2244), the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1533), and the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1068) under the heading 'NATIONAL DEFENSE SEALIFT FUND' for construction of additional sealift capacity, notwithstanding section 2218(c)(1) of title 10, United States Code—

''(A) $15,000,000, shall be made available for the Secretary of Transportation to make loan guarantees as described in subsection (b); and

''(B) any remaining amount shall be made available for—

''(i) design testing simulation and construction of infrastructure improvements to a marine cargo terminal capable of supporting a mixed use of traditional container operations, high speed loading and off-loading, and military sealift requirements; and

''(ii) engineering, simulation, and feasibility evaluation of advance design vessels for the transport of high-value, time sensitive cargoes to expand a capability to support military sealift, aviation, and commercial operations.

''(2) The amounts made available in this subsection shall remain available until expended.

''(b)(1) A loan guarantee described in this subsection is a loan guarantee issued by the Secretary of Transportation to maintain the capability of a qualified shipyard to construct a large ocean going commercial vessel if the applicant for such a loan guarantee demonstrates that absent such loan guarantee—

''(A) the domestic capacity for the construction of large ocean going commercial vessels will be significantly impaired;

''(B) more than 1,000 shipbuilding-related jobs will be terminated at any one facility; and

''(C) the capability of domestic shipyards to meet the demand for replacement and expansion of the domestic ocean going commercial fleet will be significantly constrained.

''(2) In this subsection, the term 'qualified shipyard' means a shipyard that—

''(A) is located in the United States;

''(B) consists of at least one facility with not less than of 1,000 employees;

''(C) has exclusively constructed ocean going commercial vessels larger than 20,000 gross registered tons;

''(D) delivered 8 or more such ocean going commercial vessels during the 5-year period ending on the date of the enactment of the American Workers, State, and Business Relief Act of 2010; and

''(E) applies for a loan guarantee made available pursuant to subsection (a)(1)(A).

''(3) Notwithstanding the provisions of chapter 537 of subtitle V of title 46, United States Code, or any regulations issued pursuant to such chapter, a loan guarantee pursuant to subsection (a)(1)() shall be issued only to a qualified shipyard upon commitment by the qualified shipyard of not less than $40,000,000 in equity and demonstrated proof that actual construction of the new vessel for which such loan guarantee was issued will commence not later than April 30, 2010.

''(4) A loan guarantee issued pursuant to subsection (a)(1)(A) shall be deemed to have a subsidy rate of no greater than 9 percent.

''(5) The Secretary of Transportation shall select each qualified shipyard to receive a loan guarantee pursuant to subsection (a)(1)(A) not later than 60 days after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

SA 3434. Mr. REED (for himself, Mr. KERRY, Mr. LIEBERMAN, Mr. WHITEHOUSE, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 201 insert the following:

SEC. 202. MODIFICATION TO ELIGIBILITY REQUIREMENTS FOR EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) INDIVIDUAL NOT INELIGIBLE BY REASON OF SUBSEQUENT ENTITLEMENT TO REGULAR BENEFITS.—Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

''(g) CERTAIN RIGHTS TO REGULAR COMPENSATION DISREGARDED.—If an individual exhausted the individual's rights to regular compensation for any benefit year, such individual's eligibility to receive emergency unemployment compensation under this title in respect of such benefit year shall be determined without regard to any rights to regular compensation for a subsequent benefit year if such individual does not file a claim for regular compensation for such subsequent benefit year.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) WAIVER OF RECOVERY OF CERTAIN OVERPAYMENTS.—On and after the date of the enactment of this Act, no repayment of any emergency unemployment compensation shall be required under section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) if the individual would have been entitled to receive such compensation had the amendment made by subsection (a) applied to all weeks beginning on or before the date of the enactment of this Act.

(B) WAIVER OF RIGHTS TO CERTAIN REGULAR BENEFITS.—If—

(i) before the date of the enactment of this Act, an individual exhausted the individual's rights to regular compensation for any benefit year, and

(ii) after such exhaustion, such individual was not eligible to receive emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) by reason of being entitled to regular compensation for a subsequent benefit year,

such individual may elect to defer the individual's rights to regular compensation for such subsequent benefit year with respect to weeks beginning after such date of enactment until such individual has exhausted the individual's rights to emergency unemployment compensation in respect of the benefit year referred to in clause (i), and such individual shall be entitled to receive emergency unemployment compensation for such weeks in the same manner as if the individual had not been entitled to the regular compensation to which the election applies.

SA 3435. Mr. REED (for himself, Mr. DODD, Mr. KERRY, Ms. CANTWELL, Mr. WHITEHOUSE, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 201 insert the following:

SEC. 202. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term 'short-time compensation program' means a program under which—

''(1) the participation of an employer is voluntary;

''(2) an employer reduces the number of hours worked by employees through certifying that such reductions are in lieu of temporary layoffs;

''(3) such employees are eligible for unemployment compensation if their workweeks have been reduced by the percent designated by State law, provided that such reduction may not be less than 10 percent or more than 60 percent;

''(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would be payable to the employee if such employee were totally unemployed;

''(5) such employees are not expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

''(6) eligible employees may participate in an employer-sponsored training program to enhance job skills if such program has been approved by the State agency;

''(7) beginning on the date which is 2 years after the date of enactment of this subsection, the employer certifies that continuation of health benefits and retirement benefits under a defined benefit pension plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974) is not affected by participation in the program;

''(8) the employer (or an employer's association which is party to a collective bargaining agreement) submits a written plan describing the manner in which the requirements of this subsection will be implemented and containing such other information as the Secretary of Labor determines is appropriate;

''(9) in the case of employees represented by a union, the appropriate official of the union has agreed to the terms of the employer's written plan and implementation is consistent with employer obligations under the National Labor Relations Act; and

''(10) only such other provisions are included in the State law as the Secretary of Labor determines appropriate for purposes of a short-term compensation program.''.

(b) ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.—

(1) ASSISTANCE AND GUIDANCE.—

(A) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs, as defined in section 3306(v) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Secretary of Labor (in this section referred to as the ''Secretary'') shall—

(i) develop model legislative language which may be used by States in developing and enacting short-time compensation programs and shall periodically review and revise such model legislative language;

(ii) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(iii) establish biannual reporting requirements for States, including number of averted layoffs, number of participating companies and workers, and retention of employees following participation; and

(iv) award start-up grants to State agencies under subparagraph (B).

(B) GRANTS.—

(i) IN GENERAL.—The Secretary shall award start-up grants to State agencies that apply not later than June 30, 2011, in States that enact short-time compensation programs after the date of enactment of this Act for the purpose of creating such programs. The amount of such grants shall be awarded depending on the costs of implementing such programs.

(ii) ELIGIBILITY.—In order to receive a grant under clause (i) a State agency shall meet requirements established by the Secretary, including any reporting requirements under clause (iii). Each State agency shall be eligible to receive not more than one such grant.

(iii) REPORTING.—The Secretary may establish reporting requirements for State agencies receiving a grant under clause (i) in order to provide oversight of grant funds used by States for the creation of short-time compensation programs.

(iv) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, such sums as the Secretary certifies as necessary for the period of fiscal years 2010 and 2011 to carry out this subparagraph.

(2) TIMEFRAME.—The initial model legislative language referred to in paragraph (1)(A) shall be developed not later than 60 days after the date of enactment of this Act.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress and to the President a report or reports on the implementation of this section. Such report or reports shall include—

(A) a study of short-time compensation programs;

(B) an analysis of the significant impediments to State enactment and implementation of such programs; and

(C) such recommendations as the Secretary determines appropriate.

(2) SUBSEQUENT REPORTS.—After the submission of the report under paragraph (1), the Secretary may submit such additional reports on the implementation of short-time compensation programs as the Secretary deems appropriate.

(3) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, $1,500,000 to carry out this subsection, to remain available without fiscal year limitation.

(d) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v));''.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-term compensation) and inserting the following new paragraph:

''(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v));'', and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking ''the payment of short-time compensation under a plan approved by the Secretary of Labor'' and inserting ''the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)''.

(3) REPEAL.—Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 203. TEMPORARY FINANCING OF CERTAIN SHORT-TIME COMPENSATION PROGRAMS.

(a) PAYMENTS TO STATES WITH CERTIFIED PROGRAMS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor (in this section referred to as the ''Secretary'') shall establish a program under which the Secretary shall make payments to any State unemployment trust fund to be used for the payment of unemployment compensation if the Secretary approves an application for certification submitted under paragraph (3) for such State to operate a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986 (as added by section 202(a))) which requires the maintenance of health and retirement employee benefits as described in paragraph (7) of such section 3306(v), in addition to other requirements of this Act and notwithstanding the otherwise effective date of such requirement.

(2) REIMBURSEMENT.—Subject to subsection (d), the payment to a State under paragraph (1) shall be an amount equal to 100 percent of the total amount of benefits paid to individuals by the State pursuant to the short-time compensation program during the weeks of unemployment—

(A) beginning on or after the date the certification is issued by the Secretary with respect to such program; and

(B) ending on or before December 31, 2011.

(3) CERTIFICATION REQUIREMENTS.—

(A) IN GENERAL.—Any State seeking full reimbursement under this subsection shall submit an application for certification at such time, in such manner, and complete with such information as the Secretary may require (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (7) of such section 3306(v). The Secretary shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of such paragraph (7).

(B) FINDINGS.—If the Secretary finds that the short-time compensation program operated by the State meets the requirements of such paragraph (7), the Secretary shall certify such State's short-time compensation program thereby making such State eligible for reimbursement under this subsection.

(b) TIMING OF APPLICATION SUBMITTALS.—No application under subsection (a)(3) may be considered if submitted before the date of enactment of this Act or after the latest date necessary (as specified by the Secretary) to ensure that all payments under this section are made before December 31, 2011.

(c) TERMS OF PAYMENTS.—Payments made to a State under subsection (a)(1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(d) LIMITATIONS.—

(1) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State in excess of 26 weeks of benefits.

(2) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State pursuant to a short-time compensation program if such individual is employed by an employer—

(A) whose workforce during the 3 months preceding the date of the submission of the employer's short-time compensation plan has been reduced by temporary layoffs of more than 20 percent; or

(B) on a seasonal, temporary, or intermittent basis.

(3) PROGRAM PAYMENT LIMITATION.—In making any payments to a State under this section pursuant to a short-time compensation program, the Secretary may limit the frequency of employer participation in such program.

(e) RETENTION REQUIREMENT.—

(1) IN GENERAL.—A participating employer under this section is required to comply with the terms of the written plan approved by the State agency and act in good faith to retain participating employees.

(2) OVERSIGHT AND MONITORING.—The Secretary shall establish an oversight and monitoring process by which State agencies will ensure that participating employers comply with the requirements of paragraph (1).

(f) FUNDING.—There are appropriated, from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, such sums as the Secretary certifies are necessary to carry out this section (including to reimburse any additional administrative expenses by reason of the provision of, and amendments made by, this Act that are incurred by the States in operating such short-time compensation programs).

(g) DEFINITION OF STATE.—In this section, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(h) SUNSET.—The provisions of this section shall not apply after December 31, 2011.

SA 3436. Mr. INOUYE (for himself, Mr. DORGAN, Mr. BYRD, Mr. LAUTENBERG, Mr. FRANKEN, Mr. TESTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE _____—OTHER MATTERS

SEC. _____01. FUNDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR DISASTER RELIEF.

There are appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for the Department of Homeland Security under the heading ''DISASTER RELIEF'' under the heading ''FEDERAL EMERGENCY MANAGEMENT AGENCY'', $5,100,000,000, to remain available until expended: *Provided*, That of the amount appropriated under this section, up to $5,000,000 shall be transferred to the Department of Homeland Security under the heading ''OFFICE OF INSPECTOR GENERAL'' for audits and investigations relating to disasters.

SEC. _____02. BLACK FARMERS DISCRIMINATION LITIGATION.

(a) There is hereby appropriated to the Department of Agriculture, $1,150,000,000, to remain available until expended, to carry out the terms of a Settlement Agreement (''such Settlement Agreement'') executed in In re Black Farmers Discrimination Litigation, No. 08–511 (D.D.C.) that is approved by a court order that has become final and non-appealable, and that is comprehensive and provides for the final settlement of all remaining Pigford claims (''Pigford claims''), as defined in section 14012(a) of Public Law 110–246. The funds appropriated herein for such Settlement Agreement are in addition to the $100,000,000 in funds of the Commodity Credit Corporation (CCC) that section 14012 made available for the payment of Pigford claims and are available only after such CCC funds have been fully obligated. The use of the funds appropriated herein shall be subject to the express terms of such Settlement Agreement. If any of the funds appropriated herein are not used for carrying out such Settlement Agreement, such funds shall be returned to the Treasury and shall not be made available for any purpose related to section 14012, for any other settlement agreement executed in In re Black Farmers Discrimination Litigation, No. 08–511 (D.D.C.), or for any other purpose. If such Settlement Agreement is not executed and approved as provided above, then the sole funding available for Pigford claims shall be the $100,000,000 of funds of the CCC that section 14012 made available for the payment of Pigford claims.

(b) Nothing in this section shall be construed as requiring the United States, any of its officers or agencies, or any other party to enter into such Settlement Agreement or any other settlement agreement.

(c) Nothing in this section shall be construed as creating the basis for a Pigford claim.

(d) Section 14012 of Public Law 110–246 is amended by striking subsections (e), (i)(2) and (j), and redesignating the remaining subsections accordingly.

SEC. _____03. INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT ACT OF 2010.

(a) SHORT TITLE.—This section may be cited as the ''Individual Indian Money Account Litigation Settlement Act of 2010''.

(b) DEFINITIONS.—In this section:

(1) AMENDED COMPLAINT.—The term ''Amended Complaint'' means the Amended Complaint attached to the Settlement.

(2) LAND CONSOLIDATION PROGRAM.—The term ''Land Consolidation Program'' means a program conducted in accordance with the Settlement and the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) under which the Secretary may purchase fractionated interests in trust or restricted land.

(3) LITIGATION.—The term ''Litigation'' means the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, Civil Action No. 96–1285 (JR).

(4) PLAINTIFF.—The term ''Plaintiff'' means a member of any class certified in the Litigation.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SETTLEMENT.—The term ''Settlement'' means the Class Action Settlement Agreement dated December 7, 2009, in the Litigation.

(7) TRUST ADMINISTRATION CLASS.—The term ''Trust Administration Class'' means the Trust Administration Class as defined in the Settlement.

(c) PURPOSE.—The purpose of this section is to authorize the Settlement.

(d) AUTHORIZATION.—The Settlement is authorized, ratified, and confirmed.

(e) JURISDICTIONAL PROVISIONS.—

(1) IN GENERAL.—Notwithstanding the limitation on jurisdiction of district courts contained in section 1346(a)(2) of title 28, United States Code, the United States District Court for the District of Columbia shall have jurisdiction over the claims asserted in the Amended Complaint for purposes of the Settlement.

(2) CERTIFICATION OF TRUST ADMINISTRATION CLASS.—

(A) IN GENERAL.—Notwithstanding the requirements of the Federal Rules of Civil Procedure, the court overseeing the Litigation may certify the Trust Administration Class.

(B) TREATMENT.—On certification under sub-paragraph (A), the Trust Administration Class shall be treated as a class under Federal Rule of Civil Procedure 23(b)(3) for purposes of the Settlement.

(f) ACCOUNTING/TRUST ADMINISTRATION FUND.—

(1) IN GENERAL.—Of the amounts appropriated by section 1304 of title 31, United States Code, $1,412,000,000 shall be deposited in the Accounting/Trust Administration Fund, in accordance with the Settlement.

(2) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be considered to be met for purposes of paragraph (1).

(g) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

(A) ESTABLISHMENT.—On final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Trust Land Consolidation Fund''.

(B) AVAILABILITY OF AMOUNTS.—Amounts in the Trust Land Consolidation Fund shall be made available to the Secretary during the 10-year period beginning on the date of final approval of the Settlement—

(i) to conduct the Land Consolidation Program; and

(ii) for other costs specified in the Settlement.

(C) DEPOSITS.—

(i) IN GENERAL.—On final approval (as defined in the Settlement) of the Settlement, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund $2,000,000,000 of the amounts appropriated by section 1304 of title 31, United States Code.

(ii) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be considered to be met for purposes of clause (i).

(D) TRANSFERS.—In a manner designed to encourage participation in the Land Consolidation Program, the Secretary may transfer, at the discretion of the Secretary, not more than $60,000,000 of amounts in the Trust Land Consolidation Fund to the Indian Education Scholarship Holding Fund established under paragraph 2.

(2) INDIAN EDUCATION SCHOLARSHIP HOLDING FUND.—

(A) ESTABLISHMENT.—On the final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Indian Education Scholarship Holding Fund''.

(B) AVAILABILITY.—Notwithstanding any other provision of law governing competition, public notification, or Federal procurement or assistance, amounts in the Indian Education Scholarship Holding Fund shall be made available, without further appropriation, to the Secretary to contribute to an Indian Education Scholarship Fund, as described in the Settlement, to provide scholarships for Native Americans.

(3) ACQUISITION OF TRUST OR RESTRICTED LAND.—The Secretary may acquire, at the discretion of the Secretary and in accordance with the Land Consolidation Program, any fractional interest in trust or restricted land.

(4) TREATMENT OF UNLOCATABLE PLAINTIFFS.—A Plaintiff the whereabouts of whom are unknown and who, after reasonable efforts by the Secretary, cannot be located during the 5 year period beginning on the date of final approval (as defined in the Settlement) of the Settlement shall be considered to have accepted an offer made pursuant to the Land Consolidation Program.

(h) TAXATION AND OTHER BENEFITS.—

(1) INTERNAL REVENUE CODE.—For purposes of the Internal Revenue Code of 1986, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement—

(A) shall not be included in gross income; and

(B) shall not be taken into consideration for purposes of applying any provision of the Internal Revenue Code that takes into account excludable income in computing adjusted gross income or modified adjusted gross income, including section 86 of that Code (relating to Social Security and tier 1 railroad retirement benefits).

(2) OTHER BENEFITS.—Notwithstanding any other provision of law, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be treated for any household member, during the 1-year period beginning on the date of receipt—

(A) as income for the month during which the amounts were received; or

(B) as a resource,

for purposes of determining initial eligibility, ongoing eligibility, or level of benefits under any Federal or federally assisted program.

SEC. _____04. EMERGENCY DESIGNATIONS.

(a) IN GENERAL.—Each amount in this title is designated as an emergency requirement pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) PAYGO.—Each amount in this title is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139).

SA 3437. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following section:

SEC. ___. TEMPORARY MODIFICATION IN THE ACTIVE PARTICIPATION REQUIREMENT LIMIT REGARDING THE LOW INCOME HOUSING TAX CREDIT.

(a) Section 469(i) of the Internal Revenue Code of 1986 is amended by inserting a new paragraph as follows:

''In the case of any taxpayer to whom the active participation requirement does not apply, pursuant to paragraph (6)(B), the dollar limitation of paragraph (2) shall be applied by substituting '$500,000' for '$25,000' each place it appears.''

(b) The amendment made by subsection (a) shall not apply after December 31, 2010, except with respect to investments made or contracted to be made prior to that date.

SA 3438. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 233, insert the following:

SEC. 234. EXTENSION OF PAYMENT RULE FOR BRACHYTHERAPY.

Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)) is amended by striking, the first place it appears, ''January 1, 2010'' and inserting ''January 1, 2012''.

SA 3439. Mr. REID submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. _____. CLARIFICATION OF QUALIFYING TECHNOLOGIES ELIGIBLE FOR COMBINED HEAT AND POWER SYSTEM PROPERTY CREDIT.

(a) NONAPPLICATION OF CERTAIN RULES.—Section 48(c)(3)(C) is amended by adding at the end the following new clause:

''(iv) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clause (ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3440. Ms. CANTWELL (for herself, Mr. WYDEN, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. _____. APPLICATION OF GRANTS FOR SPECIFIED ENERGY PROPERTY TO CERTAIN REGULATED COMPANIES.

(a) IN GENERAL.—The first sentence of section 1603(f) of division B of the American Recovery and Reinvestment Act of 2009 is amended by inserting ''(other than subsection (d)(2) thereof)'' after ''section 50 of the Internal Revenue Code of 1986''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 1603 of division B the American Recovery and Reinvestment Act of 2009.

SA 3441. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. —. REPEAL OF QUALIFIED SHIPPING INVESTMENT WITHDRAWAL RULES.

(a) IN GENERAL.—Section 955 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 951(a)(1)(A) is amended by adding ''and'' at the end of clause (i) and by striking clause (iii).

(2) Section 951(a)(1)(A)(ii) is amended by striking '', and'' at the end and inserting '', except that in applying this clause amounts invested in less developed country corporations described in section 955(c)(2) (as so in effect) shall not be treated as investments in less developed countries.''.

(3) Section 951(a)(3) is hereby repealed.

(4) Section 964(b) of such Code is amended by striking '', 955,''.

(5) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 955.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations ending on or after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. —. TAX IMPOSED ON ELECTING UNITED STATES SHAREHOLDERS.

(a) IN GENERAL.—In the case of a United States shareholder for which an election is in effect under this section, a tax is hereby imposed on such shareholder's pro rata share (determined under the principles of paragraph (2) of subsection (a) of section 951 of the Internal Revenue Code of 1986) of the sum of—

(1) the foreign base company shipping income (determined under section 954(f) of the Internal Revenue Code of 1986 as in effect before the enactment of the American Jobs Creation Act of 2004) for all prior taxable years beginning after 1975 and before 1987, and

(2) income described in section 954(b)(2) of the Internal Revenue Code as in effect prior to the effective date of the Tax Reform Act of 1975, without regard to whether such income was not included in subpart F income under section 954(b)(2) or any other provision of such Code,

but only to the extent such income has not previously been included in the gross income of a United States person as a dividend or under any section of the Internal Revenue Code after 1962, or excluded from gross income pursuant to subsection (a) of section 959 of the Internal Revenue Code of 1986.

(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be 5.25 percent of the income described therein.

(c) INCOME NOT SUBJECT TO FURTHER TAX.—The income on which a tax is imposed by subsection (a) shall not (other than such tax) be included in the gross income of such United States shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporation) and shall be treated for purposes of the Internal Revenue Code of 1986 as if such amounts are, or have been, included in the income of the United States shareholder under section 951(a)(1)(B).

(d) ADDITIONAL TAX IMPOSED FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—

(1) IN GENERAL.—If, during the period consisting of the calendar month in which the election under this section is made and the succeeding 23 calendar months, the taxpayer does not maintain an average employment level at least equal to the taxpayer's prior average employment, an additional amount shall be taken into account as income by the taxpayer during the taxable year that includes the final day of such period, equal to $25,000 multiplied by the number of employees by which the taxpayer's average employment level during such period falls below the prior average employment.

(2) PRIOR AVERAGE EMPLOYMENT.—For purposes of this subsection, the taxpayer's prior average employment is the average number of full time equivalent employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the election under this section is made.

(3) AGGREGATION RULES.—In determining the taxpayer's average employment level and prior average employment, all domestic members of a controlled group (as defined in section 264(e)(5)(B) of the Internal Revenue Code of 1986) shall be treated as a single taxpayer.

(e) ELECTION.—

(1) IN GENERAL.—A taxpayer may elect to apply this section to—

(A) the taxpayer's last taxable year which begins before the date of the enactment of this Act, or

(B) the taxpayer's first taxable year beginning on or after such date.

(2) TIMING OF ELECTION AND ONE-TIME ELECTION.—Such election may be made only once by any taxpayer, and only if made on or before the due date (including extensions) for filing the return of tax for the taxable year of such election.

(f) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after the date of the enactment of this Act.

SA 3442. Mr. WARNER (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ARRA PLANNING AND REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 287) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by inserting ''PLANS AND'' after ''AGENCY'';

(B) by striking ''Not later than'' and inserting the following:

''(1) DEFINITION.—In this subsection, the term 'covered program' means a program for which funds are appropriated under this division—

''(A) in an amount that is—

''(i) more than $2,000,000,000; and

''(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or

''(B) that did not exist before the date of enactment of this Act.

''(2) PLANS.—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

''(A) a description of the goals for the covered program using recovery funds;

''(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

''(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

''(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

''(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;

''(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

''(G) a description of the process of the agency for the periodic review of the progress of the covered program towards meeting the goals described in subparagraph (A); and

''(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

''(3) REPORTS.—

''(A) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(B) REPORTS ON PLANS.—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of the agency a report for each covered program that—

''(i) discusses the progress of the agency in implementing the plan;

''(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

''(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

''(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

''(v) discusses—

''(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

''(II) if the covered program has failed to meet the milestones, the reasons why; and

''(III) any changes in the milestones for the covered program, including the reasons for the change;

''(vi) discusses the performance of the covered program, including—

''(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

''(II) if the covered program has failed to meet the performance measures, the reasons why; and

''(III) any trends in information relating to the performance of the covered program; and

''(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.'';

(2) in subsection (f)—

(A) by striking ''Within 180 days'' and inserting the following:

''(1) IN GENERAL.—Within 180 days''; and

(B) by adding at the end the following:

''(2) PENALTIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the head of an agency distributing recovery funds may impose a civil penalty in an amount not more than $250,000 on a recipient of recovery funds from the agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

''(B) NOTIFICATION.—

''(i) IN GENERAL.—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

''(ii) LIMITATION.—The head of an agency may not impose a civil penalty under subparagraph (A) relating to the failure to provide information required under subsection (c) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

''(C) GUIDELINES.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, the head of an agency shall consider—

''(i) the number of times the recipient has failed to provide the information required under subsection (c);

''(ii) the amount of recovery funds provided to the recipient;

''(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

''(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.

''(D) APPLICABILITY.—This paragraph shall apply to any grant, contract, task order, or other type of funding mechanism—

''(i) made or entered into after the date of enactment of this paragraph (including any renewal of a grant, contract, task order, or other type of funding mechanism after the date of enactment of this paragraph); or

''(ii) that includes terms allowing the terms of the grant, contract, task order, or other type of funding mechanism to be modified by Act of Congress.

''(E) NONEXCLUSIVITY.—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

''(3) TECHNICAL ASSISTANCE.—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

''(4) PUBLIC LISTING.—

''(A) IN GENERAL.—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), each agency distributing recovery funds shall make available on a website of the agency a list of all recipients of recovery funds from the agency that did not provide the information required under subsection (c) for the calendar quarter.

''(B) CONTENTS.—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the head of the agency, the reason for noncompliance.

''(5) REGULATIONS AND REPORTING.—

''(A) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General, in consultation with the Director of the Office of Management and Budget and the Chairperson, shall promulgate regulations regarding implementation of this section by agencies.

''(B) REPORTING.—

''(i) IN GENERAL.—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include—

''(I) information, for the quarter and in total, regarding the number and amount of civil penalties imposed and collected under this subsection, sorted by agency and program;

''(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

''(III) any other information determined appropriate by the Director.''; and

(3) by adding at the end the following:

''(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.''.

SA 3443. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. _____. SPECIAL INVESTMENT RULE FOR CERTAIN QUALIFIED NEW YORK LIBERTY BOND PROCEEDS.

For purposes of section 149(g) of the Internal Revenue Code of 1986, the proceeds of any qualified New York Liberty Bond (as defined in section 1400L(d)(2)) issued after September 30, 2009, and before January 1, 2010, which are invested in United States Treasury Obligations – State and Local Government Series shall be treated as invested in bonds described in paragraph (3)(B)(i) of such section.

SA 3444. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PREVENTING THE IMPLEMENTATION OF NEW ENTITLEMENTS THAT WOULD RAID MEDICARE.

(a) BAN ON NEW SPENDING TAKING EFFECT.—

(1) PURPOSE.—The purpose of this section is to require that gross savings resulting from the Patient Protection and Affordable Care Act and any bill enacted pursuant to section 201 of S. Con. Res. 13 (111th Congress) (referred to in this section as the ''Health Care Acts'') must fully offset the gross increase in Federal spending and the gross reductions in revenues resulting from the Health Care Acts before any such Federal spending increases or revenue reductions can occur.

(2) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Health and Human Services are prohibited from implementing any spending increase or revenue reduction provision in the Health Care Acts until both the Director of the Office of Management and Budget (referred to in this section as ''OMB'') and the Chief Actuary of the Centers for Medicare and Medicaid Services Office of the Actuary (referred to in this section as ''CMS OACT'') each certify that they project that all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts will be offset by projected gross savings from the Health Care Acts.

(3) CALCULATIONS.—For purposes of this section, projected gross savings shall—

(A) include gross reductions in Federal spending and gross increases in revenues made by the Health Care Acts; and

(B) exclude any projected gross savings or other offsets directly resulting from changes to Medicare and Social Security made by the Health Care Acts.

(b) LIMIT ON FUTURE SPENDING.—On September 1 of each year (beginning with 2013), the CMS OACT and the OMB shall each issue an annual report that—

(1) certifies whether all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts, starting with the next fiscal year and for the following 9 fiscal years, are fully offset by projected gross savings resulting from the Health Care Acts (as calculated under subsection (a)(3)); and

(2) provides detailed estimates of such spending increases, revenue reductions, and gross savings, year by year, program by program and provision by provision.

SA 3445. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 12 and 13, insert the following:

SEC. _____. EXTENSION AND MODIFICATION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) EXTENSION.—Paragraph (2) of section 168(k) is amended—

(1) by striking ''January 1, 2011'' in subparagraph (A)(iv) and inserting ''January 1, 2012'', and

(2) by striking ''January 1, 2010'' each place it appears and inserting ''January 1, 2011''.

(b) MODIFICATION TO DEFINITION OF QUALIFIED PROPERTY.—Clause (i) of section 168(k)(2)(A) is amended to read as follows:

''(i)(I) to which this section applies which has a recovery period of 7 years or less, or

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,''.

(c) ELIMINATION OF ELECTION TO ACCELERATE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—Section 168(k) is amended by striking paragraph (4).

(d) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2010'' and inserting ''JANUARY 1, 2011''.

(2) Section 168(k)(2)(B)(i)(II) is amended by striking ''has a recovery period of at least 10 years or''.

(3) Section 168(k)(2)(C)(i) is amended by inserting ''(i),'' after ''clauses''.

(4) Section 168(k) is amended by striking paragraph (3).

(5) Section 168(l)(5)(B) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(6) Section 168(n)(2)(B)(i)(I) is amended by striking ''(determined without regard to paragraph (4))''.

(7) Section 168(n)(2)(C)(ii) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(8) Section 1400L(b)(2)(D) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(9) Section 1400N(d)(3)(B) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any property with respect to which the taxpayer has entered into a binding written contract before the date of the enactment of this Act.

SA 3446. Mr. TESTER submitted the amendment intended to be proposed by him to the bill H.R. 4213, to amend teh Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, which was ordered to lie on the table; as follows:

At the appropriate place in title VI, insert the following:

SEC. 6___. AUTHORITY TO EXTEND WATER CONTRACT.

(a) IN GENERAL.—The Secretary of the Interior may extend the contract for water services between the United States and the East Bench Irrigation District, numbered 14-06-600-3593, until the earlier of—

(1) the date that is 2 years after the date on which the contract would have expired if this Act had not been enacted; or

(2) the date on which a new long-term contract is executed by the parties to the contract.

(b) EFFECTIVE DATE.—This section takes effect on December 30, 2009.

SA 3447. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. FISCAL YEARS 2010 AND 2011 EARMARK MORATORIUM.

(a) BILLS AND JOINT RESOLUTIONS.—

(1) POINT OF ORDER.—It shall not be in order to—

(A) consider a bill or joint resolution reported by any committee that includes an earmark, limited tax benefit, or limited tariff benefit; or

(B) a Senate bill or joint resolution not reported by committee that includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the bill or joint resolution shall be returned to the calendar until compliance with this subsection has been achieved.

(b) CONFERENCE REPORT.—

(1) POINT OF ORDER.—It shall not be in order to vote on the adoption of a report of a committee of conference if the report includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the conference report shall be returned to the calendar.

(c) FLOOR AMENDMENT.—It shall not be in order to consider an amendment to a bill or joint resolution if the amendment contains an earmark, limited tax benefit, or limited tariff benefit.

(d) AMENDMENT BETWEEN THE HOUSES.—

(1) IN GENERAL.—It shall not be in order to consider an amendment between the Houses if that amendment includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the amendment between the Houses shall be returned to the calendar until compliance with this subsection has been achieved.

(e) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(f) DEFINITIONS.—For the purpose of this section—

(1) the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(2) the term ''limited tax benefit'' means any revenue provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; and

(3) the term ''limited tariff benefit'' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(g) FISCAL YEARS 2010 AND 2011.—The point of order under this section shall only apply to legislation providing or authorizing discretionary budget authority, credit authority or other spending authority, providing a federal tax deduction, credit, or exclusion, or modifying the Harmonized Tariff Schedule in fiscal years 2010 and 2011.

(h) APPLICATION.—This rule shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality or congressional district.

NOTICE OF INTENT TO SUSPEND THE RULES

Mr. DEMINT. Mr. President, I submit the following notice in writing; In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, Paragraph 2, for the purpose of proposing and considering the following amendment to H.R. 4213, including germaneness requirements:

At the appropriate place, insert the following:

SEC. _____. FISCAL YEARS 2010 AND 2011 EARMARK MORATORIUM.

(a) BILLS AND JOINT RESOLUTIONS.—

(1) POINT OF ORDER.—It shall not be in order to—

(A) consider a bill or joint resolution reported by any committee that includes an earmark, limited tax benefit, or limited tariff benefit; or

(B) a Senate bill or joint resolution not reported by committee that includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the bill or joint resolution shall be returned to the calendar until compliance with this subsection has been achieved.

(b) CONFERENCE REPORT.—

(1) POINT OF ORDER.—It shall not be in order to vote on the adoption of a report of a committee of conference if the report includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the conference report shall be returned to the calendar.

(c) FLOOR AMENDMENT.—It shall not be in order to consider an amendment to a bill or joint resolution if the amendment contains an earmark, limited tax benefit, or limited tariff benefit.

(d) AMENDMENT BETWEEN THE HOUSES.—

(1) IN GENERAL.—It shall not be in order to consider an amendment between the Houses if that amendment includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the amendment between the Houses shall be returned to the calendar until compliance with this subsection has been achieved.

(e) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(f) DEFINITIONS.—For the purpose of this section—

(1) the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(2) the term ''limited tax benefit'' means any revenue provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; and

(3) the term ''limited tariff benefit'' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(g) FISCAL YEARS 2010 AND 2011.—The point of order under this section shall only apply to legislation providing or authorizing discretionary budget authority, credit authority or other spending authority, providing a federal tax deduction, credit, or exclusion, or modifying the Harmonized Tariff Schedule in fiscal years 2010 and 2011.

(h) APPLICATION.—This rule shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality or congressional district.

ORDERS FOR TUESDAY, MARCH 9, 2010

Mr. KAUFMAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, March 9; 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 then proceed under the previous order; further, that upon conclusion of the votes outlined in the order of March 5, the Senate then stand in recess until 2:15 p.m., in order to accommodate the respective party conferences.

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

Mr. KAUFMAN. Mr. President, I further ask unanimous consent that the time between 2:15 p.m. and 2:30 p.m. be divided equally between the leaders on each side.

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

PROGRAM

Mr. KAUFMAN. Mr. President, tomorrow the Senate will resume consideration of the tax extenders legislation and conduct up to four rollcall votes beginning at 11 a.m. As a reminder, the filing deadline for second-degree amendments is 12 noon tomorrow; further, under a previous order, the cloture vote on the substitute amendment will occur at 2:30 p.m. tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KAUFMAN. Mr. President, 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 6:10 p.m., adjourned until Tuesday, March 9, 2010, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF HOMELAND SECURITY

MAJOR GENERAL ROBERT A. HARDING, UNITED STATES ARMY (RETIRED), OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE EDMUND S. HAWLEY, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

DAVID K. MINETA, OF CALIFORNIA, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE BERTHA K. MADRAS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. ROBERT R. REDWINE

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID M. RODRIGUEZ

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. PAUL S. STANLEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. THOMAS E. BEEMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. CHARLES D. HARR

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. MARGARET A. RYKOWSKI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. GREGORY C. HORN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. PAULA C. BROWN