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Senate

The Senate met at 11 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

O God, our Father, thank You for filling our lives with good things. We praise You for the daily miracles of light and shadows, work and rest, life and love. Lord, we are grateful for Your generosity that brings us high thoughts that uplift and pure hopes that beckon and bind us to You. We even thank You today for disappointments and failures that humble us and for pain and distress that remind us of our need for You.

Finally, we thank You for the women and men of the U.S. Senate, who strive to keep freedom's torch burning. Awaken in them a deeper appreciation for Your loving providence, as You give them a heightened sense of the special role You want them to play in the unfolding drama of American history.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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 12, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will proceed to a period of morning business until 12 o'clock noon, with Senators allowed to speak for up to 10 minutes each during that period of time. Following morning business, the Senate will proceed to executive session to debate the nomination of David Ogden to be Deputy Attorney General. There will be 2 hours for debate equally divided and controlled between the two leaders or their designees. At 2 p.m., the Senate will vote on the confirmation of Mr. Ogden.

Following the vote, the Senate will consider the nomination of Thomas Perrelli to be Associate Attorney General. Under an agreement that was reached yesterday, the debate will be limited to 90 minutes, with the time equally divided and controlled. Upon the use or yielding back of time, the Senate will vote on confirmation of the Perrelli nomination.

We will continue to work on agreements to consider additional nominations this week. I expect to file cloture on a matter to move the lands bill forward again, for the information of all

Senators. A widely popular bill we sent to the House was put on the consent calendar yesterday and failed by two votes. So we will have to start that process over here again. One of the things they are talking about doing is adding another Idaho wilderness provision to that bill and to send it back over here. But I would hope perhaps we can work something out with people who want us to have to go through all the procedural processes. I hope we do not have to do that. If we do, that is what we will do. We will have a vote Monday morning on cloture unless we can get something worked out with those who are opposing this.

Then, next week, that being the case, we will spend some time on the lands bill. I have indicated to the Republican leader we are going to do national service this work period. The House is going to pass that probably next Tuesday, allowing us to get to it toward the end of the week or the following week. And then, of course, the final week we are here we have to do the budget.

PRODUCTIVE TIME

Mr. REID. Madam President, we have had a very productive time in the Senate so far this year. We have done things that have led to the President signing the bills. One of the things we talked about—the first thing we did was the lands bill. We are going to do that again. We passed the Lilly Ledbetter legislation. That has been signed into law. That puts women on a more equal footing with men as regarding pay. We passed the children's health insurance initiative, giving more than 4 million poor children the ability to go to a doctor when they are sick or hurt. We passed the economic recovery package which is now beginning to filter money into the States. It should start happening quite rapidly in the next few weeks. And then, Tuesday evening, we passed the makeup work

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



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from the Bush administration, passing that appropriations bill that was a makeup of all the bills we could not get done during the last few months of the Bush administration.

Now we are going to, as I indicated, do these nominations. So we have had a very productive time. We have a lot more to do. But we should look satisfactorily on what we have already done.

MEASURE PLACED ON THE CALENDAR—S. 570

Mr. REID. Madam President, it is my understanding that S. 570 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 570) to stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

Mr. REID. Madam President, I would object to any further proceedings with respect to this bill.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

Mr. REID. 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. BOND. Madam 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.

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 12 noon, with Senators permitted to speak for up to 10 minutes each.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam 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.

AMERICAN CREDIT CLEANUP PLAN

Mr. BOND. Madam President, after passing the trillion-dollar "spend-ulus"

bill, House Democrats are already talking about a second stimulus. It sounds to me as if they have already concluded that the first trillion dollar stimulus bill is a failure and was nothing more than a downpayment on their social agenda.

I know Missourians and many Americans agree that a trillion dollars is a terrible thing to waste. This is one economic crisis we cannot simply pay our way out of. The bottom line is that our economy will not recover and conditions for families, workers, and small businesses will not improve until we get to the root of the problem and rid our financial system of toxic assets. That is what the President said when he addressed the joint session. He said: We must solve the credit problem or nothing else will work.

Well, to date, the Obama administration seems as though they have been trying to treat every cut and bruise on a patient who is experiencing cardiac arrest. Their strategy has been to address each perceived crisis as a new one in an ad hoc manner. That has gone back to last fall under the previous administration. The Treasury strategy has been to address the symptoms, not the underlying illness, and it is one that, unfortunately, we have followed here.

Let's take a look at what "ad-hocracy" has done for us:

February's unemployment numbers came out last Friday. Our Nation is now struggling under the highest unemployment rate in more than 20 years—8.1 percent. This is more than a number of millions of Americans who have been laid off and are struggling to find new jobs. That is right—millions.

Almost 2 million workers have lost their jobs in the last 3 months. The latest job numbers are another sad reminder that right now our financial system is not working. It has been clogged with toxic debt.

The Treasury's ad hoc approach is not working. The President's approach seems to be to appease his different constituencies with one boutique initiative after another, and we have racked up over a trillion dollars in debt doing so. That effort—that "spend-ulus" bill—is going to stimulate the debt. It is going to stimulate the growth of Government. But it will not stimulate the economy or jobs.

We have to focus on the urgent priority. I hope it does not take another 2 million workers to face layoffs before the administration gets serious about addressing this crisis.

Yesterday, the President said we need some "adult supervision" in Washington. I could not agree more. We definitely need some adult supervision in the Treasury Department when it comes to addressing our credit crisis. We need someone who is willing to make tough choices, not just slapping new names on old ineffective programs and throwing billions of taxpayer dollars into failed financial institutions in the hopes that Americans

will see it as the change they have been promised.

In the words of the current President and CEO of the Federal Reserve Bank of Kansas City, Thomas Hoenig:

We have been slow to face up to the fundamental problems in our financial system and reluctant to take decisive action with respect to failing institutions.

We saw what happened in Japan when policymakers lacked the political will and were slow to clean up its sick banking system—a decade-long recession. That is why I believe we need a bold, coherent, and tested plan that will address the root causes of our economic crisis, and the experts agree. They have been unanimous, and I have talked to many of them: people such as the former FDIC Chairman Bill Seidman, who ran the successful RTC program to clean up the savings and loan crisis; the former Fed Chairman, Alan Greenspan. The Presidents and CEOs of the Federal Reserve Banks of St. Louis, Kansas City, and Boston believe we must address the toxic assets clogging our financial system.

Under my American credit cleanup plan, which I have talked about before on this floor, the Government can put to work statutory authorities long used by the FDIC for failed banks. We know this plan can work. It worked during the savings and loan crisis, and it can work again to solve the credit crunch. It works every day when the FDIC goes in to shut down failed institutions, and it can work right now in this major crisis. When we boil it down, it is not easy, but the solution is simple—three steps: First, identify the sick banks; second, remove the toxic assets, protect depositors, and fire the failed executives and board of directors who caused this mess; third, relaunch cleansed healthy banks back into the private market; get the Government out so the banks can get about doing their job of providing credit; no more of us fighting on the floor of how much a failed executive of a failed bank should be paid. Get them out.

This is the right approach that provides a clear exit strategy. It puts an end to throwing more and more billions of good taxpayer dollars into failing banks. It is the right approach to put our economy back on the road.

I call on the President and his economic team to get past their denial about the serious illness facing our economy. Their trillion-dollar box of Band-Aids isn't going to work. Stop pouring good taxpayer dollars into failed banks with no plan and no strategy. We have a skilled surgeon in the FDIC who has operated on failed banks and has the experience and knowledge to deal with toxic assets.

Last night, a reporter was questioning me and said, "Everybody is talking about removing toxic assets." Well, that is the problem.

In the words of one of my favorite country music songs, we need a little less talk and a lot more action. If the FDIC's current authorities are insufficient, Congress must stand ready to

provide any tools or resources the FDIC needs to complete the surgery. I have cosponsored S. 541 with Senator DODD to expand the FDIC borrowing authority. I call on our leadership to bring it up, to add authority for the FDIC to regulate bank holding companies. Give them the tool and let them use it.

The Obama administration must face the reality that major surgery on our financial institutions is imperative to extract toxic assets clogging our financial system so the economy can recover. No more throwing billions at failed banks. Send in the FDIC. This is one crisis where hope won't be enough. We must act, and we must act now.

Madam President, I ask unanimous consent that the remarks of Thomas Hoenig, the President and CEO of the Federal Reserve Bank of Kansas City, be printed in the RECORD.

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

TOO BIG HAS FAILED

Two years ago, we started seeing a problem in a specialized area of financial markets that many people had never heard of, known as the subprime mortgage market. At that time, most policymakers thought the problems would be self-contained and have limited impact on the broader economy. Today, we know differently. We are in the midst of a very serious financial crisis, and our economy is under significant stress.

Over the past year, the Federal government and financial policy makers have enacted numerous programs and committed trillions of dollars of public funds to address the crisis. And still the problems remain. We have yet to restore confidence and transparency to the financial markets, leaving lenders and investors wary of making new commitments.

The outcome so far, while disappointing, is perhaps not surprising.

We have been slow to face up to the fundamental problems in our financial system and reluctant to take decisive action with respect to failing institutions. We are slowly beginning to deal with the overhang of problem assets and management weaknesses in some of our largest firms that this crisis is revealing. We have been quick to provide liquidity and public capital, but we have not defined a consistent plan and not addressed basic shortcomings and, in some cases, the insolvent position of these institutions.

We understandably would prefer not to "nationalize" these businesses, but in reacting as we are, we nevertheless are drifting into a situation where institutions are being nationalized piecemeal with no resolution of the crisis.

With conditions deteriorating around us, I will offer my views on how we might yet deal with the current state of affairs. I'll start with a brief overview of the policy actions we have been pursuing, but I will also provide perspective on the actions we have taken and the outcomes we have experienced in previous financial crises. Finally, I will suggest what lessons we might take from these previous crises and apply to working our way out of the current crisis.

In suggesting alternative solutions, I acknowledge it is no simple matter to solve. People say "it can't be done" when speaking of allowing large institutions to fail. But I don't think that those who managed the Reconstruction Finance Corporation, the Resolution Trust Corporation, the Swedish finan-

cial crisis or any other financial crisis were handed a blueprint that carried a guarantee of success. I don't accept that we have lost our ability to solve a new problem, especially when it looks like a familiar problem.

CURRENT POLICY ACTIONS AND PROBLEMS

Much has been written about how we got into our current situation, most notably the breakdowns in our mortgage finance system, weak or neglected risk management practices, and highly leveraged and interconnected firms and financial markets. Because this has been well-documented, today I will focus on the policy responses we have tried so far and where they appear to be falling short.

A wide range of policy steps has been taken to support financial institutions and improve the flow of credit to businesses and households. In the interest of time, I will go over the list quickly.

As a means of providing liquidity to the financial system and the economy, the Federal Reserve has reduced the targeted federal funds rate in a series of steps from 5.25 percent at mid-year 2007 to the present 0 to 25 basis-point range. In addition, the Federal Reserve has instituted a wide range of new lending programs and, through its emergency lending powers, has extended this lending beyond depository institutions.

The Treasury Department, the Federal Reserve and other regulators have also arranged bailouts and mergers for large struggling or insolvent institutions, including Fannie Mae and Freddie Mac, Bear Stearns, WaMu, Wachovia, AIG, Countrywide, and Merrill Lynch. But other firms, such as Lehman Brothers, have been allowed to fail.

The Treasury has invested public funds, buying preferred stock in more than 400 financial institutions through the TARP program. TARP money has also been used to fund government guarantees of more than \$400 billion of securities held by major financial institutions, such as CitiGroup and Bank of America. In addition, the Federal Reserve and the Treasury Department have committed more than \$170 billion to bail out the troubled insurance company AIG.

Other actions have included increased deposit insurance limits and guarantees for bank debt instruments and money market mutual funds.

The most recent step is the Treasury financial stability plan, which provides for a new round of TARP spending and controls, assistance for struggling homeowners, and a plan for a government/private sector partnership to buy up bad assets held by financial institutions and others.

The sequence of these actions, unfortunately, has added to market uncertainty. Investors are understandably watching to see which institutions will receive public money and survive as wards of the state.

Any financial crisis leaves a stream of losses embedded among the various participants, and these losses must ultimately be borne by someone. To start the resolution process, management responsible for the problems must be replaced and the losses identified and taken. Until these kinds of actions are taken, there is little chance to restore market confidence and get credit markets flowing. It is not a question of avoiding these losses, but one of how soon we will take them and get on to the process of recovery. Economist Allan Meltzer may have expressed this point best when he said that "capitalism without failure is like religion without sin."

WHAT MIGHT WE LEARN FROM PREVIOUS FINANCIAL CRISES?

Many of the policy actions I just described provide support to the largest financial institutions, those that are frequently referred to

as "too big to fail." A rationale for such actions is that the failure of a large institution would have a systemic impact on the economy. It is emphasized that markets have become more complex, and institutions—both bank and nonbank entities—are now larger and connected more closely through a complicated set of relationships. Often, they point to the negative impact on the economy caused by last year's failure of Lehman Brothers.

History, however, may show us another experience. When examining previous financial crises, in other countries as well as in the United States, large institutions have been allowed to fail. Banking authorities have been successful in placing new and more responsible managers and directors in charge and then reprivatizing them. There is also evidence suggesting that countries that have tried to avoid taking such steps have been much slower to recover, and the ultimate cost to taxpayers has been larger.

There are several examples that illustrate these points and show what has worked in previous crises and what hasn't. A comparison that many are starting to draw now is with what happened in Japan and Sweden.

Japan took a very gradual and delayed approach in addressing the problems in its banks. A series of limited steps spread out over a number of years were taken to slowly remove bad assets from the banks, and Japan put off efforts to address an even more fundamental problem—a critical shortage of capital in these banks. As a result, the banks were left in the position of having to focus on past problems with little resources available to help finance any economic recovery.

In contrast, Sweden took decisive steps to identify losses in its major financial institutions and insisted that solvent institutions restore capital and clean up their balance sheets. The Swedish government did provide loans to solvent institutions, but only if they also raised private capital.

Sweden dealt firmly with insolvent institutions, including operating two of the largest banks under governmental oversight with the goal of bringing in private capital within a reasonable amount of time. To deal with the bad assets in these banks, Sweden created well-capitalized asset management corporations or what we might call "bad banks." This step allowed the problem assets to be dealt with separately and systematically, while other banking operations continued under a transparent and focused framework.

The end result of this approach was to restore confidence in the Swedish banking system in a timely manner and limit the amount of taxpayer losses. Sweden, which experienced a real estate decline more severe than that in the United States, was able to resolve its banking problems at a long term net cost of less than 2 percent of GDP.

We can also learn a great deal from how the United States has dealt with previous crises. There has been a lot written attempting to draw parallels with the Great Depression. The main way that we dealt with struggling banks at that time was through the Reconstruction Finance Corporation.

Without going into great detail about the RFC, I will note the four principles that Jesse Jones, the head of the RFC, employed in restructuring banks. The first step was to write down a bank's bad assets to realistic economic values. Next, the RFC would judge the character and capacity of bank management and make any needed and appropriate changes. The third step was to inject equity in the form of preferred stock, but this step did not occur until realistic asset values and capable management were in place. The final step was receiving the dividends and eventually recovering the par value of the stock as

a bank returned to profitability and full private ownership.

At one point in 1933, the RFC held capital in more than 40 percent of all banks, representing one-third of total bank capital according to some estimates, but because of the four principles of Jesse Jones, this was all carried out without any net cost to the government or to taxpayers.

If we compare the TARP program to the RFC, TARP began without a clear set of principles and has proceeded with what seems to be an ad hoc and less-than-transparent approach in the case of banks judged "too big to fail." In both the RFC and Swedish experiences, triage was first used to set priorities and determine what institutions should be addressed immediately. TARP treated the largest institutions as one. As we move forward from here, therefore, we would be wise to have a systematic set of principles and a detailed plan to guide us.

Another example we need to be aware of relates to the thrift problems of the 1980s. Because the thrift insurance fund was inadequate to avoid the losses embedded in thrift balance sheets, an attempt was made to cover over the losses with net worth certificates and expanded powers that were supposed to allow thrifts to grow out of their problems. A notable fraction of the thrift industry was insolvent, but continued to operate as so-called "zombie" or "living dead" thrifts. As you may recall, this attempt to postpone closing insolvent thrifts did not end well, but instead added greatly to the eventual losses and led to greater real estate problems.

A final example—our approach to large bank problems in the 1980s and early 1990s—shows that we have taken some steps to deal with banking organizations that are considered "too big to fail" or very important on a regional level.

The most prominent example is Continental Illinois' failure in 1984. Continental was the seventh-largest bank in the country, the largest domestic commercial and industrial lender, and the bank that popularized the phrase "too big to fail." Questions about Continental's soundness led to a run by large foreign depositors in May of 1984.

But looking back, Continental actually was allowed to fail. Although the FDIC put together an open bank assistance plan and injected capital in the form of preferred stock, it also brought in new management at the top level, and shareholders, who were the bank's owners, lost their entire investment. The FDIC also separated the problem assets from the bank, which left a clean bank to be restructured and eventually sold. To liquidate the bad assets, the FDIC hired specialists to oversee the different categories of loans and entered into a service agreement with Continental that provided incentive compensation for its staff to help with the liquidation process.

A lesson to be drawn from Continental is that even large banks can be dealt with in a manner that imposes market discipline on management and stockholders, while controlling taxpayer losses. The FDIC's asset disposition model in Continental, which used incentive fees and contracts with outside specialists, also proved to be an effective and workable model. This model was employed again in the failure of Bank of New England in 1991, the failures of nearly all of the large banking organizations in Texas in the 1980s, and also for the Resolution Trust Corporation, which was set up to liquidate failed thrifts.

RESOLVING THE CURRENT CRISIS

Turning to the current crisis, there are several lessons we can draw from these past experiences.

First, the losses in the financial system won't go away—they will only fester and increase while impeding our chances for a recovery.

Second, we must take a consistent, timely, and specific approach to major institutions and their problems if we are to reduce market uncertainty and bring in private investors and market funding.

Third, if institutions—no matter what their size—have lost market confidence and can't survive on their own, we must be willing to write down their losses, bring in capable management, sell off and reorganize misaligned activities and businesses, and begin the process of restoring them to private ownership.

How can we do this today in an era where we have to deal with systemic issues rising not only from very large banks, but also from many other segments of the marketplace? I would be the first to acknowledge that some things have changed in our financial markets, but financial crises continue to occur for the same reasons as always—over-optimism, excessive debt and leverage ratios, and misguided incentives and perspectives—and our solutions must continue to address these basic problems.

The process we use for failing banks—albeit far from perfect in dealing with "too big to fail" banks—provides some first insight into the principles we should establish in dealing with financial institutions of any type.

Our bank resolution framework focuses on timely action to protect depositors and other claimants, while limiting spillover effects to the economy. Insured depositors at failed banks typically gain full and immediate access to their funds, while uninsured depositors often receive quick, partial payouts based on expected recoveries.

To provide for a continuation of essential banking services, the FDIC may choose from a variety of options, including purchase and assumption transactions, deposit transfers or payouts, bridge banks, conservatorships, and open bank assistance. These options focus on transferring important banking functions over to sound banking organizations with capable management, while putting shareholders at failed banks first in line to absorb losses.

Other important features in resolving failing banks include an established priority for handling claimants, prompt corrective action, and least-cost resolution provisions to protect the deposit insurance fund and, ultimately, taxpayers and to also bring as much market discipline to the process as possible.

I would argue for constructing a defined resolution program for "too big to fail" banks and bank holding companies, and nonbank financial institutions. It is especially necessary in cases where the normal bankruptcy process may be too slow or disruptive to financial market activities and relationships. The program and resolution process should be implemented on a consistent, transparent and equitable basis whether we are resolving small banks, large banks or other complex financial entities.

How should we structure this resolution process? While a number of details would need to be worked out, let me provide a broad outline of how it might be done.

First, public authorities would be directed to declare any financial institution insolvent whenever its capital level falls too low to support its ongoing operations and the claims against it, or whenever the market loses confidence in the firm and refuses to provide funding and capital. This directive should be clearly stated and consistently adhered to for all financial institutions that are part of the intermediation process or payments system. We must also recognize up

front that the FDIC's resources and other financial industry support funds may not always be sufficient for this task and that Treasury money may also be needed.

Next, public authorities should use receivership, conservatorship or "bridge bank" powers to take over the failing institution and continue its operations under new management. Following what we have done with banks, a receiver would then take out all or a portion of the bad assets and either sell the remaining operations to one or more sound financial institutions or arrange for the operations to continue on a bridge basis under new management and professional oversight. In the case of larger institutions with complex operations, such bridge operations would need to continue until a plan can be carried out for cleaning up and restructuring the firm and then reprivatizing it.

Shareholders would be forced to bear the full risk of the positions they have taken and suffer the resulting losses. The newly restructured institution would continue the essential services and operations of the failing firm.

All existing obligations would be addressed and dealt with according to whatever priority is set up for handling claims. This could go so far as providing 100 percent guarantees to all liabilities, or, alternatively, it could include resolving short-term claims expeditiously and, in the case of uninsured claims, giving access to maturing funds with the potential for haircuts depending on expected recoveries, any collateral protection and likely market impact.

There is legitimate concern for addressing these issues when institutions have significant foreign operations. However, if all liabilities are guaranteed, for example, and the institution is in receivership, such international complexities could be addressed satisfactorily.

One other point in resolving "too big to fail" institutions is that public authorities should take care not to worsen our exposure to such institutions going forward. In fact, for failed institutions that have proven to be too big or too complex to manage well, steps must be taken to break up their operations and sell them off in more manageable pieces. We must also look for other ways to limit the creation and growth of firms that might be considered "too big to fail."

In this regard, our recent experience with ad hoc solutions to large failing firms has led to even more concentrated financial markets as only the largest institutions are likely to have the available resources for the type of hasty takeovers that have occurred. Another drawback is that these organizations do not have the time for necessary "due diligence" assessments and, as we have seen, may encounter serious acquisition problems. Under a more orderly resolution process, public authorities would have the time to be more selective and bring in a wider group of bidders, and they would be able to offer all or portions of institutions that have been restored to sound conditions.

CONCLUDING THOUGHTS

While hardly painless and with much complexity itself, this approach to addressing "too big to fail" strikes me as constructive and as having a proven track record. Moreover, the current path is beset by ad hoc decision making and the potential for much political interference, including efforts to force problem institutions to lend if they accept public funds; operate under other imposed controls; and limit management pay, bonuses and severance.

If an institution's management has failed the test of the marketplace, these managers should be replaced. They should not be given public funds and then micro-managed, as we

are now doing under TARP, with a set of political strings attached.

Many are now beginning to criticize the idea of public authorities taking over large institutions on the grounds that we would be “nationalizing” our financial system. I believe that this is a misnomer, as we are taking a temporary step that is aimed at cleaning up a limited number of failed institutions and returning them to private ownership as soon as possible. This is something that the banking agencies have done many times before with smaller institutions and, in selected cases, with very large institutions. In many ways, it is also similar to what is typically done in a bankruptcy court, but with an emphasis on ensuring a continuity of services. In contrast, what we have been doing so far is every bit a process that results in a protracted nationalization of “too big to fail” institutions.

The issue that we should be most concerned about is what approach will produce consistent and equitable outcomes and will get us back on the path to recovery in the quickest manner and at reasonable cost. While it may take us some time to clean up and reprivatize a large institution in today’s environment—and I do not intend to underestimate the difficulties that would be encountered—the alternative of leaving an institution to continue its operations with a failed management team in place is certain to be more costly and far less likely to produce a desirable outcome.

In a similar fashion, some are now claiming that public authorities do not have the expertise and capacity to take over and run a “too big to fail” institution. They contend that such takeovers would destroy a firm’s inherent value, give talented employees a reason to leave, cause further financial panic and require many years for the restructuring process. We should ask, though, why would anyone assume we are better off leaving an institution under the control of failing managers, dealing with the large volume of “toxic” assets they created and coping with a raft of politically imposed controls that would be placed on their operations?

In contrast, a firm resolution process could be placed under the oversight of independent regulatory agencies whenever possible and ideally would be funded through a combination of Treasury and financial industry funds.

Furthermore, the experience of the banking agencies in dealing with significant failures indicates that financial regulators are capable of bringing in qualified management and specialized expertise to restore failing institutions to sound health. This rebuilding process thus provides a means of restoring value to an institution, while creating the type of stable environment necessary to maintain and attract talented employees. Regulatory agencies also have a proven track record in handling large volumes of problem assets—a record that helps to ensure that resolutions are handled in a way that best protects public funds.

Finally, I would argue that creating a framework that can handle the failure of institutions of any size will restore an important element of market discipline to our financial system, limit moral hazard concerns, and assure the fairness of treatment from the smallest to the largest organizations that that is the hallmark of our economic system.

Mr. BOND. Madam President, I yield the floor.

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

THE BUDGET

Mr. MCCONNELL. Madam President, yesterday I noted that in the middle of the current economic crisis, the administration’s budget spends too much, taxes too much, and borrows too much. Yesterday I focused primarily on the fact that it spends too much. This morning I wish to expand a little bit more on that issue.

As I noted yesterday, the current Congress is on a remarkable spending binge. In the first 50 days of the new administration, Congress has approved more than \$1.2 trillion in spending which translates into \$24 billion a day, or \$1 billion every hour since Inauguration Day. The budget, which we just learned about a while back, continues that trend.

Earlier this week, Congress approved a Government spending bill that increased spending by 8 percent over last year, about double the rate of inflation. The budget proposes another spending increase over last year’s budget of an additional 8 percent. A lot of people are wondering why, in the midst of a recession, when millions of Americans are losing jobs and homes, the administration is proposing to spend tax dollars as if we are in the middle of the dot.com boom.

According to the administration’s budget plan, the State Department sees a 41-percent increase in spending next year—a 41-percent increase in spending at the State Department. HUD sees an 18-percent increase.

The budget also proposes a “slush fund” for climate policy that will be larger than the entire annual budgets at the Department of Labor, Treasury, and Interior. Let me say that again: A slush fund for climate policy that will be bigger than the budgets of the Department of Labor, Treasury, and Interior.

Americans want reform in education, health care, energy, and other areas, but they want the administration to fix the economy first. That is the first priority. At this point we seem to be getting proposals on everything but the financial crisis. That is what is crippling our economy.

This budget spends too much, taxes too much, and borrows too much. If we want to earn the confidence of the American people for our programs and plans, the first thing we need to do is to get this excessive spending under control.

HONORING OUR ARMED FORCES

SERGEANT WILLIAM PATRICK RUDD

Mr. MCCONNELL. Madam President, one of America’s bravest soldiers has fallen, so I rise to speak about SGT William Patrick Rudd of Madisonville, KY. On October 5, 2008, Sergeant Rudd tragically died of the wounds sustained during a ground assault raid on senior leaders of al-Qaida in Mosul, Iraq. He was 27 years old.

Sergeant Rudd was an Army Ranger on his eighth deployment in support of

the war on terror. He had previously served five tours in Iraq and two in Afghanistan.

For his many acts of bravery over years of service, he received several medals, awards, and decorations, including the Kentucky Medal for Freedom, three Army Achievement Medals, the Army Commendation Medal, the Joint Service Commendation Medal, the Meritorious Service Medal, the Purple Heart, and the Bronze Star Medal.

Army Rangers are among the most elite members of our fighting forces. They undergo grueling training to wear the honored Ranger Tab on their sleeves. For Sergeant Rudd it was the life he always wanted.

“I really enjoy what I’m doing and I think I’m really good at it,” Sergeant Rudd told his friend and fellow Ranger, SSG Brett Krueger. This was just a few days before his death. “I told him he was,” Staff Sergeant Krueger remembers.

Sergeant Rudd said, “And I don’t picture myself doing anything else as successful and as comfortable as what I do now.”

Sergeant Rudd’s parents also remember their son—who went by his middle name, Patrick—as a young man firmly dedicated to his fellow Rangers and the cause they fight for.

“He died for the country,” says William Rudd, Patrick’s dad. “He loved the Army Rangers. He loved his men. . . . He didn’t join for himself. You might say he joined for everyone else over here.”

Patrick’s mother, Pamela Coakley, also remembers her son’s sure sense that he was on the right path. “One thing he told me, if this ever happened . . . was just to know that he died happy and proud,” she says. “And that’s what stuck with me, because those big brown eyes looked into me. I know he was serious.”

Pamela also remembers Patrick’s fascination since he was young with the men and women who fight on the side of the good guys. “CIA, FBI, ever since he was a little boy growing up. . . . U.S. Marshals . . . his cousin was a State trooper, and he always wanted to be in that field,” she says.

Young Patrick also loved the outdoors, camping, and riding horses. In fact, the family owned horses and Pamela remembers a time when one of hers was injured. She feared the horse would not survive. But 12-year-old Patrick gave the horse shots, cleaned its wounds, and it lived. “He was always my little man,” Pamela says. “He was always my son, but really the man of the house, too.”

Patrick also looked after his sister, Elizabeth Lam, and that included sending a message to her would-be boyfriends. “On my first date, he sat on the front porch with a shotgun,” Elizabeth said, “on my very first date.”

Patrick graduated from Madisonville-North Hopkins High School in 1999 and then worked at White Hydraulics in Hopkinsville, after which he

joined the Army in October of 2003. "He had spent two years thinking about it, knowing that he needed a different direction in his life and wanting to defend our country," Patrick's dad, William, recalls. "I'm pretty sure he had his mind made up he wanted to be a Ranger when he went through Basic," adds Patrick's stepbrother, Josh Renfro.

Assigned to B Company, 3rd Battalion, 75th Ranger Regiment, based out of Fort Benning, GA, Patrick became a vital part of his Ranger team. Because he was a NASCAR fan and his favorite driver was Ricky Rudd, his fellow Rangers gave him the nickname "Ricky."

"He was a good-hearted person who loved life," said SSG Brett Krueger. "You could never catch him on a bad day. . . . everyone loved him dearly. . . . A lot of younger guys looked up to him."

SGT Dusty Harrell explains why. "He spent countless hours passing down knowledge to younger soldiers, to help them be successful."

Jack Roush, owner of some of NASCAR's most successful teams, heard of the loss of Sergeant Rudd. To honor the Ranger and NASCAR fan, he had a decal of Patrick's name placed on David Ragan's No. 6 car during a race in Atlanta.

At the same time, the Atlanta Motor Speedway donated 200 tickets to members of Patrick's unit to attend the race. Patrick and the other Rangers became close friends who spent time together in and out of uniform. Sergeant Harrell remembers a time when he and Patrick went fishing together in Georgia, and he learned that Patrick, a brave Army Ranger, was afraid of snakes. Sergeant Harrell got a bite on his line and reeled it in to find a water moccasin on the hook. By the time he turned around to share a reaction with his friend, "Ricky was already up the hill."

Staff Sergeant Krueger, Sergeant Harrell, and more of Patrick's fellow soldiers came to Madisonville to share their memories of Patrick with his family. After speaking with them, Pamela said, "It made me feel like I still had sons."

After the loss of a brave young soldier such as Patrick Rudd, we must keep his loved ones foremost in our minds. We are thinking today of his mother Pamela Coakley; his father William Rudd; his stepmother Barbara Rudd; his sister Elizabeth Lam; his stepbrother Josh Renfro; his grandparents Judy and Bennie Hancock; and many other beloved family members and friends.

Pamela says she has faith she will see her son again someday. For now, she has 27 years' worth of cherished memories, and in many of them Patrick is still her little man, defender of his sister's honor, and doctor to horses.

"I don't envision the war stuff," Pamela says. "I see Patrick sitting on the kitchen counter. I see him sitting

down by the creek or laying on the bed with his dog Harley. That's what I see."

I know the entire Senate rises with me to say we honor SGT William Patrick Rudd for his service, and we will forever remain reverent of his enormous sacrifice on behalf of our Nation.

Madam President, I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. UDALL of Colorado. Madam President, I rise today to express my support for the bipartisan bill introduced earlier this week by my colleague Senator BINGAMAN, called the Federal Land Assistance Management Enhancement Act, or the FLAME Act, S. 561. Senator BINGAMAN was joined by my colleagues: Senators MURKOWSKI, BOXER, CANTWELL, JOHNSON, MURRAY, TESTER, TOM UDALL, and WYDEN as cosponsors. I wish to add my support as a cosponsor as well.

Like many States from coast to coast, my home State of Colorado features expansive areas of wildland that are increasingly at risk of wildfire. Periods of drought continue to raise the possibility of wildfires in America, while in Colorado and throughout the mountain West, the epidemic of bark beetle infestation has compounded our risk of wildfire. In 2008, more than 5.1 million acres of land nationwide burned, according to the National Interagency Fire Center. In 2006 and 2007, more than 9 million acres burned, and more than 8 million acres burned in 2004 and 2005. The costs associated with these fires are large and increasing. To a large degree, these costs occur because fires are encroaching ever closer to our communities. These fires require more aggressive suppression efforts because of the risks to lives and property.

But unfortunately, the Federal lands agencies—especially the Forest Service—do not have the resources they need to fight these fires. They must resort to raiding funds from other important programs within these agencies, such as trails and road maintenance, recreation management and, especially important, preventive fuels treatment that could help reduce fires, or at least lessen their severity and costs when the wildfires occur.

For example: last year, the Forest Service had \$1.2 billion budgeted for fire suppression, but the agency had to transfer at least \$400 million from other programs when that funding fell short. In August of last year, Forest Service Chief Gail Kimbell sent out an interagency memo asking the staff to find ways to come up with extra money. The extra money being sent off

to these accounts forced the closure of some recreation areas, caused some contract obligations to go unmet, and canceled construction, research, and natural resource work.

Later, Congress approved \$610 million for the Forest Service in emergency Federal firefighting funding, restoring some of those transfers. Nonetheless, that work had gone undone when it was necessary for it to be done.

Making matters worse is the fact that the Forest Service budget has historically declined overall. The Department of Interior and Forest Service each maintain multibillion dollar deferred maintenance backlogs and are having to scale back some of their services. As is often pointed out, the Forest Service now dedicates upwards of half of its entire budget for emergency fire suppression activities.

We can't keep funding firefighting efforts in this manner. We have to find a better approach, so we do not continue to borrow money intended for other important missions. Also, we must move forward with efforts that allow us to reduce wildfire threats at the front end.

The FLAME Act would do just that. It would set up a separate fund that agencies can draw upon to augment firefighting costs. In so doing, we can help the agencies avoid drawing down funds in other programs and provide additional funds when we face an especially intense and expensive fire season. I strongly support the creation of a Federal fund designated solely for catastrophic emergency wildland fire suppression activities, which is what this bill does.

Equally important, in my view, is a provision in the FLAME Act calling for comprehensive wildland fire management strategies to best allocate fire management resources, assess risk levels for communities, and prioritize fuel reduction projects.

For many of my constituents—as in the State of the Presiding officer, New York, as well—Federal and State wildlands are Colorado's greatest attribute, providing all manner of outdoor recreation and awe-inspiring scenes of nature. Yet those same forested lands hold the potential for tragedy, as the threat of lost life and property due to wildfire grows. We currently employ a largely reactive wait-and-see approach to catastrophic wildland fires. The FLAME Act will help us shift to a more effective and proactive approach. I urge my colleagues to join me in supporting this bipartisan approach.

Again, I thank Senator BINGAMAN for introducing this legislation. I look forward to working with him and our colleagues to bring this bill before the full Senate and press for its final passage.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Vermont is recognized.

(The remarks of Mr. SANDERS pertaining to the introduction of S. 582 are located in today's RECORD under "Statements on introduced Bills and Joint Resolutions.")

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

THE BUDGET

Mr. ENSIGN. Madam President, I wish to talk about the state of our country and the President's budget that has recently been offered.

There are many Americans who are hurting right now. Many have lost their homes or are afraid of losing their homes. Many are concerned that the value of their home, their greatest asset, has gone down tremendously and they can no longer count on their home as an asset when they retire. They have seen their 401(k)s devastated. Certainly, many of us in this chamber who have Thrift Savings Plans have seen our plans go down because of the problems in the stock market. Over half of Americans are invested in some way in the stock market. So there are a lot of people who are hurting out there right now. The unemployment rate all across the country is rising. I think California is over 10 percent now. My home State of Nevada is over 9 percent. Nationwide, unemployment is a little over 8 percent. So we should be focusing on the economy.

During Bill Clinton's campaign back in 1992, he coined a phrase: "It's the economy, stupid." That is when we were in a very minor recession. Today, we are in a severe recession with no end in sight. Some people say we are going to recover next year. Other people say this is going to be a long, deep recession. No one really knows for sure. We do know that is the past, when we do the wrong things, recessions can become very severe, and can lead to depressions. When we do the right things, recessions become more mild.

We recently passed a so-called stimulus bill. I don't think it is going to do a lot. It is going to help short term in a few areas, but I think the long-term damage is going to vastly outweigh the short-term prospects. Last week, we passed another massive spending bill

that increased funding 8 percent over the same programs we had last year. An 8-percent increase at a time when families are cutting their own budgets, businesses are cutting their budgets, is irresponsible.

I just had the mayor of Las Vegas in my office. Local governments across America are having to cut their budgets. State governments are cutting spending because Governors are required by constitution in almost every State to balance their budget. They are looking for any kind of waste. The only place that is not looking for any waste is right here in Washington, DC. Why? Because we can print money. We can borrow from our children.

Every generation of American has said: I may not have everything I want, but I want my children to have a better America than I did. Growing up, part of the American dream has been: I want to go past what my parents did. Today's generation has become selfish. We want to keep our standard of living and borrow from our children's future, no matter the cost to our children. That idea is what the President's budget accomplishes.

The President's budget double the public debt in the first 5 years. Let me repeat that. In the first 5 years of the President's budget, the debt doubles. In the first five years of the Obama Administration, assuming he is re-elected, this budget will increase the debt more than the debt has ever increased since the founding of the Republic, all the way from George Washington to George W. Bush. After 10 years the public debt triples. This is not sustainable. If we go down this path, it could lead to the downfall of America as we know it.

There are many items in the budget that are problematic. We had a discussion this morning about the differences between Europe and America. In Europe, they believe the state is the answer, government is the answer.

One of the things de Tocqueville observed when he visited America in the 1800s was the charitable nature of Americans, how we helped in communities through voluntary acts, through our churches, through our community organizations, secular, religious—we helped each other voluntarily. It was not forced on us by the government.

Europe today believes the state is the answer. As a matter of fact, not too long ago, the King of Sweden made a charitable contribution to private charities, and people in Sweden criticized him because instead of giving the money to charities, they said he should have given the money to the state. That is the European attitude.

Most Americans believe that the private sector can deal with problems in our communities person to person through charitable giving. We are the most generous Nation in the history of the world when calculating the percentage of our income we give to charities. That has been part of the miracle of America. Whether it is for disease

research, whether it is for organizations such as the Boys and Girls Clubs or Big Brothers Big Sisters, community food banks, Catholic Charities.

We have some amazing charities that give compassionate care to those who truly need it. As a matter of fact, the word "compassion," if you take it at its root, means "to suffer with." Charities and individuals can relate to people on a one-on-one basis and suffer with them. They can walk through life with them. That is why when the President put in his budget that we were going to eliminate charitable deductions for people making over \$250,000 a year, there was a hue and cry across America, especially from charities saying: Mr. President, this is going to hurt. You are going to hurt us at a time when, because of the economy, charitable contributions are down.

We have seen that. Food pantries across America are hurting. Every organization that has come to me in Nevada has told me: We are hurting right now. Please don't allow this part of the budget to be adopted. Don't let the charitable deduction go away.

We have to ask ourselves: Why would someone want to eliminate the charitable deduction just to increase the size of Government? Is it because they believe the state is a better answer than the private sector? Maybe. If that is the case, this is a very dangerous precedent we are setting going forward.

The budget has many other problems. There is a tax in this budget on which, I believe, the President violated his pledge. He said taxes were only going to go up on those people making \$250,000 a year or more. I guess that is true as long as you don't use energy because there is an energy sales tax in the President's budget. So if you use electricity, if you use gasoline, or if you buy any products made with energy in the United States, you are going to pay higher taxes on products, higher taxes on your electric bills, higher taxes on your gasoline.

Madam President, I ask unanimous consent to speak as in morning business for an additional 3 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LEAHY. Madam President, I won't object, but I would ask that 3 minutes be added to the time for the Ogden debate.

Mr. ENSIGN. I thank the chairman of the Judiciary Committee.

Madam President, this energy tax I was talking about is a very regressive tax. I understand why people want to do it. I support the transition to a greener economy, but instead of putting incentives for us to go to a greener economy, they want to put a tax on Americans that will hurt the poor more than anybody else. It will severely affect those making under \$250,000 a year.

They say they are going to distribute that money to those through the Making Work Pay tax credit. But that is for lower income people. What about

the people who are truly middle-income people—the people making around \$100,000 a year, or \$80,000 to \$100,000 a year. This includes teachers, firefighters, and police officers. They are going to pay that tax.

According to MIT, the refundable aspect of this tax provision is going to raise about \$300 billion a year. They are not refunding that. So this is another giant problem the President has with his budget.

A couple other concluding points. We have a situation here where we should sit down together and think about our children, our grandchildren. Instead of giving us what we want today, let us think about the debt we are passing on to them. What is that debt like? It is as though we have taken their credit card and we are running up their credit card and they have to pay the finance charges. That means they have to work harder and they have to pay higher taxes in the future to pay those finance charges. This debt adds trillions of dollars in interest payments on their credit card—trillions of dollars.

This is not the direction our country should be going in today. We should be thinking about being fiscally responsible and thinking about future generations, just as generations before us have done.

Madam President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Under the previous order, morning business is closed.

EXECUTIVE SESSION

NOMINATION OF DAVID W. OGDEN TO BE DEPUTY ATTORNEY GENERAL—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of David W. Ogden, of Virginia, to be Deputy Attorney General.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours of debate equally divided and controlled between the two leaders or their designees.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished presiding officer, a good friend from New Mexico.

Mr. President, before I begin on the David Ogden matter, I have been listening to a couple of days of debate not on Ogden but on the budget, and I see these crocodile tears. Oh, my gosh, we might eliminate some of these special tax breaks given to people making over \$250,000 or \$500,000 or \$1 million or \$2 million. My heart breaks for them, it really does, that they do not get all

kinds of special tax breaks, that they might be unwilling to actually give money to charity. But then I look at the people who make \$25,000 or \$30,000 a year—people I see when I go to mass on Sunday, digging deep and putting money in, a far greater percentage of their pocket—and they are not getting any tax break for that. They are not getting a tax break. They take a standard deduction and they give to charity because it helps the people in this country who are in need. These are people who barely have enough money to pay for food for their own families, yet they give to charity.

Let us stop setting up a straw man that somehow the very wealthy among us won't give anything to charity if we remove some of their tax breaks. You either feel a moral responsibility to give to charity or not. It is not because you are doing it to placate the IRS. You do it because it is the right thing to do. It is like the story in the Gospel of the widow's mite. She gave all she had. And to those wealthy who wanted to denigrate what she gave, the Lord said: She gave more than you did because she gave all she had.

So let us not cry, or pull out the world's smallest violin for this. People will give to charity if they feel they can and should help the least among us, not because they are getting some kind of a tax break.

Now, this idea that we must have tax breaks for the wealthiest here, because, after all, that is how we will pay for the war in Iraq—remember the last administration saying: We will give huge tax breaks and that will pay for the war in Iraq. It gave us the biggest deficit in the Nation's history and it precipitated the problems we are having today.

Let us be honest about this. If we give tax breaks, give them to the hard-working men and women in this country who are paying Social Security taxes, who are getting a weekly, or even hourly salary. They are the ones who need the tax breaks. Warren Buffett, one of the wealthiest people in the world, has argued against these huge tax breaks for people like himself. As he pointed out, he pays a lesser percentage of his income to taxes than people cleaning up his office—to janitors in his office; to secretaries in his office.

So let us be honest about this. People give to charity if they feel it is their moral duty, as my wife and I feel it is to give to charity, not because of any tax exemption. Let us be honest about that.

Now, on the other issue, David Ogden. The Senate is finally ready to stop the delaying tactics we have had to put up with and will conclude its consideration of President Obama's nomination of David Ogden to be Deputy Attorney General. We will finally give the nomination an up-or-down vote that in the past, when George Bush was President, Senate Republicans used to claim was a constitutional right of every nominee.

After all, all four of President Bush's Deputy Attorney General nominees were confirmed without a single dissenting vote by Democrats. Notwithstanding that, Senate Republicans have decided to ignore the national security challenges this country is facing since the attacks of 9/11, and they have returned to their partisan, narrow, ideological, and divisive tactics of the 1990s.

In fact, it was the nomination of Eric Holder to be the Deputy Attorney General in 1997 that was the last time a President's choice for Deputy Attorney General was held up in the Senate. He, of course, was also nominated by a Democrat. Senate Republicans have unfortunately returned to their old, tired playbook. They ought to listen to what is best for the country, not what they are told to do by radio personalities.

David Ogden will fill the No. 2 position at the Department of Justice. As Deputy Attorney General, Mr. Ogden is going to be responsible for the day-to-day management of the Justice Department, including the Department's critical role in keeping our Nation safe from the threat of terrorism. He is highly qualified to do so. He is leaving a very lucrative and successful career in private practice, taking an enormous cut in pay to return to the Justice Department, where he previously served with great distinction, and having previously served with such distinction at the Department of Defense.

Senators KAUFMAN, KLOBUCHAR, and DURBIN made statements yesterday in support of the nominee, and I was very pleased to hear these three distinguished Senators speak so highly and favorably of him. Senator SPECTER, the Judiciary Committee's ranking member, also spoke yesterday in support of Mr. Ogden's nomination, and I was very pleased to hear Senator SPECTER's statement. I thank them all.

But after that, I was disappointed at the handful of opposition statements that parroted outrageous attacks against Mr. Ogden that had been launched by some on the extreme right. These attacks from extremists distort the record of this excellent lawyer and this good man. They begin by ignoring the truth, the whole truth, and then mischaracterizing a narrow sliver of his diverse practice as a litigator. Those who contend that Mr. Ogden has consistently taken positions against laws to protect children are unwilling to tell the truth. They chose to ignore Mr. Ogden's record and his confirmation testimony.

What these critics leave out of their caricature is the fact that Mr. Ogden aggressively defended the constitutionality of the Child Online Protection Act and the Child Pornography Prevention Act of 1996 when he previously served at the Justice Department. In private practice, he wrote a brief for the American Psychological Association in *Maryland v. Craig* in which he argued for the protection of child victims of sexual abuse.

For those who talk about how one might help out and do charitable works, let me tell you about his personal life. He has volunteered his time at the Chesapeake Institute, a clinic for sexually abused children. I wonder how many of the people who are out here attacking him have given their own time to help children, especially sexually abused children. As a former prosecutor, I know how much help those children need. I ask those who want to willy-nilly attack him: Have you ever given your money or your time to help these children the way Mr. Ogden has?

In his testimony, he demonstrated his commitment to the rule of law and his abhorrence at child pornography and child abuse. Now, these may be inconvenient facts for those who want to perpetuate a fraud, but they are the truth. That truth has led the National Center for Missing and Exploited Children, the Boys and Girls Clubs of America, and the top law enforcement organizations across the country to support this nomination and reject the misconceived effort of character assassination of this public servant and family man.

We have the former Deputy Attorney General under President Bush supporting him, judge advocates general, the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the Major Cities Chiefs Association, the National Center for Missing and Exploited Children, the National Association of Police Organizations, the National District Attorneys Association—an association where I was honored to serve as its vice president before I was in the Senate—the National Narcotic Officers' Associations' Coalition, the National Sheriffs' Association, the Police Executive Research Forum, the National Center for Victims of Crime, and many others.

In fact, Mr. President, I ask unanimous consent to have printed in the RECORD a list of the 53 letters in support the committee received on this nomination.

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

LETTERS OF SUPPORT FOR THE NOMINATION OF
DAVID OGDEN TO BE DEPUTY ATTORNEY
GENERAL OF THE UNITED STATES, AS OF
MARCH 11, 2009

CURRENT & FORMER PUBLIC OFFICIALS

Beth S. Brinkmann; MorrisonForester, LLP; former Assistant to the Solicitor General. Bill Lann Lee, Lewis, Feinberg, Lee, Renaker & Jackson, P.C.; former Assistant Attorney General, Civil Rights Division. Carolyn B. Lamm; White & Case, LLP; former President, District of Columbia Bar. Carter Phillips; SidleyAustin, LLP; former Assistant to the Solicitor General. Christine Gregoire; Governor, State of Washington. Daniel E. Troy; Senior Vice President and General Counsel, GlaxoSmithKline. Daniel Levin; White & Case, LLP; former Acting Assistant Attorney General, Office of Legal Council; former Assistant United States Attorney. Daniel Price; former Assistant to the President and Department of National Security Advisor for Internal Economic Affairs.

David C. Frederick; Kellogg, Huber, Hansen, Todd, Evans, & Figel, PLLC; former Assistant to the Solicitor General. Deval Patrick; Governor, State of Massachusetts. Douglas F. Gansler; Attorney General, State of Maryland. George Terwilliger; White & Case; former United States Attorney for the District of Vermont; former Deputy Attorney General. H. Thomas Wells, Jr.; Maynard, Cooper, & Gale, PC; President of the American Bar Association. James Robinson; Cadwalader, Wickersham, & Taft, LLP; former Assistant Attorney General, Criminal Division. Jamie S. Gorelick; WilmerHale, LLP; former Deputy Attorney General. Janet Reno; former Attorney General.

Jo Ann Harris; former Assistant Attorney General, Criminal Division. John B. Bellinger, III; former Counsel for National Security Matters, Criminal Division. Kenneth Geller; Mayer Brown, LLP; former Deputy Solicitor General. Larry Thompson; former Deputy Attorney General. Manus M. Cooney; former Chief Counsel, Senate Judiciary Committee. Michael E. Horowitz; Cadwalader, Wickersham, & Taft, LLP; Commissioner of United States Sentencing Commission. Paul T. Cappuccio; Executive Vice President and General Counsel of Time Warner; former Associate Deputy Attorney General. Peter Keisler; SidleyAustin, LLP; former Assistant Attorney General, Civil Division; former Acting Attorney General. Rachel L. Brand; WilmerHale, LLP; Assistant Attorney General for Legal Policy, Department of Justice. Reginald J. Brown; WilmerHale, LLP. Richard Taranto; Farr & Taranto; former Assistant to the Solicitor General. Robert F. Hoyt; former Associate White House Counsel; former General Counsel to the U.S. Treasury Department. Seth Waxman; WilmerHale, LLP; former Solicitor General. Stuart M. Gerson; former Assistant Attorney General, Civil Division. Thomas J. Miller; Attorney General, State of Iowa. Todd Steggerda; WilmerHale, LLP; former Chief Counsel to McCain Presidential Campaign. Todd Zubler; WilmerHale, LLP; former Deputy General Counsel to McCain Presidential Campaign.

Mr. LEAHY. Mr. President, I might say also that some of the Republicans—and they have all been Republicans who have attacked Mr. Ogden—are also applying a double standard. Nominees from both Republican and Democratic administrations and Senators from both sides of the aisle have cautioned against opposing nominees based on their legal representations on behalf of clients. Like many others in this Chamber, I felt privileged to serve as a prosecutor, but I would hate to think I could not have served in that position because, before I was a prosecutor, I defended people who were accused of crimes. I was a lawyer. I wanted to make sure clients were given equal protection of the law. If we start singling out somebody because of their clients, what do you do? Do you say to this person: You defended somebody charged with murder and therefore you are in favor of murder? Come on, let's be honest with where we are.

In fact, when asked about this point in connection with his own nomination, Chief Justice Roberts testified:

... it has not been my general view that I sit in judgment on clients when they come.

... it was my view that lawyers don't stand in the shoes of their clients, and that good lawyers can give advice and argue any side of a case.

Basically, he took the same position David Ogden did. The difference is every single Republican voted for Chief Justice Roberts. Apparently, they do not use the same standard for those nominated by Democrats.

For nominees of Republican Presidents, Republicans demand that their clients and their legal representations not be held against nominees. I have heard this speech in the Judiciary Committee and on the Senate floor by Republicans: You cannot hold their clients against them.

Whoops; screech; stop—the American people elected Barack Obama as President so, suddenly, the Republicans do not want that rule anymore. When the American people elect a Democratic President, they do not want the same rules; they want a double standard.

I will give one example. It is probably the example that stands out the most. Just over a year ago, every Republican in the Senate voted to confirm Michael Mukasey to be Attorney General of the United States. They showed no concern that, according to his own statement, one of his most significant cases in private practice was his representation of Carlin Communications, a company that specialized in what was called "Dial-a-Porn" services.

When a Republican nominee represents someone for Dial-a-Porn, that is just his client. But when a Democratic nominee represents Playboy magazine, oh, that is awful. We are so offended. My gosh, we must have the most delicate sensibilities in America. Talk about a double standard. Where was the outrage then? Where was the debate? Where were the concerns? Where were the questions? Oh, wait just a moment, something just occurred to me. He was nominated by George W. Bush. Mr. Ogden has been nominated by Barack Obama. So when Karl Rove and Rush Limbaugh gave the orders that they were supposed to oppose and hold up Eric Holder, the first African-American Attorney General in this country, they held him up.

Every one of them voted unanimously for Alberto Gonzales, who was finally forced out of office for incompetence. But, oh my goodness, Mr. Ogden has been nominated by a Democrat. What a tough double standard.

If you were going to write something like this for a novel or story, your editor would reject it because it seems to be so far-fetched.

Let's stop the game playing. We had an election last November. If you are going to apply one standard under a Republican President and a different one under a Democratic President, stand up and say: This had nothing to do with what he did, it is just that we want a double standard. We want a different standard.

I have served in the Senate for 35 years. I was honored by my colleagues on both sides of this aisle earlier this week when I cast my 13,000th vote. I worked with both Democrats and Republicans and voted for nominees of

both parties. I like to think I have never applied a double standard.

In Mr. Ogden's case, it is not as though he is only supported by Democrats. His nomination received dozens of letters of support, drawing strong endorsements from both Democratic and Republican former officials and high-ranking veterans of the Justice Department. Larry Thompson, a former Deputy Attorney General himself, who is highly respected in this body, certainly highly respected by me—a Republican nominee—wrote that "David will be a superb Deputy Attorney General."

Chuck Canterbury, the national president of the Fraternal Order of Police, wrote that Mr. Ogden "possesses the leadership and experience the Justice Department will need to meet the challenges which lay before us."

A dozen retired military officers who served as Judge Advocates General endorsed Mr. Ogden's nomination. These are military persons who have been Judge Advocates General. I have no idea whether they are Republicans or Democrats. I just know they served with distinction in our Armed Forces to protect the rights of Americans. Here is what they wrote, that he is "a person of wisdom, fairness and integrity, a public servant vigilant to protect the national security of the United States and a civilian official who values the perspective of uniformed lawyers in matters within their particular expertise."

Mr. Ogden's nomination was reported by a bipartisan majority of the Senate Judiciary Committee 2 weeks ago, having been delayed for several weeks. The vote by the Senate Judiciary Committee was 14 to 5. The senior Senator from Minnesota who is now on the Senate floor was also there. The Assistant Republican leader voted for Mr. Ogden. The ranking Republican on the committee voted for Mr. Ogden. The senior Senator from South Carolina, who served in the Judge Advocate General Corps, voted for him.

I don't know what more you can say. You have these former high-ranking officials, both in the Defense Department and the Justice Department, of both parties, saying he is the kind of serious lawyer and experienced government servant who understands the special role the Department of Justice must fill in our democracy.

We are the Senate. We are supposed to be the conscience of the United States. One hundred of us men and women in this body are privileged to represent 300 million Americans. We not only represent them, we ought to set an example. We ought to say it is time for the slurs and the vicious rightwing attacks to stop. The problems and threats confronting the country are too serious. The problems and threats confronting this country are not problems and threats to just Democrats or just Republicans, they are threats to all Americans.

In the Department of Justice, the Attorney General needs a deputy to help

run and manage that Department, not for the personal needs of the Attorney General but for the needs of 300 million Americans, to help protect every one of us.

Senators should join in voting to confirm this highly qualified nominee, this good man, to be Deputy Attorney General of the United States. Our country will benefit and we in the Senate will show that we actually do know how to do the right thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I want to acknowledge the great leadership of Chairman LEAHY in his work in getting this very important nomination to the floor of the Senate. I rise once again in support of David Ogden to be the next Deputy Attorney General of the United States of America.

When I drove in to work today, I heard on the news about new developments in the Madoff case, about how some people had thought \$50 billion had been lost in this country, lost to investors, lost to people who had nothing left, lost to some of the charities and charitable organizations in this country who, during this difficult time, are trying to help people in need. They thought it was \$50 billion, but now it was likely \$65 billion was lost because of one man, one man who committed such fraud—one man. That is what is going on in this country today—\$65 billion went through the fingers of the Securities and Exchange Commission, and now it is being prosecuted under the jurisdiction of the Justice Department of the United States.

Look at the other things going on in this country. We have billions of dollars coming out of very important investments in infrastructure and broadband and jobs in new energy in this country. But it is an unprecedented investment in this country. It is something like \$700 billion or \$800 billion going out there, and you have the funds being used to help some of the credit markets get going again. We all know when you put money like that out on the market, there are going to be people who try to do bad things. There are going to be people who will try to steal that money, and we need a Justice Department that will hold accountable these people who are getting the money; a Justice Department that will watch over the taxpayers' money, make sure people like Madoff get prosecuted. That is what we need in this country.

When you see the difficult economic time we are in—people without jobs, people who are desperate—it is no surprise oftentimes you see an increase in economic crimes. We see that happening today.

We look at all those factors—Government taxpayer money going out on the street, the discovery of cases of people who have been ripping people off so long that it is only when economic times get bad that you actually see

there is embezzlement going on, and then the natural, sad, and unfortunate increase in crime because of difficult economic times. All that is going on, and that is why I say we need a fully functioning Justice Department. That means we need a Deputy Attorney General for that Justice Department.

Yesterday, at our Judiciary Committee, the chairman himself said Eric Holder, the Attorney General, is all alone up there. He needs help. It is time to move these nominees.

That is why I question why people at this point would be wanting to delay his process, would want to not put someone who is clearly qualified to do this job into the Justice Department. We need to fill this post right now, and I have full confidence David Ogden is the right man at the right time. Why do I know this?

As I said yesterday, we had a great attorney general's office in Minnesota for years and years under both Republican and Democratic administrations, and then something happened. A Republican-appointed U.S. attorney, Tom Heffelfinger, was a friend of mine, U.S. attorney under George Bush I and II, who left of his own accord. When he left he found out his name was on a list to be fired. He was replaced with someone who didn't have management experience, and that office nearly blew up over a 2-year period with one person in charge.

Now under Attorney General Mukasey we at least have some peace in that office; things have improved. But I saw firsthand, when you put someone who is not necessarily qualified in a job, when you put someone in who is not putting the interests of the State first, I can see what happened. So Eric Holder and his deputies and those who work for him have a big job on their hands.

They not only have these white-collar crimes and these enormous issues to deal with, they also have a morale issue in the Justice Department. And no one, no one says that is not true.

The way you fix morale in an institution as big as the Justice Department is you put people in place who have the respect of those who are working for them. Look at the numbers. The Department of Justice has more than 100,000 employees and a budget exceeding \$25 billion.

Every single Federal law enforcement reports to the Deputy Attorney General, the nomination we are considering today, including the FBI, the Drug Enforcement Administration, including the Bureau of Prisons, and all 93 U.S. Attorneys Offices in this country.

So what do we have here in David Ogden? Well, we have someone who has broad experience in law and in government: went to Harvard Law School, clerked for Justice Harry Blackmun—a Minnesotan, may I add—he has been in the public sector as a key person in the Justice Department under Attorney General Reno. He is someone who also

has had private sector experience. I personally like that, when someone has been in Government and they have also had some private sector experience representing private clients as well. He is an openminded and moderate lawyer with broad support from lawyers of all political and judicial philosophies. So here you have someone with 6 years of leadership in the Department when the Department's morale was, by all accounts, good. We need to put him back in that Department.

I know that people on the other side of the aisle—there are a few of them—have raised issues about clients he had in the past. I can tell you as a lawyer, I think any lawyer—and there are plenty of lawyers in this Chamber—has, in fact, represented clients they might not quite agree with, and they need to make sure the ethical rules are followed.

I know as a prosecutor I chose to represent the State. But there was no one I admired more than those defense lawyers who were representing people who were charged with crimes. I did not choose to do that side, but many people did. In our system in the United States of America, when someone gets in trouble or someone needs a lawyer, that is your job as a lawyer. I think that if we use some kind of standard that we are going to throw people out of this Chamber because of clients they had represented whom we did not agree with or things they personally had done, it would be a very different Chamber.

I think people should be very careful about charges they make and decisions they make about reasons. They can oppose a nomination of someone if they want, but it better be for the right reasons. I believe we have the right reasons here.

I know Chairman LEAHY just quoted this, but it is very important to remember. At his own confirmation hearing, Chief Justice Roberts said:

The principle that you don't identify the lawyer with the particular views of the client, or the views that the lawyer advances on behalf of a client, is critical to the fair administration of justice.

He went on to say:

It was my view that lawyers don't stand in the shoes of their clients, and that good lawyers can give advice and argue any side of a case. It has not been my general view that I sit in judgment on clients when they come to me. I viewed that as the job of the Court when I was a lawyer. And just as someone once said, you know, it's the guilty people who really need a good lawyer. I also view that I don't evaluate whether I as a judge would agree with a particular position when somebody comes to me for what I did, which was provide legal advice and assistance.

So that is what we are talking about here. We have someone in this candidate who has broad support from people who have served in his role under both Democratic and Republican Attorneys General. We have someone who has the endorsement of the Fraternal Order of Police, a major law enforcement organization, and someone who

has the endorsement of the Center for Missing and Exploited Children.

While at the Department of Justice, David Ogden also led the Government's defense of various antipornography statutes against constitutional attack, even arguing forcefully against the positions taken by some of those people he had formerly represented.

For example, while at the Civil Division, David Ogden defended the Child Online Protection Act of 1998, which aimed to protect children from harmful material on the Internet by requiring pushers of obscene material to restrict their sites from access by minors. Under David Ogden, the Civil Division of the Justice Department aggressively defended that statute.

While he was head of the Civil Division, David Ogden also defended the Child Pornography Prevention Act, which expanded the ban on child pornography to cover virtual child pornography. I know this as a prosecutor. I know how damaging this is. We had cases where people who were preying on children would actually see their images on the Internet, would figure out who they are. We had one case where we went after someone who met a kid at the mall whom he met on the Internet. Then the police looked at all of those images that were on that guy's Internet site, and they actually traced them to another kid who did not even know her picture was on that Internet site. That is what we are talking about—explicit images that appear to depict minors but were produced without using any real children, or perhaps using a real child and putting them in the imagery, computer-generated imagery. That is what David Ogden did, he protected these statutes. He defended these statutes, and he will continue to do that at the Department of Justice.

This strong support for families and children is why David Ogden received the National Center for Missing and Exploited Children's endorsement, the Boys and Girls Club of America's endorsement, and, of course, because of his work with law enforcement, the Fraternal Order of Police and the Partnership for a Drug-Free America. You think these organizations just come and willy-nilly put their names on an endorsement, those organizations, venerable organizations that have been here for so long? No. They would not put their name on the endorsement of anyone who did not consider the protection of children as one of their paramount goals. They know David Ogden will do that. They know what I know: David Ogden is a man of integrity and commitment to the rule of law. He is someone who will work with our Attorney General, Eric Holder, to restore credibility to the Justice Department, to restore morale, to make it the kind of place where lawyers, the kids coming out of law school, say: That is where I want to work. I want to go work for Eric Holder and David Ogden.

That is what we need restored in our Justice Department. That is why we

need to move this along the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I thank the Senator from Minnesota. She is one of the newest additions to the Senate Judiciary Committee. She has already improved the quality of our committee by just being there.

Obviously, having former prosecutors on the committee is something I have searched for and am happy to have. I appreciate what she has brought to us. She was in an era when as a prosecutor she faced things I did not have to, such as the online threats to young people, and she understands what she is saying.

I see my good friend from Tennessee on the floor.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to speak in support of the nomination of David Ogden to be Deputy Attorney General of the United States.

There is simply no excuse for the delay in confirming Mr. Ogden.

In 2004, when the 9/11 Commission issued its report on national security issues, it specifically recommended that the Deputy Attorney General and other national security nominees be confirmed without delay.

Let me quote from the Commission's report:

Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking . . . by accelerating the process for national security appointments.

The report said the President-elect should make his nomination by January 20—which President Obama did, he nominated Ogden on January 5—and the Senate should finish considering the nominee within 30 days.

But 66 days later, this nomination is still pending.

It is time to get Mr. Ogden in his post so the Department of Justice can get to the important work ahead.

David Ogden is an extremely strong nominee, and the Deputy Attorney General is a critical official in the Justice Department.

The Deputy Attorney General is the second-ranking position in the Department and plays a large role in national security issues.

His responsibilities include overseeing the closing of the detention facility at Guantanamo Bay and the transfer of the remaining 245 detainees to new locations, signing FISA intelligence applications, and coordinating responses to terrorist attacks.

He is also responsible for the day-to-day management of the Justice Department's more than 100,000 employees and its budget of over \$25 billion. And he manages the criminal division, the FBI, and the over 90 U.S. attorney's offices nationwide.

This is a critical position both for the enforcement of our criminal laws

and for keeping Americans safe from harm.

President Obama has chosen David Ogden to be the Deputy Attorney General, and his record shows why:

Ogden is a Harvard Law School graduate, and a former clerk to a U.S. Supreme Court Justice.

He is a nationally recognized litigator with over 25 years of experience and the cochair of the Government and Regulatory Group at one of DC's top law firms.

Mr. Ogden is also a former Deputy General Counsel and legal counsel at the U.S. Department of Defense, where he received the highest civilian honor you can receive—the Department of Defense Medal for Distinguished Public Service.

And he is a former Associate Deputy Attorney General, chief of staff and counselor to the Attorney General, and Assistant Attorney General for the Civil Division at the Department of Justice.

David Ogden knows the Department of Justice inside and out, and he has already proven that he can be an effective leader.

In fact, over 50 individuals and groups have written in to support this nomination.

Ogden has the endorsements of:

the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the Major Cities Chiefs Association, the National Association of Police Organizations, the National District Attorneys' Association, the National Narcotic Officers' Association Coalition, the National Sheriffs' Association, the Community Anti-Drug Coalitions for America, the National Center for Missing and Exploited Children, the National Center for Victims of Crime, the Judge Advocates General, the Boys and Girls Club of America, and the Partnership for a Drug-Free America.

The letters state again and again that Ogden was a standout public servant before and that he is highly qualified for the position of Deputy Attorney General.

Let me read just a few remarks from officials who served in Republican administrations: Paul Cappuccio, the Associate Deputy Attorney General under George H.W. Bush, has written:

I consider myself a judicial and legal conservative, and believe it is important to appoint high-quality individuals who will uphold the rule of law. In my view, David Ogden is . . . a person of the highest talent, diligence, and integrity. He is, in my view, an excellent pick.

Larry Thompson, who was Deputy Attorney General under George W. Bush, has said that Ogden is "a person of honor who will, at all times, do the right thing for the Department of Justice and our great country."

And from Richard Taranto, a high-ranking DOJ lawyer under President Reagan: "The country could not do better."

This is very strong support for Ogden. I also hope that my colleagues will look closely at his track record as a public servant.

During the Clinton administration, Ogden proved himself at every turn. In addition to being promoted three times to high level positions—from Associate Deputy Attorney General to Chief of Staff to Assistant Attorney General—he also received the Attorney General's Medal in 1999 and the Edmund J. Randolph Award for Outstanding Service in 2001. He took the lead on a landmark lawsuit against the cigarette companies for lying to the American people about the health risks of smoking. Under his guidance, the Civil Division recovered more than \$1.5 billion in taxpayer money from Government contractors in the health care industry and elsewhere that had overbilled the government and defrauded the American people. And he vigorously defended the Child Pornography Prevention Act of 1996 and the Child Online Protection Act of 1998.

This is a nominee who has proven himself in Government.

In his confirmation hearing, Ogden also laid out his priorities for the future. He said his top priorities will be protecting the national security, restoring the rule of law, and restoring nonpartisan law enforcement at DOJ.

He told us that he is committed to making sure that DOJ fights financial, mortgage and securities fraud effectively.

And he pledged in no uncertain terms that if confirmed he would "recommend that protecting children and families should be a top priority, including through the prosecution of those who violate federal obscenity laws."

In a 2001 speech at Northwestern Law School, Ogden explained to a group of students that a government lawyer's client is not "the President, the Congress, or any agency, although the views of each may be extremely relevant," his client is the people of the "United States."

The American people will be well served by having David Ogden on our side. He is an outstanding lawyer and a dedicated public servant.

It has been 66 days since President Obama nominated David Ogden to be the Deputy Attorney General.

He is a good nominee that should not be held up. Let's let him get to work without any further delay.

Mr. COBURN. Mr. President, I would like to take a minute to briefly discuss my opposition to the nomination of David Ogden to be Deputy Attorney General of the United States.

First, however, I would like to take a minute to respond to allegations made yesterday by Senator LEAHY, who criticized the "undue delay" of David Ogden's nomination and further stated that "It was disturbing to see that the president's nominee of Mr. Ogden to this critical national security post was held up this long by Senate Republicans apparently on some kind of a partisan whim." There was no such delay. I would like to set the record straight on the Senate's prompt consideration of this nominee.

President Obama announced Mr. Ogden's nomination on January 5, but the Judiciary Committee did not receive his nomination materials until January 23, and he was not officially nominated until January 26. The committee promptly held a hearing on his nomination on February 5, just 13 days after receiving his nomination materials. His hearing record was open for written questions for 1 week, until February 12, and Mr. Ogden returned his responses on February 18 and 19.

Following Mr. Ogden's hearing, the Judiciary Committee received an unprecedented number of opposition phone calls and letters for a Department of Justice nominee. In total, the committee has received over 11,000 contacts in opposition to his nomination. Despite this overwhelming opposition, the committee promptly voted on Mr. Ogden's nomination on February 26.

I would note that the week prior to the committee's vote on Mr. Ogden's nomination was a recess week and was the same week the committee received Mr. Ogden's answers to his written questions. Per standard practice, the committee could not have voted on him prior to February 26 because the record was not complete.

Rather than hold this controversial nomination over for a week in committee, which is any Senator's right, Republicans voted on Mr. Ogden's nomination the first time he was listed, on February 26. Five of the eight committee Republicans voted against his nomination, a strong showing of the concern over Mr. Ogden's nomination.

And now, just 45 days after Mr. Ogden was nominated and despite significant opposition, the Senate is poised to vote on his confirmation.

Even giving Democrats the benefit of the doubt and allowing that Mr. Ogden's nomination was announced on January 5, 66 days ago, the Senate is still acting as quickly as it has on past Deputy Attorney General, DAG, nominees. On average since 1980, Senators have been afforded 65 days to evaluate DAG nominees. Further, Senators were afforded 85 days to evaluate the nomination of Larry Thompson, President Bush's first DAG nominee and 110 days to evaluate the nomination of Mark Filip. Yesterday, Senator Leahy said he had "urged" the "fast and complete confirmation" of Mark Filip and that "he was." If 110 days was a "fast" confirmation, then how is 66 days an "undue delay?" In short, I take issue with the chairman's characterization of any "undue delay" on this nomination.

As a member who shares the concerns of the thousands of individuals who have called the committee, I would now like to explain my opposition to David Ogden's nomination to be Deputy Attorney General.

If confirmed, Mr. Ogden would be the second-highest ranking official in the Department of Justice. The Deputy Attorney General possesses "all the power and authority of the Attorney

General, unless any such power or authority is required by law to be exercised by the Attorney General personally." He supervises and directs all organizational units of the Department, and aides the Attorney General in developing and implementing Departmental policies and programs. To say the least, this is an important position.

America is entitled to the most qualified and judicious person to fill such a crucial role. My concern is that David Ogden falls short of those expectations.

Mr. Ogden is undoubtedly a bright and accomplished attorney. Although he lacks criminal trial experience that would be helpful in overseeing DOJ components such as the Criminal Division, National Security Division, U.S. Attorneys' Offices, FBI, and DEA, it appears he is fit to serve as Deputy Attorney General.

My concern is with his views on some of the most important issues within the Department's purview. During Mr. Ogden's time as an attorney in private practice, he vigorously defended very sensitive and controversial issues such as abortion, pornography, the incorporation of international law in Constitutional interpretation, and the unconstitutionality of the death penalty for minors.

While I recognize that lawyers should not necessarily be impugned for the views of their clients, I am particularly concerned about a pattern in Mr. Ogden's representations, namely his work on obscenity and pornography litigation. In these cases, Mr. Ogden has consistently argued the side of the pornography producers, opposing legislation designed to ban child pornography, including the Children's Internet Protection Act of 2000 and the Child Protection and Obscenity Enforcement Act of 1998.

At his hearing and in response to written questions, Mr. Ogden maintained that the views he advocated in these cases were those of his client, and not necessarily his own. While I accept this as plausible, I am unsatisfied with Mr. Ogden's unwillingness to answer my specific questions about his own personal beliefs. Discerning such personal views is crucial to adequately evaluating a nominee who may be charged with enforcing the very laws he has opposed in the past.

It would not have been hard for Mr. Ogden to distance himself from some of the extreme views he advanced on behalf of his clients. For example, in his brief for the American Psychological Association in *Casey v. Planned Parenthood*, he wrote:

it is grossly misleading to tell a woman that abortion imposes possible detrimental psychological effects when the risks are negligible in most cases, when the evidence shows that she is more likely to experience feelings of relief and happiness, and when child-birth and child-rearing or adoption may pose concomitant (if not greater) risks of adverse psychological effects for some women depending on their individual circumstances.

I was disappointed—and somewhat shocked—that, given an opportunity to respond to such a statement, the best Mr. Ogden could offer was further clarification that he was representing the views of client. When pressed for his personal views on the matter, he refused to answer. As a result, I am left to guess at what this nominee's views are on a matter of critical importance.

Similarly, I asked Mr. Ogden whether he believes that adult obscenity contributes to the sexual exploitation of children in any way. Further, I asked him whether he personally believes that adult obscenity contributes to the demand for prostitutes, and/or women and children who are trafficked into prostitution. His curt response was the same for both questions: "I have not studied this issue and therefore do not have a personal belief." It is hard to believe that a lawyer who devoted significant time and energy throughout his career to representing the pornography industry would not have an opinion on these issues.

In response to my question about whether he personally believes there is a Federal constitutional right to same-sex marriage, he replied: "I have not studied this issue and therefore have not developed a personal view as to whether there is a constitutional right to same-sex marriage." I simply find it hard to believe that a lawyer of the caliber and experience possessed by David Ogden has not thought about matters of such widespread public debate.

In short, although I am impressed by Mr. Ogden's credentials, his lack of candor in response to my questions leaves me guessing about the approach he will take to these and other sensitive issues at the Department of Justice. While former clients or advocacy should not necessarily disqualify a lawyer from such positions, David Ogden did not do enough to distance himself from controversial views he advocated in the past, often against the interests of the government. Therefore, Mr. Ogden's performance throughout this nomination process is not enough to overcome the unfortunate presumptions created by his record of representation. I am unable to support his nomination.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business, with the time charged to the Republican side on this debate.

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

SECRETARY GEITHNER

Mr. ALEXANDER. I thank the Senator from Vermont.

Mr. President, this morning Secretary Geithner appeared before the Budget Committee. He had good humor. He was resilient. He did a good job in his testimony. He said, a variety of times, approximately this: There would be no economic recovery until

we fix the banks and get credit flowing again.

I would like to make a constructive suggestion to our new President, who I think is an impressive individual, and to Secretary Geithner, because while that may be the goal of the Government, the country is not yet persuaded the Government will do that or can do that.

I asked Secretary Geithner whether he is familiar with a book by Ernest May, a longtime professor at the Kennedy School of Government at Harvard University. The book is called "Thinking in Time: The Uses of History for Decision Makers." The reason I asked Secretary Geithner about that was because Ernest May's book ought to be required reading for any governmental decision maker. The thesis of the book is that any crisis one may be presented—if you are Secretary of Treasury, Secretary of Defense—usually has something in history to teach you a lesson. For example, if you are the Kennedy administration dealing with the Cuban missile crisis in the early 1960s, you may want to look back to Hitler's invasion of Rhineland in 1936 to see whether we should have stopped him then and avoided, perhaps, World War II.

Professor May often says one has to be very careful in thinking about the different analogies because you might pick up the wrong analogy and the wrong lesson from history. I would like to suggest to the President and to the Secretary of Treasury, in the spirit of Professor May's book, a couple of analogies from history that I believe would help this country deal with the banking crisis, deal with getting credit flowing again, and begin to get us back toward the economic recovery that we all want for our country and that we very badly need.

The first example comes from President Franklin Delano Roosevelt, who was elected after a deep recession, and maybe even a depression was already underway, much worse than today. Mr. President, 5,000 banks had failed, and deposits were not insured. What did President Roosevelt do? He did one thing: Within 2 days after taking the oath of office, he declared a bank holiday, from March 6 to March 10, 1933. Banking transactions were suspended across the Nation except for making change. He presented Congress with the Emergency Banking Act. The law empowered the President, through the Treasury Department, to reopen banks that were solvent and assist those that were not. The House passed it after 40 minutes of debate, and the Senate soon followed. Banks were divided into categories. On the Sunday evening before the banks reopened, the President addressed the Nation through one of his signature fireside chats. The President assured 60 million radio listeners in 1933 that the crisis was over and the Nation's banks were secure. By the beginning of April, Americans confidently returned \$1 billion to the

banking system; the bank crisis was over. Now, there was a lot more to come. That was not the end of the Great Depression, but it was the end of the bank crisis, and it came because of swift and bold Presidential leadership.

The lesson I would suggest from that analogy to our nation's history, is that President Roosevelt did not try to create the Tennessee Valley Authority and the Civilian Conservation Corps and the PWA and the WPA and pack the Supreme Court all in the first month of his term of office.

He declared a banking holiday within 2 days after taking office. He assured the country that he would fix the problem. He went on the radio not for the purpose of talking about the whole range of problems but to say, on March 12, 1933: I want to talk for a few minutes to the people of the United States about banking. And he explained what was going on. He said: We do not want and we will not have another epidemic of bank failures. He said: We have provided the machinery to restore our financial system.

The people believed him. They put money back in the banks because the American people were looking for Presidential leadership at that moment. They knew that the Congress or the Governors or other individuals in the country could not fix the bank problem. They knew the President had to fix it. When the President took decisive action and said he would fix the problem, the country responded and that part of the problem was fixed. The bank crisis was over. That is analogy No. 1.

Analogy No. 2—and I believe the analogy is closer to today's challenge facing President Obama and Secretary Geithner and all of us, really—is President Eisenhower's speech in October 1952 in which he declared he would end the Korean war. I'd like to read a paragraph from that speech because it seems to me so relevant to the kind of Presidential leadership that might make a difference today.

President Eisenhower said:

The first task of a new administration will be to review and re-examine every course of action open to us with one goal in view: to bring the Korean war to an early and honorable end.

In these circumstances today, one might say to bring the bank crisis and the credit freeze to an early, honorable end.

President Eisenhower, then a general, not President, said:

This is my pledge to the American people. For this task a wholly new administration is needed. The reason for this is simple. The old administration cannot be expected to repair what it failed to prevent.

In other words, the issue in the Presidential election of 1952 was change. That is also familiar. It just happened to be the Republicans arguing for change at the time.

Then the President said:

That job requires a personal trip to Korea. I shall make that trip. Only in that way

could I learn how best to serve the American people in the cause of peace. I shall go to Korea.

On November 29, in the same month he was elected to the Presidency, Dwight D. Eisenhower left for Korea.

The lesson from that instance in history, as Ernest May would have us look at, is not that President Eisenhower ended the Korean war by Christmas or even by Easter of the next year. The lesson is that he told the American people he had one objective in mind. Of all the things going on in 1952—inflation and other problems—he focused on the one that only a President could deal with. He did it in memorable terms. We remember the phrase today: I shall go to Korea. The people believed him. They elected him. They relaxed a little bit. The war was ended, and the 1950s were a very prosperous time.

I wish to make this a constructive and, I hope, timely suggestion because the President and the Secretary are about to tell us what they are going to do about banks. What I would like to suggest is this: they don't need to scare us anymore. Back in Tennessee, we are all pretty scared. There are a lot of people who are not sure what is going to happen with the banks. They don't need to explain the whole problem to us anymore. That is not what leaders do. Leaders solve problems. Maybe it needs to be explained enough so we grasp it, but basically Americans are looking for Presidential leadership to solve the problem.

I don't think we have to be persuaded that our impressive new President is capable of doing more than one thing at a time. He may have shown that better than anybody else in history. We have already had two summits—one on health and one on fiscal responsibility. I was privileged to attend one of the summits. I thought it went very well. The President has repealed some of President Bush's orders that he didn't agree with on the environment and stem cell research. The President has been out to a wind turbine factory in Ohio talking about energy. He has persuaded Congress to spend a trillion dollars, over my objection, but still he was able to do that in the so-called stimulus bill. The new Secretary of Education has worked with the President, and he made a fine speech on education the other day. He is doing a lot of things. A lot of things need to be done.

The point is, there is one overriding thing that needs to be done today, and that is to fix the banks and get American credit flowing again. President Roosevelt didn't create the Tennessee Valley Authority and the CCC and the WPA during the bank holiday. He fixed the banks. So my respectful suggestion is that our impressive, new President say to the American people as soon as he can, in Eisenhower fashion: I will fix the banks. I will get credit flowing again. I will take all these other important issues facing the country—health care, education, energy, on which I am

eager to work—and I will make them subordinate to that goal. In the spirit of President Eisenhower: I will concentrate my full attention on this goal until the job is honorably done; that job being, fixing the banks and getting credit flowing again.

I genuinely believe that if this President did that, if he, in effect, made that speech, cleared the decks, gathered around him the bright people he has around him and said to the American people: Don't worry, a President can do this and I am going to. That statement would be the beginning of the economic recovery. Because lack of confidence is a big part of our problem. This crisis began with \$140 oil prices. That was, in the words of FedEx chairman Fred Smith, "The match that lit the fire." Then there was the housing subprime mortgage crisis and then banking failures.

Now, even in strong community banks in Tennessee, we have people who are out of work and who can't pay their small business loans or student loans. Some of those banks are beginning to have some problems.

We need to interrupt this train. We only have one person who can do it. A Senator cannot do it. The Vice President cannot do it. The Secretary of the Treasury cannot do it. No Governor can do it. The President can; only he can do it. Even though he may be able to do many things well at one time, he needs to do one thing until the job is honorably done.

My respectful suggestion is that Ernest May's book, which reminds leaders to think in terms of history, "Thinking in Time," is a powerfully apt book for these times. As the Secretary and the President and his advisers think about how to present to the American people what their plan is, they should remember that a part of it is not only developing a strategy. The most important part is persuading at least half the people they are right. I believe that means clearing the deck: no more summits, no more trips in other directions. Focus attention on the problem facing the country until the job is honorably done.

In Eisenhower fashion, I hope the President will say: I will fix the banks. I will get credit flowing again. I will concentrate my attention on that job until it is done.

I yield the floor, suggest the absence of a quorum, and ask unanimous consent that the time during the quorum be split evenly between the parties.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that my time be charged equally to both sides.

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

Mr. WHITEHOUSE. Mr. President, I come to the floor today to urge my colleagues to support the nomination of David Ogden to be our Deputy Attorney General. In doing so, I will make a few brief points.

First, Mr. Ogden is extraordinarily qualified as a lawyer. He has served as the Assistant Attorney General in charge of the Civil Division, as the Chief of Staff to Attorney General Janet Reno, as the Associate Deputy Attorney General, and as Deputy General Counsel over at the Department of Defense. He has a distinguished government record.

He has also been a distinguished lawyer in the private sector, as evidenced by his position as cochair of the Government and Regulatory Litigation Group at the law firm of WilmerHale. His qualifications for this important position as Deputy Attorney General are exemplified by the support of former Deputy Attorneys General of both parties.

Republican Larry Thompson said:

David is a person of honor who will, at all times, do the right thing for the Department of Justice and our great country. As a citizen, I am extremely grateful that a lawyer of David's caliber again offers himself for public service.

Democrat Jamie Gorelick wrote that David Ogden "is a man of unusual breadth and depth who is as well prepared to help lead the Department as anyone who has come in at the outset of a new administration can possibly be."

Second, now more than ever, the Department needs a competent Deputy Attorney General. I will not go back and review the long sad litany of problems—to put it mildly—we saw in the Bush Justice Department. But the incompetence and politicization that ran rampant through that building must never be repeated.

The Deputy Attorney General is the second ranking member at the Department, and some have compared the position to a chief operating officer. We need in that office a person who understands what makes the Department of Justice such an important and unique institution, who is committed to restoring the Department's honor and integrity, who will act independent of political pressure, and who understands the levers within the building that need to be pulled to get things done. Based on my review of his background and based on his confirmation hearings and based on my personal conversations with David, I believe him to be such a man.

I commend Chairman LEAHY for his determination to confirm as many Department nominees as quickly as possible. The Department has more than 100,000 employees and a budget exceeding \$25 billion. It is also tasked with confronting the most complex and difficult legal challenges of our day. The Attorney General must have his leader-

ship team in place as quickly as possible. It is March 12 and the Attorney General does not have his Deputy confirmed by this body. Despite some very unfortunate delay tactics that have taken place, Chairman LEAHY is doing all he can to move these nominees in a careful, deliberate, and expeditious manner. I commend him for that effort and I look forward to supporting him in that effort.

I would also add that as a Senator I have found some of the comments that have been made about Mr. Ogden to be very troubling, and certainly not the sort of debate I had in mind when I ran to be a Senator. Everybody here who is a lawyer knows that a lawyer in private practice has a duty—a duty—to zealously advocate—to zealously advocate—the position of his client. What makes our system great is that you don't have to win a popularity contest as a client before you can get a zealous advocate for your position. Every lawyer is under a duty to zealously advocate their client's position.

So to take a lawyer who has served in private practice with great distinction and attribute to him personally the views of clients is plain dead wrong and strikes at the heart of the attorney-client relationship that is the basis of our system of justice. It is a terrible mistake to do that, and particularly to exaggerate those positions to the point where he has been accused of supporting things such as child pornography. It is an appalling misstatement. The major organizations that concern themselves with the welfare of children in this country support David Ogden. That should put these false claims to rest. However, I do very much regret that the level of debate over someone such as David Ogden in this historic body has come to a point where those sorts of charges are being thrown out, completely without factual basis and, in many respects, in violation of what we should as Senators understand to be a core principle, which is that a lawyer is bound to advocate for his client and to do so does not confer upon the lawyer the necessity of agreeing to those views.

As somebody who spent a good deal of time in public service as a lawyer and who has spent some time in private practice as a lawyer as well, I can tell my colleagues that one of the reasons people come to public service is so they can vindicate the public interest. David, as Deputy Attorney General, I have no doubt whatsoever will serve in a way that vindicates the public interest, that protects children, that protects our country, and that serves the law.

I appreciate the opportunity to say this, and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I have sought recognition to discuss briefly the pending nomination of David Ogden to be Deputy Attorney General. I had spoken on the subject in some detail 2 days ago, and my comments appear in the CONGRESSIONAL RECORD. But I wish to summarize my views today and also to respond to an issue which has been raised about undue delay on Mr. Ogden's nomination. There has been no such delay, and I think that is conclusively demonstrated on the record.

President Obama announced Mr. Ogden's nomination on January 5, but the Judiciary Committee did not receive the nomination materials until January 23, and he was not officially nominated until January 26.

Then the committee promptly held a hearing on his nomination on February 5, 13 days after receiving his nomination materials. His hearing record was open for written questions for 1 week, until February 12, and Mr. Ogden returned his responses on February 18 and 19.

Following Mr. Ogden's hearing, the Judiciary Committee received an unprecedented number of opposition calls and letters—over 11,000 contacts in opposition to the nominee, unprecedented for someone in this position. Despite this opposition, the committee promptly voted on Mr. Ogden's nomination on February 26.

I note that the week prior to the committee's vote on Mr. Ogden's nomination was a recess week, and it was the same week the committee received Mr. Ogden's answers to his written questions. As is the standard practice, the committee would not have voted on him prior to February 26 because the record was not complete.

Rather than hold this nominee over for a week in committee, which is any Senator's right, Republicans voted on Mr. Ogden's nomination for the first time he was listed, on February 26. And now, 45 days after Mr. Ogden was nominated, the Senate is poised to vote on his nomination.

Even allowing that Mr. Ogden's nomination was announced on January 5—66 days ago—the Senate is still acting as quickly as it has on past Deputy Attorneys General.

On average, since 1980, Senators have been afforded 65 days to evaluate Deputy Attorney General nominees. Senators were afforded 85 days to evaluate the nomination of Larry Thompson and 110 days to evaluate the nomination of Mark Filip, both nominated by President George W. Bush. In fact, we are voting on Mr. Ogden's nomination faster than any of President Bush's nominees: Larry Thompson, 85 days; James Comey, 68 days; Paul McNulty, 147 days; and Mark Filip, 110 days. I believe these facts put to rest any allegation there was any delay.

I spoke on Wednesday urging my colleagues to move promptly, noting I had a call from Attorney General Holder who said he was needed. Not having had any top-level people confirmed, I think the Attorney General's request is a very valid one. In my position as ranking member, I am pushing ahead and trying to get the Ogden nomination voted on.

On Wednesday, I noted the fine academic record and professional record and put his resume into the RECORD, so I need not do that again.

I noted on Wednesday in some detail the opposition which had been raised by a number of organizations—Family Research Council, headed by Tony Perkins; Fidelis, a Catholic-based organization; the Eagle Forum; and the Alliance Defense Fund—on the positions which Mr. Ogden had taken in a number of cases. I also noted the judgments that when Mr. Ogden took those positions, he was in an advocacy role and is not to be held to those policy positions as if they were his own.

I noted that the Judiciary Committee is taking a close look at other nominees—Elena Kagan, for example—on the issue of whether she adequately answered questions. I am meeting with her later today. Her nomination is pending. Also, the nomination of Ms. Dawn Johnsen involving the issue of her contention that denying a woman's right to choose constitutes slavery and a violation of the 13th amendment.

I believe on balance Mr. Ogden ought to be confirmed, as I said on Wednesday, noting the objections, noting the concerns, and contrasting them with his academic and professional record. He took advocacy positions well recognized within the profession, but that is a lawyer's responsibility. He cannot be held to have assumed those positions as his own policy.

We will later today take up the nomination of the Associate Attorney General. While I have the floor, I think it appropriate to make some comments regarding this nomination.

Thomas Perrelli is the nominee. He has an outstanding academic record: a graduate of Brown University, Phi Beta Kappa and magna cum laude, very substantial indicators of academic excellence. Then Harvard Law School, again magna cum laude, 1991; managing editor of the Harvard Law Review. He clerked for Judge Lamberth in the U.S. District Court for the District of Columbia. He has been an associate at Jenner & Block; counsel to the Attorney General; Deputy Assistant Attorney General; and later a partner in Jenner & Block. He was named to the "40 under 40" list by the National Law Journal; a recipient of the Jenner Pro Bono Award; and recognized as one of Lawdragon's 500 "New Stars, New Worlds."

Mr. President, I ask unanimous consent to have printed in the RECORD his résumé.

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

THOMAS J. PERRELLI

ASSOCIATE ATTORNEY GENERAL

Birth: 1966, Falls Church, Virginia.
Residence: Arlington, Virginia.
Education: A.B., Brown University, magna cum laude, 1988; Phi Beta Kappa, 1987; J.D., Harvard Law School, magna cum laude, 1991; Managing Editor, Harvard Law Review.

Employment: Law Clerk, Honorable Royce C. Lamberth, U.S. District Court for the District of Columbia, 1991–1992; Associate, Jenner & Block LLP, Washington, DC, 1992–1997; Counsel to the Attorney General (Janet Reno), U.S. Department of Justice, 1997–1999; Deputy Assistant Attorney General, U.S. Department of Justice, Civil Division, 1999–January 2001; Unemployed, January 2001–June 2001; Partner, Jenner & Block LLP, Washington, DC, 2001–Present; Managing Partner, Washington, DC office, 2005–Present; Co-Chair, Entertainment and New Media Practice.

Selected Activities: Named to "40 under 40," National Law Journal, 2005; Recipient, Albert E. Jenner, Jr. Pro Bono Award, Jenner & Block, 2005; Recognized as one of Lawdragon's 500 "New Stars, New Worlds," 2006; Named Best Intellectual Property Lawyer in Washington, DC by Washington Business Journal, 2008; Recognized as leading media and entertainment lawyer, Chambers & Partners USA, 2007–2008; Member, American Bar Association.

Mr. SPECTER. Mr. President, there had been some question raised as to Mr. Perrelli's representation of clients in a couple of cases—including the American Library Association v. Attorney General Reno, where he appeared on behalf of a coalition of free speech groups and media entities (including Penthouse) arguing that the Child Protection Restoration and Penalties Enhancement Act of 1990 criminalized material in violation of the first amendment.

There were a number of letters filed by pro-life organizations, including the Pennsylvania Family Institute, International Right to Life Federation, Family Research Council, and the National Right to Life Committee. We have evaluated those issues closely.

I questioned Mr. Perrelli in some detail on the position he took in the Terri Schiavo case where he claimed the Federal court did not have jurisdiction. It seems to me as a legal matter, the State court did not have exclusive jurisdiction, that the Federal court could take jurisdiction under Federal doctrines. He defended his position saying that he was taking an advocate's role, and he thought it was a fair argument to make. My own view was that it was a little extreme.

I think all factors considered, the objections which have been raised of Mr. Perrelli as Associate Attorney General turn almost exclusively on positions he took as an advocate. I believe his outstanding academic and professional record support confirmation.

Again, we are taking a very close look at all of the nominees but, on balance, it seems to me that is the appropriate judgment. Here, again, we are almost 2 months into a new administration and the Attorney General does not have any upper echelon assistants. These confirmations will provide that assistance.

I think it is fair to note that Mr. Perrelli's nomination was supported overwhelmingly in the committee, the same conclusion I came to. It was a 17-to-1 vote in his favor. Only one Senator voted no and one Senator voted to pass. That is showing pretty substantial support.

I thank the Chair. I note the presence of the distinguished chairman of the committee, so I yield the floor to Senator LEAHY.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand my time has been used. We are supposed to vote at 2 p.m. I ask unanimous consent that I be able to use the time until 2 o'clock.

Mr. SPECTER. Mr. President, if Senator LEAHY would like my time, he is welcome to all of it.

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

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Pennsylvania for his support of both David Ogden and Thomas Perrelli, both superbly qualified candidates, both of whom will be confirmed this afternoon. I will speak further about Mr. Perrelli after this vote.

Again, I go back to David Ogden. David Ogden has been strongly supported by Republicans and Democrats, those who served in the Bush administration and other administrations. I thought it was a scurrilous attack on him because he and his firm supported libraries, supported perfectly legal publications, and some Republicans saying they could not vote for him because of that.

I note that these same Republicans all voted for Michael Mukasey, a fine gentleman, to be Attorney General, who listed as one of his primary cases his representation of the TV channel that carries "Dial-a-Porn."

Now, certainly when a Republican, nominated by a Republican, represented Dial-a-Porn, that seems to be wrong; when a Democrat, nominated by a Democrat, represents libraries and basically a mainstream men's magazine, that is wrong.

I hope we will avoid in the future such double standards. I see a man who has helped children, who has volunteered his time, who has given great charity to children, and who has been supported by the Boys and Girls Clubs, by the Missing and Exploited Children's groups, by the National District Attorneys Association, and by every major law enforcement organization.

So, Mr. President, I know time has expired, and I would ask for the yeas and nays on confirmation of the nomination.

The PRESIDING OFFICER (Mr. BENNET). Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of David W. Ogden, of Virginia, to be Deputy Attorney General?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Carolina (Mrs. HAGAN), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. JOHANNES), the Senator from Texas (Mr. CORNYN), and the Senator from Georgia (Mr. ISAKSON).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "nay."

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

The result was announced—yeas 65, nays 28, as follows:

[Rollcall Vote No. 97 Ex.]

YEAS—65

Akaka	Graham	Murray
Alexander	Gregg	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Inouye	Pryor
Begich	Johnson	Reed
Bennet	Kaufman	Reid
Bingaman	Kerry	Rockefeller
Bond	Klobuchar	Sanders
Boxer	Kohl	Schumer
Brown	Kyl	Shaheen
Burr	Landrieu	Snowe
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	Lugar	Voinovich
Dorgan	McCain	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Gillibrand	Mikulski	

NAYS—28

Barrasso	Crapo	Murkowski
Bennett	DeMint	Risch
Brownback	Ensign	Roberts
Bunning	Enzi	Sessions
Burr	Grassley	Shelby
Casey	Hatch	Thune
Chambliss	Hutchison	Vitter
Coburn	Inhofe	Wicker
Cochran	Martinez	
Corker	McConnell	

NOT VOTING—6

Byrd	Hagan	Johannes
Cornyn	Isakson	Kennedy

The nomination was confirmed.

The PRESIDING OFFICER. The motion to reconsider is considered made and laid on the table, and the President will be informed of the Senate's action.

NOMINATION OF THOMAS JOHN PERRELLI TO BE ASSOCIATE ATTORNEY GENERAL

The bill clerk read the nomination of Thomas John Perrelli, of Virginia, to be Associate Attorney General.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, what is the agreement on the Perrelli nomination?

The PRESIDING OFFICER. There is to be 90 minutes of debate, evenly divided.

Mr. LEAHY. Mr. President, I am only going to speak for 2 or 3 minutes. I have had a number of Senators, both

Republican Senators and Democratic Senators, ask if there is a possibility of this to be a voice vote. A number of them have airplanes to catch. I mention that for Senators on both sides of the aisle.

I am perfectly willing at some appropriate time to yield back all our time and have a voice vote on President Obama's nomination of Thomas J. Perrelli to be the Associate Attorney General, the number three position at the Justice Department. He is a superbly qualified veteran of the Department of Justice who has chosen to leave a lucrative private practice to return to public service. This nomination was reported out of the Judiciary Committee one week ago by a strong, bipartisan vote of 17-1. I thank Senator SPECTER, Senator HATCH, Senator KYL, Senator SESSIONS, Senator GRAHAM and Senator CORNYN for their support of this important nomination.

Given Tom Perrelli's background and qualifications, this strong support is no surprise. He is the managing partner of the Washington, D.C. office of Jenner & Block. Before that he held important posts at the Justice Department, earning a reputation for independence and integrity, as well as the respect of career lawyers at the Department. Mr. Perrelli joined the Justice Department in 1997 as Counsel to the Attorney General. In that role, Mr. Perrelli assisted the Attorney General in overseeing the civil litigation components of the Department of Justice, and also worked on a wide variety of special projects, including professional responsibility issues for Department attorneys, and law enforcement in Indian Country.

From 1999 to 2001, Mr. Perrelli served as Deputy Assistant Attorney General in the Civil Division, supervising the Federal Programs Branch. That branch defends Federal agencies in important constitutional, regulatory, national security, personnel and other litigation. In addition, he played a leading role on significant policy issues ranging from medical records privacy, the use of adjusted figures in the census to Indian gaming, and social security litigation.

A Phi Beta Kappa graduate from Brown University and graduate of Harvard Law School where he served as the Managing Editor of the Harvard Law Review, Mr. Perrelli has demonstrated throughout his years in Government that he understands that the role of the Department of Justice is to be the people's lawyer, with first loyalty to the Constitution and the laws of the United States. He clerked for Judge Royce Lamberth, a no nonsense judge. In private practice, first as an associate at Jenner & Block from 1992 to 1997 and then, again, from 2001 to the present where he became a partner and then the managing partner of its well-respected Washington office, he is recognized as an outstanding litigator and manager. He will need all those skills to call on all his experience in the challenging work ahead.

Numerous major law enforcement organizations have endorsed Mr.

Perrelli's nomination, including the National President of the Fraternal Order of Police, the Major Cities Chiefs Association, and the National Association of Police Organizations. Paul Clement, who worked for Senator Ashcroft and then Attorney General Ashcroft and was appointed by President Bush to be Solicitor General, wrote that career professionals at the Department who had worked with Mr. Perrelli "held him in uniformly high regard" and that Mr. Perrelli's "prior service in the Department should prepare [him] to be a particularly effective Associate Attorney General." He also described Mr. Perrelli as "an incredibly skilled lawyer" whose "skills would serve both Tom and the Department very well if he is confirmed as the Associate Attorney General."

I urge the Senate to confirm Tom Perrelli to the critical post for which President Obama has nominated him. I look forward to congratulating him, his wife Kristine and their two sons, James and Alexander on his confirmation.

I will withhold the remainder of my time. Before I do that, I know the floor staff on both parties are seeing whether it is possible to shorten the time. If it is—I am stuck here this afternoon, but for those Senators who are trying to grab a flight out of here, it would be good to let them know. I retain the remainder of my time. I see a distinguished former member of our committee, the Senator from Kansas, on the floor. I retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I rise to speak on the case of Mr. Perrelli, nominated to be Associate Attorney General. I rise to speak in opposition to the nomination. I will not be long, but I think there is an important policy issue that needs to be discussed. I would be prepared to yield back time after that point in time. I do not know if we have other people who desire to speak, so Members could move on about their busy day.

I do think we have an important discussion here. I have no doubt of the qualifications of Mr. Perrelli to be Associate Attorney General. I think from what the chairman has stated—and I have no reason to dispute what the chairman has stated about the qualifications of Mr. Perrelli. I think they are good. I do not ascribe bad motives whatsoever to him or anybody. But I think there is a very important policy discussion that needs to take place here, with an opportunity to vote, before we put this individual third in command of the Justice Department, to oversee management of the Department's day-to-day operations, including formulating departmental policies.

Concerns have been raised with regard to Mr. Perrelli's nomination to be Associate Attorney General primarily due to his pro bono representation of Terri Schiavo's husband, Michael

Schiavo, in his effort to allow the starvation to take place, and the dehydration, of his wife. The death that took place several years ago captured the discussion and the thoughts in the country about issues about the quality of life and whether we protect life that is in a diminished qualitative state. It was a tough discussion. It was a tough debate. I was here and involved with it, as were a number of other individuals. It was one that went back and forth for some period of time. Terri Schiavo, as I might remind a number of individuals, was in a very difficult mental condition. Her husband was desiring to withhold food and water from Terri Schiavo.

The family members of Terri Schiavo: No, we should not do this. We should allow her to continue to live. Food, water—provide those items to her.

It pulled back and forth on people. And the fundamental root question involved in it is, Do we put a subjective value on human life or is all human life sacred, *per se*, in an objective sense? Because it is human life, is it sacred, *per se*, or is there some sort of threshold issue we should be considering on whether we protect human life to the degree fully that we can and certainly on the issues of providing food and water? That was kind of the policy discussion and that was the conundrum we were in as a country because people could see both sides of this issue and say: Gosh, she is in a difficult spot as an individual. Her husband says: Let's withhold food and water. The family says: No. And the country was brought into the discussion, the debate, as was this body.

Mr. Perrelli was *pro bono*, representing for free, Michael Schiavo, in this case, who was the primary proponent to withhold food and water for Terri Schiavo. I think before we put a person who took that position—he did this for free—into the No. 3 position at the Justice Department of the United States, we should discuss that because people are policy and what they view and what they stand for does find its way into policy apparatus for the United States of America. And this is a key issue for us.

I want to put it very clearly. While there is a lot of emotion surrounding this, there is a fundamental policy question, as I mentioned a bit earlier, about this, and that is the basic issue of, do we view human life sacred, *per se*, or does the dignity that we treat individuals with depend on their physical or mental status as human beings? And we shouldn't get around the starkness of that debate. It is a stark debate, but it is an important one, and I think clearly we should err on the side of saying: If this is a human person, then they are regarded as fully human with all human rights regardless of any sort of diminished physical or mental capacity they might have. To hold differently than that would be for us to say that some people are more equal

than others, that some have more rights—or some have fewer rights than other individuals do. And we have been in that sort of policy discussion before, and we have always regretted it. We are at our best when we are standing for the weakest people amongst us, with the most diminished, with the most difficulty. These are the ones we want to stand for the most.

One of the proud moments for me here in our body was to work a bill with Senator KENNEDY on helping to get more Down's Syndrome children here born alive because right now about 90 percent of them are killed in utero. We worked on a way to have an adoption registry and an effort to recognize that these are valuable people and we should not say that because of their difficulty here, they should be regarded as less human. That is not a position that upholds the nature and traditions and ideals of the United States of America.

If a subjective judgment of quality of life is what determines the value of an individual or the protections accorded to that individual, this has enormous implications for all of us, both for the way we conduct our own lives and the way we order our society. If we have a fundamental mandate to protect the most vulnerable amongst us, not just those who have social or political influence or those who are regarded as productive, a reordering of our priorities and our laws becomes necessary.

Ultimately, the debate over Terri Schiavo was not one about States rights or medical ethics or end-of-life decisions; it was about whether we measure life by a subjective or an objective test. That is the fundamental debate point here. Is it a subjective determination? If you hit enough of these criteria, you are given full human rights? If you have a few of these, too few of these, you are not given full human rights? Or is it an objective test? You are a human, of the species, you have full human rights in all situations, and you are certainly entitled to food and water even if are you in a difficult mental condition.

I believe this is a very important debate, and now we are seeing more of the country enter into it, end-of-life issues on the sacredness of human life: Does it exist at the end of life or not? Do we have these objective or subjective tests?

Mr. Perrelli—by all accounts a good lawyer—comes out on one point of view. He comes out on the point of view that we can look at these in subjective ways, representing the client in this who looked at a subjective quality-of-life case. Of all of the qualified lawyers in the United States—and there are many brilliant lawyers in the United States—why would we insist upon putting in as the No. 3 lawyer at the Justice Department one who has a point of view that is so stark on this and so against the view of most Americans, who would view all human life objectively as being beautiful, as being

sacred, as being something worthy of protection? Now, as people are policy, you put someone into the No. 3 position at the Justice Department who holds a very radical point of view on this, of all of the qualified lawyers that are across the United States. The signal that sends across the society is, OK, there is a shift taking place here: we are not going to focus on human life as objectively sacred, we are going to view it as subjectively needing to meet criteria to protect.

That may be seen as too stark, but that was the stark question that was put forward in the Terri Schiavo case, and that was the stark question this nominee decidedly went to one side on. He could have stayed out of it, could have not been involved whatsoever. But he didn't. He freely and "freely" got involved in this case on one side in a radical direction that I believe is wrong for the country to take.

It will be clearly possible that cases involving euthanasia or other end-of-life issues may come before the Federal courts during his tenure in office. With cases in Oregon, the State of Washington, probably being considered in other States, it is highly likely, actually, that these cases will come forward. I am deeply concerned that Mr. Perrelli's view of this, while so decidedly on one side of it, will not be an objective observer or enforcer of current U.S. law. I think that is a step back for us protecting and defending the sanctity of basic human life.

This is something I think all of us in our own heart of hearts absolutely agree, that human life is sacred, it is sacred at all stages, and it is sacred in all places. But now we are presented with a policy choice in a person. I would hope that people, as they would look at this, would say that is not a direction we should be going, that is not a direction we should be tilting in this country as we deal with these end-of-life issues coming at a very rapid pace in front of legislative bodies at the State level, and I believe they will come here, and I believe they will enter their way into the courts.

For all of these reasons, I really don't believe we should go this route. I will be voting against Mr. Perrelli even though I believe him to be a qualified individual because of the stark position, the negative position he has taken, the subjective view he has expressed with his advocacy of the view of human life in this very important position.

I will retain the balance of the time in case other issues are raised, if there are other issues that are raised. If there are not other issues that are raised, I do not know if we have other people to speak on our side. I would be willing to yield back. But if other debate points are raised, then I would like to have a few minutes to respond.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. If the Senator would yield on that point, I disagree with him

on this. I do not believe Mr. Perrelli is a right-to-die advocate or that the positions he represented on behalf of clients was extreme. In fact, all seven justices of the Florida Supreme Court, most appointed by Republican governors, agreed with Mr. Perrelli's argument. They struck down unanimously the law that gave Governor Jeb Bush authority over Ms. Schiavo's medical care.

It is wrong to caricature Mr. Perrelli as a "right to die" advocate. Mr. Perrelli did not become involved in the Schiavo litigation to further any personal or political agenda and did not become involved in the litigation when the issue was Ms. Schiavo's wishes. In fact, he did not become involved in the case until after the Florida State courts had fully and finally litigated the question of Ms. Schiavo's wishes and her medical condition. Mr. Perrelli's concern was for an unprecedented challenge to the judicial process. He argued that the Florida Legislature passed a law that imposed one set of rules on Ms. Schiavo and a different set of rules on everyone else in Florida. And he was proven right, when the Florida Supreme Court unanimously struck down the law taking the decisions out of the hands of the family and giving them to the Governor.

I ask unanimous consent that the long list of those who have written to the committee in support of Mr. Perrelli's nomination be printed in the RECORD.

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

LETTERS OF SUPPORT FOR THE NOMINATION OF
THOMAS J. PERRELLI TO BE ASSOCIATE ATTORNEY GENERAL OF THE UNITED STATES (AS OF MARCH 12, 2009)

CURRENT & FORMER PUBLIC OFFICIALS

Bill Lann Lee; Lewis, Feinberg, Lee, Renaker & Jackson, P.C.; former Assistant Attorney General, Civil Rights Division.
Brad Berenson; Sidley Austin, LLP.
Christine Gregoire; Governor, State of Washington.

Paul D. Clement; former Solicitor General.
State Attorneys General; Douglas F. Gansler, Maryland; Dustin McDaniel, Arkansas; Thurbert Baker, Georgia; Steve Six, Kansas; Jack Conway, Kentucky; James "Buddy" Caldwell, Louisiana; Martha Coakley, Massachusetts; Jim Hood, Mississippi; Chris Koster, Missouri; Steve Bullock, Montana; Roy Cooper, North Carolina; Gary King, New Mexico; Drew Edmondson, Oklahoma; Bob Cooper, Tennessee.

Stephanie A. Scharf; former President, National Association for Women Lawyers (NAWL).

LAW ENFORCEMENT & CRIMINAL JUSTICE ORGANIZATIONS

Federal Law Enforcement Officers Association.
Fraternal Order of Police.
Major Cities Chiefs Association.
National Association of Police Organizations, Inc.

Police Executive Research Forum.

VICTIMS' ADVOCATES

National Center for Missing and Exploited Children.
National Center for Victims of Crime.

CIVIL RIGHTS ORGANIZATIONS

Leadership Conference on Civil Rights.

National Congress of American Indians.
Native American Rights Fund.
Women's Bar Association of the District of Columbia.

OTHER SUPPORTERS

Boys and Girls Clubs of America.
Oceana, Earthjustice, National Audubon Society, Center for International Environmental Law.

Mr. LEAHY. This list includes numerous major law enforcement organizations that have endorsed Mr. Perrelli's nomination, including the National President of the Fraternal Order of Police, the Major Cities Chiefs Association, and the National Association of Police Organizations. It also includes Paul Clement, who worked for Senator Ashcroft and then Attorney General Ashcroft and was appointed by President Bush to be Solicitor General.

Mr. COBURN. Mr. President, I would like to make a very brief statement explaining my opposition to the nomination of Thomas Perrelli, to be Associate Attorney General at the Department of Justice. Like other DOJ nominees, Mr. Perrelli's past advocacy includes work affecting obscenity. In particular, he signed a brief attacking the Child Protection Restoration and Penalties Enhancement Act of 1990 for "criminaliz[ing] the production and distribution of 'sexually explicit' speech unless the producer and distributor comply with burdensome recordkeeping and labeling requirements." The brief was filed on behalf of Penthouse, the American Library Association, and others, whom the brief collectively describes as "mainstream national media entities."

To be clear, I recognize and respect that lawyers are entitled to represent any client they choose. I do not believe that arguments advanced on behalf of a client necessarily reflect the lawyer's views. Moreover, I do not believe that examining past advocacy is sufficient or appropriate to ascertain the beliefs of a particular nominee, much less disqualify him. It does, however, invite legitimate questions about what a nominee's personal views are on those same matters.

Therefore, at his hearing, I asked Mr. Perrelli whether he believed that adult obscenity contributed in any way to the exploitation of children. He told me that he had not reviewed the science, so I sent him four studies to review after the hearing, asking him to respond with comments. His response was wholly inadequate. He said:

I have reviewed the two summaries you forwarded, compiled by a social scientist at the University of Pennsylvania, which indicate her view that exposure to extreme forms of pornography can teach behaviors, including the sexual exploitation of children. It appears there is a great deal of literature on the subject, and without a comprehensive examination of the research, I am hesitant to come to any firm conclusions on the science.

Even after reviewing certain studies concluding that there is a connection between pornography and child exploitation, which Mr. Perrelli recognized,

the most he could say in response was that he was he needed to review even more science before reaching any conclusions. Because Mr. Perrelli refused to recognize even the possibility of such a connection, or otherwise shed light on his own personal views, I am unsure how he will approach issues of obscenity and exploitation at the Department. Therefore, I am unable to support Mr. Perrelli's nomination.

Mr. LEAHY. Mr. President, I ask unanimous consent that all debate time on the Perrelli nomination be yielded back and that the provisions of the previous order governing this nomination remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. I object in that I want to raise one additional point. And I do believe we should have a recorded vote.

The PRESIDING OFFICER. Objection is heard. The Senator from Kansas is recognized.

Mr. BROWNBACK. The additional point I would raise on this is that my colleague points to the Florida Supreme Court. I note that half of the Democrats in this body who returned to vote on the Terri Schiavo case voted in favor of Terri Schiavo's family. I think there was a clear view on this, and that is my point, when you get a radical position put forward that looks at this in a subjective sense.

With that, Mr. President, I would be willing to yield back time. I do want a recorded vote to take place.

Mr. LEAHY. Mr. President, I ask unanimous consent that all debate time on the Perrelli nomination be yielded back and that the provisions of the previous order governing this nomination remain in effect.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas John Perrelli, of Virginia, to be Associate Attorney General of the United States?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Carolina (Mrs. HAGAN), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mr. CORNYN), the Senator from Nebraska (Mr. JOHANNES), the Senator from Georgia (Mr. ISAKSON), and the Senator from Florida (Mr. MARTINEZ).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "yea."

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

The result was announced—yeas 72, nays 20, as follows:

[Rollcall Vote No. 98 Ex.]

YEAS—72

Akaka	Gillibrand	Mikulski
Alexander	Graham	Murkowski
Baucus	Gregg	Murray
Bayh	Harkin	Nelson (FL)
Begich	Hatch	Nelson (NE)
Bennet	Inouye	Pryor
Bennett	Johnson	Reed
Bingaman	Kaufman	Reid
Bond	Kerry	Rockefeller
Boxer	Klobuchar	Sanders
Brown	Kohl	Schumer
Burris	Kyl	Sessions
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Snowe
Carper	Leahy	Specter
Casey	Levin	Stabenow
Collins	Lieberman	Tester
Conrad	Lincoln	Udall (CO)
Corker	Lugar	Udall (NM)
Dodd	McCain	Voinovich
Dorgan	McCaskill	Warner
Durbin	McConnell	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

NAYS—20

Barrasso	Crapo	Risch
Brownback	DeMint	Roberts
Bunning	Ensign	Shelby
Burr	Enzi	Thune
Chambliss	Grassley	Vitter
Coburn	Hutchinson	Wicker
Cochran	Inhofe	

NOT VOTING—7

Byrd	Isakson	Martinez
Cornyn	Johanns	
Hagan	Kennedy	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Utah.

ORDER OF PROCEDURE

Mr. HATCH. Mr. President, I ask unanimous consent that immediately following my remarks, Senator BROWN be afforded the floor.

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

GUANTANAMO BAY

Mr. HATCH. Mr. President, I rise today to express my apprehension regarding the closure of the Guantanamo Bay Detention Center in Cuba. I have several concerns regarding the transfer and disposition of the enemy combatants detained there in response to the attacks of September 11, 2001.

Here we are, almost 8 years removed from that fateful Tuesday morning when terrorists murdered 3,000 of our citizens at the Pentagon, the World Trade Center complex, and on hijacked flights. On that day, we were caught flatfooted and hit with a right cross. Many of us who were here in Congress in the days that followed 9/11 swore we would provide the President and the

Nation with whatever tools were necessary to ensure that we would never be caught by surprise again.

So on September 18, 2001, Congress sent to President Bush the Authorization to Use Military Force. This was signed into law. Twenty-six days after the attacks on New York and Washington, we commenced military operations in Afghanistan. We had identified our enemy and determined the location of his base of operation and where this treacherous plot had been devised. We took the fight to the Taliban and al-Qaida and engaged them in Afghanistan. In the course of those engagements, U.S. and coalition forces captured enemy combatants.

Early in 2002, enemy combatants who were seized on the battlefield began arriving at Guantanamo for detention. In 2004, the Supreme Court issued an opinion in *Hamdi v. Rumsfeld* that, as a necessary incident to the AUMF, the President is authorized to detain persons captured while fighting U.S. forces in Afghanistan until the cessation of hostilities. At one time, nearly 800 detainees were housed at Guantanamo. Approximately 525 detainees have been transferred to other countries for detention or released outright and returned to their country of residence. Approximately 60 detainees who were released were later recaptured on the field of battle in Afghanistan or have again taken up arms against the United States on other fronts.

Recently, as reported this year in the January 23 edition of the New York Times, a former Guantanamo detainee from Saudi Arabia has resurfaced as No. 2 in charge of al-Qaida in Yemen.

There he is, as shown in this picture: Said Ali al-Shihiri, deputy leader for al-Qaida in Yemen; also known as Abu Sayyaf al-Shihiri and also as Abu-Sufyan al-Azidi; and also known as Guantanamo detainee No. 372. He was released from Guantanamo in November 2007. He planned the U.S. Embassy attack in Yemen in September 2008.

Furthermore, it is believed this man was involved in the planning of an attack on the American Embassy in Yemen last September. This terrorist assisted in the murder of 10 Yemeni citizens and 1 American—former Guantanamo detainee No. 372.

The Washington Post recently ran a 2-day installment profiling a Guantanamo detainee from Kuwait: Abdullah Saleh al-Ajmi, also known as Guantanamo detainee No. 220, released from Guantanamo in November 2006, and detonated a truck bomb in Mosul, Iraq, in March 2008.

He was released and subsequently traveled to Syria and snuck into Iraq. Ultimately, this terrorist drove a truck packed with explosives into a joint American and Iraqi military training camp and blew himself up, taking 13 Iraqi soldiers with him—former Guantanamo detainee No. 220.

In March of 2004, a released detainee returned to Pakistan to again take up the fight against coalition forces as an

insurgent. His name is Abdullah Mehsud. This former detainee, in July 2007, killed himself in engagement. He was responsible for the kidnapping of Chinese nationals in Pakistan. After Pakistani forces began to close in on him, he blew himself up with a grenade.

These are just a few of the examples that illustrate how precarious it can be to release these detainees to other nations. We are outsourcing the security of our Nation to other countries. Shouldn't we be cautious and examine who we are letting free? Who is taking custody of these detainees? What security precautions and monitoring measures are in place to ensure they stay incarcerated or remain accountable?

If we shelve the only DOD strategic interrogation facility we have and cannot place these detainees with confidence in other countries, will we be forced to transfer these enemy combatants to the United States? Removing these detainees from a secure military facility with an airport, a highly trained security force, a secure infrastructure, and located on an island outside the continental United States is, in my opinion, reckless. Bringing these detainees to the continental United States is tantamount to injecting a virus into a healthy body.

On January 22, 2009, President Obama signed three Executive orders pertaining to Guantanamo and the enemy combatants detained there. He has ordered the closure of the detention facility within 12 months. He has also required that any detainees presently in custody be treated humanely and in accordance with the Army Field Manual. In fact, this order references the Detainee Treatment Act of 2005, an act passed by Congress that required that the treatment of the detainees comply with the Army Field Manual. The objective of this order was already fulfilled by the passing of that law.

The third order commissioned a task force to conduct a comprehensive review of options available that will provide a solution and final disposition for the detainees at Guantanamo. The Executive order closing Guantanamo states:

Prompt and appropriate disposition of individuals currently detained at Guantanamo and closure of the facilities in which they are detained would further the national security and foreign policy interests of the United States.

Now, presently, approximately 245 detainees designated as "enemy combatants" are housed at Guantanamo. The possibility of returning a majority of these detainees to their home country or a third country so that we can rid ourselves of this issue troubles me, nor does it strike me as particularly sophisticated in the analysis of how other countries see us. There is no doubt that among some European elites, their opinions on the previous administration became more negative as the years went by. There is no doubt that this was also reflected amongst

the broader populations who have tended toward liberalism for decades. Opinions from other parts of the world are harder to measure, of course, as it is difficult to measure the views of populations living under various types of autocratic government.

Negative international opinion should not be exaggerated for a number of reasons. First and most obvious, leadership, particularly in difficult times, should not be directed by polls. This is true domestically, and it certainly is true of foreign polls. It is neither our job nor the administration's job to represent foreign populations. Decisions in Government should not be made by leaders sticking their fingers in the air to see which way the wind is blowing.

Second, appealing to foreign popularity completely disregards the unique role this Nation has played in advancing global security. It also disregards the historic debates in which leftwing parties have advanced their ideology. But we should not ignore that there has been unprecedented—unprecedented—cooperation from the same Democratic governments whose liberal disdain so succors some in the opposition here on all matters of national security. Cooperation from these governments on diplomatic, military, intelligence, law enforcement, and humanitarian assistance has been the norm, not the exception, regardless of disputes on Iraq policy and on those governments' views on Guantanamo.

In terms of foreign policy, I would much rather have the cooperation of a government than its approval, although I recognize that in some cases the approval facilitates the cooperation. But realistically speaking—and this is a subject that ought to be steeped in realism—popularity is not a prerequisite for hard-headed cooperation against a common threat.

I wish to quote what columnist Tom Friedman—who is certainly not a cheerleader for the Republican Party—said about foreign policy thinker Michael Mandelbaum, who is usually associated with Democratic policies:

When it comes to the way other countries view America's preeminent role in the world—

Writes Friedman, who then quotes Mandelbaum—

whatever its lifespan, three things can be safely predicted: The other countries will not pay for it; they will continue to criticize it; and they will miss it when it is gone.

I would urge the policymakers in this administration, as well as my colleagues in the majority party, to consider this wisdom expressed by Democratic thinkers the next time they engage in the canard that we need to change our policy to improve our standing with other nations. Let's hope this is not the main reason to shutter Guantanamo because, if it is, it is a slim and irresponsible reason.

Prior to the issuance of the Executive order, I received a briefing on the President's intention to close Guanta-

namo. I would endorse an approach that would have commissioned a 1-year review process rather than coming out and declaring closure within a year. It strikes me that the study should come before the decision, not accompany it.

On his second full day in office, the President, without his Attorney General in place, issued this order, and I fear he painted himself into a corner. Two weeks ago, Attorney General Holder visited Guantanamo Bay. His public comment on his visit was the following:

I think it is going to take us a good portion of that time to really get our hands around what Guantanamo is and what Guantanamo was.

I am sure Attorney General Holder saw what I saw at Guantanamo when I visited there. I am sure he saw the impressive infrastructure, with medical, recreational, and legal facilities. Attorney General Holder is a good man, and I am glad the President has made him the point man on this issue, but his comments are indicative of the fact that the complexities surrounding Guantanamo cannot be solved by the stroke of a pen on an Executive order.

On February 23, 2009, the Department of Defense submitted a report to the White House titled "Compliance With the President's Executive Order on Detainee Conditions of Confinement at Guantanamo Bay." The Secretary of Defense tasked a special team to review the treatment of detainees and the conditions at Guantanamo in response to the President's order of January 22, 2009. The review team focused on myriad issues, especially housing, medical treatment, food services, religious freedom, access to attorneys, mail, security, use of force, interrogation, discipline, and intellectual stimulation.

During its 13-day investigation, the review team reviewed hours upon hours of videotapes, reports, and important records. Team members also conducted more than 100 interviews of base leadership, support staff, interrogators, and guards. Moreover, they conducted unannounced spot checks both day and night.

In the end, the review team concluded that the detention facility and the treatment of detainees at Guantanamo are in compliance with common article III of the Geneva Convention. What I found especially pleasing is that the review team concluded that Guantanamo interrogation protocols exceed the Army Field Manual and that cells at Guantanamo from maximum and high security cell blocks—I am quoting from the report—"exceed those typical of medium and maximum security detention facilities throughout the United States."

I wish to quote other excerpts:

Interrogations of Guantanamo detainees are all voluntary. Approximately one-third of all interrogations take place at the request of the detainee. Detainees are permitted to decline participation in interrogations at any time with no negative disciplinary consequences.

Unfortunately, our own Washington Post chose only to run a small article on this report. It was buried on page 3. This is in sharp contrast to the multiday, multipage, above-the-fold story about the released detainee who blew himself up in Mosul in March of 2008. I suppose the media was hoping this review of operations at Guantanamo would reveal that the present conditions of the detainees would be in violation of the Geneva Convention. Therein lays the problem. Somewhere along the way politicians, nominees, and the media all started to label the present conditions at Guantanamo as intolerable and substandard.

This report shows that conditions mirror or exceed any current prison in the Federal system. I encourage every Member to read the report and learn for themselves the facts about Guantanamo.

Some of the administration's proposals—ones endorsed by my Senate colleagues in the majority—involve bringing the detainees to the United States. I have given this issue serious consideration and am unable to find one good reason why our Government would want to do this. We have legally detained enemy combatants on the field of battle. We have categorized them into three classifications: First, detainees who no longer pose a threat and need to be returned to their country or a third country; secondly, enemy detainees who are too dangerous to release and must be incarcerated until the cessation of hostilities; and, third, detainees against whom we will present admissible evidence and adjudicate within the parameters of a fair and constitutionally guaranteed process.

There is no reason this court proceeding cannot be carried out at Guantanamo or satellite facilities outside the United States. The transfer of the detainees to the United States will undoubtedly present a wide array of complex legal issues that, in my estimation, will take longer than 1 year to solve. Mechanisms at Guantanamo that ensure a fair adversarial judicial proceeding, with all the applicable rights, is feasible and can be carried out and has been carried out previously at Guantanamo.

If we close this facility and are unable to place some of these detainees into the custody of third countries, what then? The Bureau of Prisons has previously stated that they consider these prisoners a "high security risk." As such, these prisoners would need to be housed in a maximum security prison. According to the Bureau of Prisons, it does not have enough space in maximum security facilities to house these detainees. However, one idea offered by my colleagues in the majority party for holding the detainees would be to transfer them to the Federal Supermax Prison in Florence, CO.

Now, this facility holds the worst criminal elements our country has. The maximum security institution, Supermax, ADX, Florence, CO. The

rated capacity is 490 prisoners. The current level is 471. The Bureau tries to ensure that this facility is never at full capacity in case of emergency transfers. In reality, the Federal Bureau of Prisons doesn't have the room required to hold these very dangerous prisoners in high security facilities.

As an alternative to the Supermax at Florence, CO, another idea offered by the majority would be to sprinkle the detainees throughout the Federal Prison System. Just look at this chart of the Federal Bureau of Prisons: We have 15 high-security prisons. The maximum beds in those 15 high-security prisons happen to be 13,448. The current population of those prisons is 20,291. It doesn't take too many brains to realize we can't solve it that way.

Mr. INHOFE. Mr. President, would the Senator yield for a question?

Mr. HATCH. I would be happy to.

Mr. INHOFE. It happens that I have been down there inspecting, maybe more than any other Member. The first time was right after 9/11; the last time was a couple of weeks ago.

One of the interesting things is, if you talk to anyone who has been there and served there, you find this is above the standards of any of our Federal prisons. At the current time, the population down there is 245, of which 170 cannot be repatriated; their countries would not take them back.

Out of the 170, 110 are the real hardened ones. When the Senator from Utah talks about they would put them in 15 prisons, they identified my State of Oklahoma, Forest Hill. I went there to see the facility only to find it would not work. But the sergeant major in charge of that facility served a year at Guantanamo Bay and said that of all the prisons she has been in, or worked in, that is the one that has the most humane treatment and is best suited for this kind of detainee. I agree with the Senator and ask if he has given thought as to where these 15 prisons are as alternatives and would they not become magnets for terrorist activity in the United States?

Mr. HATCH. That is a good question. I think I am making an overwhelming case that it is ridiculous to not use that facility, which is perfectly capable, offshore, on an island, where we have all the security we need and we don't have the capacity to take care of them in this country and we should not want to anyway. I have also made the point that sending them to other countries is not the answer either. They don't want them either.

Mr. INHOFE. I ask the Senator from Utah, if you stop and think, can you think of a better deal that America has had? We have had that facility since 1903, and the rent is still the same, \$4,000 a year. Can you find a better deal than that anywhere in Government?

Mr. HATCH. You can't. To have to bring these prisoners here, we don't have room, and the cost would be astronomical. Thirdly, we are going to have real big problems that we will

have a difficult time handling, assuming we can find places to put them. I have been down there, too, and I have been involved in this for a long time. The Federal Bureau of Prisons cannot receive these detainees. We are already overcrowded in high-security facilities by almost 7,000 prisoners.

What is our next option? Military custody? These detainees are already held in military custody. Why are we bringing them from one military installation to another? Some ideas regarding military custody and presented by the majority include the transfer of the detainees to Fort Leavenworth, KS. My esteemed colleague from Kansas, Senator BROWNBACK, already pointed out this idea would have dire consequences for the Army's Command and General Staff College. This is a course run by the Army and open to foreign students from our military partners. Some of these foreign officers are from Islamic nations that have supported us in our ongoing efforts against terrorism. The governments of these nations have publicly declared that they will withdraw their personnel from the course if enemy combatants are transferred to the Military Discipline Barracks at Fort Leavenworth. What a loss that would be.

I know mistakes were made in the early days of Guantanamo. There may have been some isolated cases where the treatment of some of these detainees there could be construed as not being in accordance with the Geneva Convention. In response to these deficiencies, the Supreme Court, Congress, the Department of Defense, and Justice have implemented protections and mechanisms to ensure that this will not happen again. The U.S. Supreme Court has issued decisions ensuring that constitutionally guaranteed rights apply to these men. Military prosecutors and FBI agents are conducting reviews of evidence held against detainees to ensure their admissibility. Military leaders in charge of Guantanamo have taken measures to ensure that humane standards and treatment of detainees and their religion exceeds not only the Geneva Convention but most prison standards found in the United States. Whatever problems there were at Guantanamo have been addressed and corrected.

I also remind my distinguished colleagues that our war against terrorism will not end with the signing of a treaty. The cessation of hostilities in Afghanistan is far from over. We are now shifting our focus and additional troops back to that theater of operation. This will increase the likelihood of contact with the enemy, which may require additional detentions. In the days ahead, I hope Congress will play a part in the disposition of detainees and the future of Guantanamo Bay. A well-thought-out and properly executed plan offered by the President would easily garner bipartisan support. I ask the President to rethink his deadline of closing Guantanamo less than 12 months from

now. This is a useable facility that has merit and operational worthiness.

In closing, I will quote the 34th President of the United States, Dwight D. Eisenhower, who said the following: "Peace and justice are two sides of the same coin."

I commend the President for wanting to conduct a thorough review of the operations at Guantanamo. My assessment is, this was completed 2 weeks ago with the Defense Department's report and the Attorney General's visit. What else is there to do? Let's get back to the task at hand of resuming military commissions and the humane detention of enemy combatants.

I am very concerned about this. So far, I have not seen a conscientious, let alone remarkably worthwhile or worthy, plan that would exceed what we are already doing in Guantanamo or that would be as good as what we are already doing there.

Mr. President, I ask unanimous consent that the letter from the Department of Justice, Federal Bureau of Prisons, dated September 10, 2007, be printed in the RECORD at this point.

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

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF PRISONS,
Washington, DC, September 10, 2007.

Hon. TRENT FRANKS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN FRANKS: This is in response to the letter signed by you and several other Members of Congress requesting a description of the impact of transporting and incarcerating in the Bureau of Prisons (BOP) the approximately 500 enemy combatants currently being held in the detention facility in Guantanamo Bay, Cuba.

We have provided estimates of the costs you identify, and we also mention some of the challenges we would encounter if we were responsible for taking these enemy combatants into BOP custody. We must emphasize, however, that we would hope to learn more about this unique population and what would be required of our agency if we were required to assume custody of them. This would allow us to undertake a more complete and comprehensive impact assessment.

We would consider the individuals confined in Guantanamo Bay, Cuba, to be high security; therefore, they would require the highest level of escort staff, type of restraints, and other security measures if they were to be transferred into BOP custody. The transportation of Federal inmates and detainees is coordinated through the Justice Prisoner and Alien Transportation System (JPATS) within the United States Marshals Service. JPATS is a nationwide network of aircraft and ground transportation vehicles. The BOP assists JPATS by transporting Federal inmates from the airfields used by the U.S. Marshals Service aircraft to our institutions.

We estimate that it would cost approximately \$455,000 for the JPATS air travel of 500 detainees from Cuba to any of our United States penitentiaries. This air travel includes flights from Cuba to the Federal Detention Center (FDC) in Miami, Florida, from FDC Miami to the Federal Transportation Center in Oklahoma City, Oklahoma, and a third flight to a high-security United States penitentiary. Costs of transportation

would also include BOP buses to move the detainees from the airfields to our facilities (a cost of approximately \$1,300 per bus trip). Thus, the total cost could reach approximately \$500,000.

Currently, there is not sufficient bedspace at any high-security Federal prison to confine these individuals. Our high-security institutions are operating at 55 percent above capacity. There are approximately 199,700 Federal inmates at present, and we are expecting the inmate population to increase to over 221,000 by the end of fiscal year 2011. The average yearly cost of confining a high-security inmate in the BOP is approximately \$25,400.

We would most likely confine these detainees in one or two penitentiaries. This would require us to transfer a sufficient number of inmates to other penitentiaries in order to create the necessary bedspace. Such transfers would add to the cost of confining the enemy combatants and would impose significant additional challenges on our agency (based the level of crowding in all high-security BOP institutions).

Due to the unique status of enemy combatants and the probable lack of information about these individuals' histories of violent behavior or disruptive activities, it is unlikely that we would house these detainees with inmates in the general population of high-security institutions (with inmates serving sentences for Federal crimes and District of Columbia code offenses). Therefore, if transferred to BOP custody, these enemy combatants would most likely be confined in special units, segregated from the general inmate population. It is also likely that many of these individuals require separation from other enemy combatants. This kind of confinement is comparable to special housing units in BOP institutions (which are used for administrative detention and disciplinary segregation). These units are more costly to operate than general population units due to the increased staffing and enhanced security procedures needed for inmates who have separation requirements and/or who are potentially violent or dangerous.

The management of inmates in special housing units presents additional challenges due to the increased security required for these individuals. It would be even more challenging to confine enemy combatants who would likely have additional restrictions or requirements dictated by the Department of Defense. We are unsure how our inmate management principles, which focus on constructive staff-inmate interaction, maximum program involvement, and due process discipline would fit into the Department of Defense's requirements for the enemy combatants.

While it is not entirely clear where the BOP's obligations would begin and end with regard to the provision of basic inmate programs and services, we foresee the need for some special or enhanced services in order to provide the basic necessities to these enemy combatants. We would need to acquire translation services or transfer appropriate bilingual staff for us to communicate our expectations to these individuals and to allow these detainees to communicate their needs and concerns to us. We would need these translation services in order to provide appropriate visiting, telephone, and correspondence privileges to the detainees and, if required, to monitor these communications. We also would likely need to make accommodations with regard to our food service and religious programs to meet the cultural and religious requirements of these detainees.

I hope this helps you understand our concerns regarding the confinement of enemy

combatants. Please contact me if I can be of any further assistance.

Sincerely,

HARLEY G. LAPPIN,
Director.

Mr. HATCH. Mr. President, I point out also that in a recent report, U.S. officials said the Taliban's new top operations officer in southern Afghanistan is a former prisoner at the Guantanamo detention center.

Pentagon and CIA officials said Abdullah Ghulam Rasoul was among 13 prisoners released to the Afghan Government in December 2007. He is now known as Mullah Abdullah Zakir, a name officials say is used by the Taliban leader in charge of operations against United States and Afghan forces in southern Afghanistan.

One intelligence official told the Associated Press that Rasoul's stated mission is to counter the growing U.S. troop surge. I wished to put that in the RECORD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I inquire of the Chair, I was scheduled to speak after the Senator from Ohio. I understand he is not ready to speak yet and that it is permissible if I take some time now.

The PRESIDING OFFICER. The Senator is recognized.

Mr. INHOFE. First of all, before I get into what I want to talk about, I have been listening to the Senator from Utah. I find it to be very interesting because his subject matter is also a mission of mine. I think a lot of people have not realized the problem we have with the bum raps given to Guantanamo Bay, and almost all of them are by people who have not been there. To my knowledge, almost without exception, those people who have gone down there—newspapers and publications making accusations of torture and human rights violations—once they go there and see it, you never hear from them again, and that includes Al-Jazeera and some of the Middle Eastern publications. I believe we have a problem with people who have somehow brought forth this idea that there have been abuses that haven't taken place. I think probably the most important part of the argument is that there is not another Guantanamo Bay; there is no place you can put these detainees.

As I said in my question to the Senator from Utah, what are we going to do with these some 245 detainees if they are not there? Also, with the escalation of activity in Afghanistan, what will we do with those detainees whom we will capture? The problem is, some people say they will be put in prisons in Afghanistan. There are two prisons there; however, they have said they will only take Afghans. If the terrorist who is caught is from Djibouti or Yemen or Saudi Arabia, there is no place else to put them other than Guantanamo Bay. It is a resource we need to have. We don't have a choice.

I believe our President was responding to a lot of activists who were upset

because during his inaugural address he didn't say anything about this, so they are making demands that he stop any kind of legal activity that is going on in the way of trials or tribunals and then close it in 12 months. You cannot do that until you determine how you are going to take care of the detainees who are currently there and those who will be there.

I feel strongly we are going to have to look out after the interests of the United States. Nothing could be worse than to take 15 to 17 installations within the continental United States and put terrorists there, only to serve as magnets for terrorist activity.

Mr. President, I ask unanimous consent to speak as in morning business for as much time as I may consume.

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

GLOBAL WARMING

Mr. INHOFE. Mr. President, some things have happened recently regarding one of my favorite subjects, and that is global warming. Way back in the beginning of this issue—to give you a background, since the occupant of the chair wasn't here at that time—the Republicans were the majority, and I was chairman of the Environment and Public Works Committee. We were within inches of ratifying the Kyoto Treaty.

Similar to everybody else, I assumed that manmade gases were causing global warming. Everybody said they did. The Wharton School of Economics came out with the Wharton Econometric Survey. They said it would cost—if we were to sign the Kyoto Treaty and live by the emissions requirements—between \$300 billion and \$330 billion a year. That was the range. That would be the result. It is something I looked at.

We started looking at the science, only to find out there is a lot of intimidation in the scientific community and most of this was originally brought by the United Nations. I have been one of the critics of the U.N. and a lot of things they do and don't do. If you will recall, when this first started, it was the U.N. IPCC, Intergovernmental Panel on Climate Change, that came up with the idea that manmade gases—CO₂, methane—were the cause of the global warming.

Now, since that has been proven not to be true, and we are now in a cooling spell, they are trying to change the term to "climate change." We are not going to let them do that. It has always been "global warming." We looked at the science. We had bills coming up on the floor that would have addressed this. One was in 2005. At that time, I was kind of alone on the floor for 5 days, 10 hours a day, to try to explain why we could not impose the largest tax increase in history on the American people. So in looking at the cost of this thing, we started hearing

from a lot of scientists who had been intimidated but were now wanting to come out of the closet and tell the truth about their real feelings.

The reason I wished to come here today is because there is a Gallup Poll that came out yesterday. I wish to share that with you and with this body. A record high of 41 percent of Americans now say global warming is exaggerated. This is the highest level of public skepticism about mainstream reporting in more than a decade, according to the March 11, 2009 Gallup Poll survey. I use that poll because Gallup and the Pew organization have never been sympathetic to my view. Yet their poll was announced.

We should never underestimate the intelligence of the American people. Sadly, that is exactly what the promoters of manmade climate fears have consistently been doing. Keep in mind, the issue we are talking about is not whether there is global warming. We went through a period of global warming that ended 7 years ago. Now we clearly are in a cooling period. Prior to that, we have had several times—people forget, God is still up there. Throughout these written histories, we have had these cycles.

The interesting thing about this poll that came out yesterday is looking at the percentage of people who worry a great deal about the environment, this is a total change from what we have seen before. It is now—what is it, No. 9? The last thing is global warming. These are environmental concerns: pollution of drinking water, water pollution, toxic contamination of soil and water, and very last is global warming. There was another poll just about a month ago by Pew Research, I believe it was, and that one shows the same thing. I say this because of some of my colleagues who think the American people are believing this stuff—man-made gases making global warming.

This is January last month, and this is by the Pew Polling Group. This isn't just environmental issues; it says, "Name your major concern." No. 1, economy; No. 2, jobs. Where is global warming? No. 20, at the bottom, the very last one. That is something that has changed.

Getting back to the poll, the previous Gallup Poll released on Earth Day 2008 showed the American public's concern about manmade global warming is unchanged from 1989. This is after all the media hype, all the media talking about how bad man is.

By the way, I am going to pause here for a minute because in 2005 we debated a bill on this floor that would have—since we did not ratify the Kyoto treaty—said unilaterally what should we do in the United States because some people would like to believe this is a great problem. They said: Let's pass our own global warming bill in the United States. Think about that. If you are one who believes CO₂ and anthropogenic gases are causing global warming, if you really believe that in your

heart, what good would it do to do it only in the United States? If you do that, all these jobs are going to go to countries such as China, Mexico, India—places where they don't have emission controls—and you would have a net increase in CO₂ after we paid the tax and the punishment for it.

After one of the most expensive climate change fear campaigns in our Nation's history, there is no change in global warming concerns by Americans in the past two decades. This skepticism persists despite the Nobel Peace Prize jointly shared by former Vice President Al Gore and the United Nations.

By the way, I have to say I cannot think of one assertion that was made in the science fiction movie *Al Gore* put together that has not been refuted scientifically. I am talking about sea-level rises and all the rest of the things. Sure, it scared a lot of kids. A lot of kids had nightmares. Nobody now believes there is any science behind that particular movie.

The skepticism persists despite a \$300 million campaign to spread climate fears. Skepticism persists despite a daily drumbeat of scary scenarios promoted by the United Nations and the media of what could, might, or may happen 20, 30, 50, 100 years from now. In fact, global warming skepticism appears to have grown stronger as the shrillness of the climate fear campaign intensified.

The latest Gallup Poll released on March 11 further reveals the American public has a growing skepticism. A record-high 41 percent now say it is exaggerated. This represents the highest public opinion since the whole issue began. These dramatic polling results are not unexpected as prominent scientists around the world continue to speak out publicly for the first time to dissent from the Al Gore-United Nations and media-driven manmade intimidation on climate fears.

In addition, a steady stream of peer-reviewed studies, analyses, real-world data, and developments have further refuted the claims of manmade global warming fear activists.

Americans are finally catching on in large numbers that the U.N. IPCC is a political, not a scientific, organization. Interesting that when the U.N. IPCC comes out with their periodic reports, they never talk about the scientists. It is the politicians who are making the accusations or coming to the conclusions. So they have these briefs on the political analyses of these reports.

If new peer-reviewed studies are to be believed, today's high school kids watching Gore's movie will be nearing the senior citizen group AARP's membership age by the time warming allegedly resumes in 30 years. That is interesting because now they are talking about maybe it did not happen, maybe we were not in the middle of it in the middle nineties when they tried to get us to ratify the Kyoto treaty, but it is coming, maybe 30 years from now.

Dr. John Brignell, a skeptical UK emeritus engineering professor at the University of South Hampton, wrote in 2008:

The warmers—

He calls them—

are getting more and more like those traditional predictors of the end of the world who, when the event fails to happen on a due date, announce an error in their calculations and [they come up with] a new date.

That is what they are doing now.

Furthermore, I always believed the more global warming information people have, the less concerned they will become. That is obvious. That poll 5 years ago would have had this way up there somewhere around No. 3. Now it is No. 20. It just barely made the list.

Confirming this unintended consequence is a study by the scientific journal *Risk Analysis* released in February of 2008 which found that Gore and the media's attempts to scare the public "ironically may be having just the opposite effect." The study found that the more informed respondents "show less concern for global warming." The study found that "perhaps ironically, and certainly contrary to . . . the marketing of movies like the *Ice Age* and *An Inconvenient Truth*, the effects of information on both concern for global warming and responsibility for it are exactly the opposite of what were expected. Directly, the more information a person has about global warming, the less responsible he or she feels for it; and indirectly, the more information a person has about global warming, the less concerned he or she is for it."

Again, this is not me, JIM INHOFE, U.S. Senator, talking. This is Professor John Brignell. Certainly you cannot question his credentials.

Climate realism continues to be on the march.

I now report to you on the skeptical Heartland Institute's International Conference on Climate Change in New York, which just finished 3 days ago. It is brand new. As the most outspoken critic of manmade global warming alarmism in the United States, I am pleased to see the world's largest ever gathering of global warming skeptics assembled in New York City just this week to confront the issue, "Global warming: Was it ever really a crisis?" That was the title of the convention. All of these scientists from all over the world were taking part in it.

A lot has changed over the last 6 years since I started speaking out against the likes of Al Gore, the United Nations, and the Hollywood elitists. Perhaps the most notable change is the number of scientists no longer willing to be silenced. How do you silence a scientist? You take away their grants, whether they be Government grants or they come from the Heinz Foundation or the Pew Foundation or others. If you don't agree with us, certainly you should be punished.

I remember not too long ago on the Weather Channel—Heidi Cullen has

this weekly show. It is to promote the idea that man is responsible for global warming. She says: Any meteorologist who does not agree with me should be decertified. All of a sudden, everyone started yelling and screaming. The vast majority of meteorologists will agree with the comments I am making today.

Certainly since Al Gore made his movie, hundreds of scientists have come out of the woodwork to refute the claims made by the alarmists.

The gathering of roughly 800 scientists, economists, legislators, policy activists, and media representatives at the Second International Conference on Climate Change sponsored by the Heartland Institute provides clear evidence to the growing movements against alarmism—the world is coming to an end.

I am happy that important voices are being heard in New York, including Vaclav Klaus, the President of the Czech Republic. I was in the Czech Republic not too long ago. He couldn't have been nicer and more complimentary of me. He said: What they are trying to do is to punish us economically in our country and your country on science that is strictly not there.

In his remarks to the conference 3 days ago, Vaclav Klaus, President of the Czech Republic, said:

Today's debate about global warming is essentially a debate about freedom. The environmentalists would like to mastermind each and every possible aspect of our lives.

Climate scientist Dr. Richard Lindzen of the Massachusetts Institute of Technology, MIT, one of the world's leading experts in dynamic meteorology, especially planetary waves, told the gathering in New York that momentum is with the skeptics, saying:

We will win this debate, for we are right and they are wrong.

I have a chart. This was Richard Lindzen, who is the Alfred P. Sloan professor of atmospheric science at MIT. This was an op-ed piece in the Wall Street Journal. He says:

A general characteristic of Mr. Gore's approach is to assiduously ignore the fact that the Earth and its climate are dynamics; they are always changing even without any external forcing. To treat all change as something to fear is bad enough; to do so in order to exploit that fear is much worse.

I think he was talking about the amount of money former Vice President Al Gore made on this issue, but I am not going to get into that now.

The point is, I am talking about credentials of scientists and them coming out with statements such as these, and they were not doing this just a few years ago.

So this event that took place in New York City in the last few days is very significant. Others in attendance were William Gray, Colorado State University. He is one of the experts there who testified before the Environment and Public Works Committee one time before making this same type of statement.

Stephen McIntyre, primary author of Climate Audit, a blog devoted to the analysis and discussion of data, he is a devastating critic of the temperature record of the past 1,000 years, particularly the work of Michael Mann, the creator of the infamous "hockey stick" graph. That graph is thoroughly discredited. There is no scientist who will stand behind that graph. What he attempted to show after this, there was a marked increase in temperatures. That was the blade on the hockey stick. What he forgot to put down—and nobody will disagree with this fact—is that in the timeframe from about 1200 to 1400, we had what they call the medieval warm period. Then we went into the little ice age.

This medieval warm period is interesting. If anyone wants to take a trip up to Greenland and talk to them, go through their history books and look at what the prosperity was during this timeframe, that is when all the Vikings were up there. They were growing all this stuff. Then, of course, when the cycle reversed, it went into the little ice age. They all died or left. Actually, the economic activity was much better. That was also when they were growing grapes in the Scandinavian countries because it was warm enough to do that.

This chart is significant because what they have done is looked at this and said the world is coming to an end. And in a minute I am going to talk about what all the pundits were saying in the middle seventies when they said another ice age is coming. But this has been going on throughout recorded history.

Chemist Dr. Arthur Robinson, curator of a global warming petition signed by more than 32,000 American scientists, including more than 10,000 with doctorate degrees—and they all are rejecting the alarmist assertion that global warming has put the Earth in a crisis and caused primarily by mankind.

Dr. Willie Soon, Harvard-Smithsonian Center for Astrophysics, has also testified along the same line.

Retired award-winning atmospheric scientist Dr. Roy Spencer, now with the University of Alabama in Huntsville.

Here is a very small sampling of recent developments in the news.

The New York Times: "Prominent geologist Dr. Don Easterbrook warns we are in 'decades-long cooling spell.'" And I think everyone would agree with that.

"NASA warming scientist 'suffering from a bad case of megalomania'—former supervisors says." This was only yesterday in the Business and Media Institute. This is an excerpt of the report:

John Theon, a retired senior NASA atmospheric scientist, said . . . at The Heartland Institute's 2009—

What I have been talking about here—

. . . that the head of NASA's Goddard Institute for Space Studies, James Hansen,

should be fired. Hansen is widely known for his outspokenness on the issue of manmade global warming. I have publicly said I thought Jim Hansen should be fired, "Theon said." But my opinion doesn't count much, particularly when he is empowered by people such as the current President of the United States. I am not sure what we can do to have him get off of the public payroll and continue with the campaign or crusade. I think the man is sincere, but he is suffering from a bad case of megalomania.

Another article. "NASA Warming Scientist Under Fire—From Former Supervisor—Jim Hansen should be fired." This is another one, although this time they make the observation that James Hansen, who is the most outspoken proponent that it is man-made gases, anthropogenic gases, and CO₂ that is causing global warming, is the recipient of \$250,000 from the Heinz Foundation. Obviously, that does have an impact on his position.

This one is: "U.S. Government Meteorologist Claims 'Gross Blatant Censorship' for Speaking Out Against Climate Alarmism." This was March 9, a few days ago, by Stanley Goldenberg, a meteorologist with the National Oceanic and Atmospheric Administration's—that is NOAA—Atlantic Oceanographic and Meteorological Laboratory Hurricane Research Division. This is an excerpt of what this scientist said:

The debate, as you also know, is masked by media censorship, bias and distortion. I am interviewed quite a bit on many, many levels and thankfully most of our interviews are benign. They're trying to get out to the public.

In his criticism, Goldenberg said:

I've seen gross, gross blatant censorship. If you're here from the media I'd be glad to argue with you from firsthand experience. I challenge anybody from a mainstream media source to take or print a positive report on this conference. They won't get it past the editor.

He is talking about, of course, the media bias, which we all know took place during this conference.

This is an excerpt from the Boston Globe's paper yesterday:

New figures being released today show the recession helped drive down global warming emissions from the northeast power plants last year to their lowest levels in at least 9 years. The drop in emissions may be good for the environment, but was not seen as reason for celebration. "What does this say about the state of the economy?" said Robert Rio, senior vice president of Associated Industries of Massachusetts. We could get 100 percent below the cap if we shut every business and moved them out of state.

The NASA moonwalker and geologist Harrison Schmitt said climate change alarmists intentionally mislead. This again is yesterday's Business & Media Institute quoting him:

Last month, Apollo 17 astronaut and moonwalker Harrison Schmitt added his voice to the growing chorus of scientists speaking out against the anthropogenic—man-made—global warming theory. In strongly worded comments he said the theory was a "political tool." Now, in a speech at the International Conference on Climate Change he outlined his argument in great detail saying,

"the science of climate change and its causes is not settled." . . . Several indisputable facts appear evident in geological and climate science that makes me a true, quote, denier, unquote, of human caused global warming. The conclusion seems inescapable that nature produces the primary influences on climate.

I think this chart shows that it has been going on throughout recorded history.

Another article: "A Freezing Legacy For Our Children." This one is by James Marusek, nuclear physicist and engineer retired from the U.S. Department of the Navy. He said:

There is a lot of talk these days about the legacy we will leave our children and our grandchildren. When I stare into the immediate future, I see a frightening legacy caked in darkness and famine. Instead of intelligently preparing, we find ourselves whittling away this precious time chasing fraudulent theories. Climate change is primarily driven by nature. It has been true in the days of my father and his father and all those that came before us.

Again, this guy is a nuclear physicist and engineer.

This is from a new study titled "The Evidence Is That The Ocean Is Cooling, Not Warming." This was 2 days ago. And it contains an excerpt titled "Cooling of the Global Ocean Since 2003," by Craig Loehle, Ph.D., National Council for Air and Stream Improvement. He said:

Ocean heat content data from 2003 to 2008—4½ years—were evaluated for trend. The result is consistent with other data showing a lack of warming over the past few years.

I think I am making a point here that no one is going to argue, and that is that now we are in a cooling period. It drives people nuts, those who try to make people think the world is coming to an end; that it is going to get too hot, and now they realize that is not the case.

This is another statement made by another scientist, and this was 3 days ago.

Alaska River Ice now 60 percent thicker than it was 5 years ago. Flashback: The Nenana Ice Classic is a pretty good proxy for climate change in the 20th Century.

In other words, it is increasing, not decreasing. Here is another scientist. This was reported 4 days ago in *Investors Business Daily* by atmospheric physicist S. Fred Singer, Professor Emeritus of Environmental Sciences at the University of Virginia, who served as the founding director of the U.S. Weather Satellite Service.

We conclude therefore that the drive to reduce CO₂ emissions is not concern about climate. Ultimately, ideology may be what's fueling the CO₂ wars.

So it goes on and on. Here is another: "Left-wing Columnist Alexander Cockburn A Climate Skeptic—John Fund—March 11." And Alexander Cockburn, by the way, is normally on the other side. Here is that quote:

My most memorable exchange was with Alexander Cockburn, the left-wing columnist for the *Los Angeles Times* and the *Nation* magazine. Mr. Cockburn has undergone blistering attacks since he first dissented from

the global warming "consensus" in 2007. "I've felt like the object of a witch hunt," he says. "One former Sierra Club board member suggested I should be criminally prosecuted." Mr. Cockburn was at the conference collecting material for his forthcoming book "A Short History of Fear," in which he will explore the link between fear mongering and climate catastrophe proponents. "No one on the left is comfortable talking about science," he told me. "They don't feel they can easily get their arms around it, so they don't think about it much. As a result, they are prone to any peddler of ideas that reinforce their preexisting prejudices. One would be that there is a population explosion that must be dealt with by slowing down economies." I asked him how he felt hanging around with so many people who have a more conservative viewpoint than he does. "It's been good fun and I've learned a lot," he told me. "I think what they are saying on this topic is looking better and better."

And here is one of the guys who was a chief proponent of the fear mongers. We have to keep in mind there is a lot of money involved in making people afraid. I am old enough to remember back in the middle 1970s, when we were going through at that time what was thought to be this devastating ice age; that we were all going to freeze to death. Here is *Time* magazine, and here they talk about another ice age is coming and they document their case. This is 1974, from *Time* magazine.

Now, let's look at *Time* magazine a few years later. Here is *Time* magazine a couple of years ago and they have totally reversed themselves. No longer is it an ice age that is coming and we are all going to die; the headline now is "Be Worried, Be Very Worried," and they have this polar bear standing on the last scoop of ice in the Arctic.

By the way, there are 13 different populations of polar bears in Canada, and with the exception of the one on the western Hudson Bay area, they are all flourishing. They are doing very well. The population has quadrupled since the 1960s. So don't feel badly about the polar bear. They are doing fine.

My point here is that these publications, I can assure you—and I have not checked this out, but that last one, in 1974, from *Time* magazine, I am sure that sold a lot of editions because everyone wanted to read the story as to how another ice age was coming and we were all going to die. We have checked on this. This was their biggest seller in that particular year. I don't see the date, but a couple of years ago, because they capitalize on this type of disaster.

I suppose I will go ahead and conclude now. We had some new information, and apparently I didn't bring it down with me, but I would only say this. I am one of the chief critics of what has been happening economically in this country since last October. Last October, we voted on a \$700 billion bailout for the banking industry. I was against that. I recognize that was both Republican and Democrat. It came out of a Republican White House and it was in concert with the Democrats. They all said: Let's scare everybody so we

can have this \$700 billion bailout. I voted against it, and some of my conservative friends voted for it.

This was the largest authorization of money in the history of the world, and it was all taking place at that time in October—October 10 is when we voted in the Senate, with 75 Senators voting for that. My problem with it was that it was put together by our then-Secretary of the Treasury, and we were giving him total authority over how to spend \$700 billion—the largest amount of money ever talked about in one block in this country, or in the history of the world. So I opposed it.

Now we find out that as soon as he got the money, he didn't spend it. He said he was going to buy distressed assets. He didn't spend it on that. He put money into the banks, and we haven't noticed a change in the credit since then. Now, of course, we have a new President and we have the budget and the omnibus bill that was voted on a few days ago—\$410 billion—and all these people are talking about earmarks and all that. But let's keep in mind that only 1 percent of that \$410 billion was in anything like earmarks. I wish people were as concerned about the 99 percent as they are the 1 percent, but that is a huge amount of money.

Now we have the President, with his budget coming forward, and this is going to produce huge deficits—in the trillions—and I have been critical of those. But as bad as all of that is, and talking about the huge amounts of money, what is worse is if we should be forced or pushed by the promoters of these global warming scares into passing a tax, what they call a cap-and-trade tax. In other words, this is a tax that would tax the American people. For all practical purposes, it would be a CO₂ tax. They don't call it that. They disguise it by calling it a cap and trade. But nonetheless, the analysis of that is that it would be somewhere in the neighborhood of \$300 billion to \$330 billion a year.

The reason I bring that up is that if we are pushed into passing some kind of a global warming or a cap-and-trade tax of \$300 billion to \$330 billion, they will masquerade it and act as if it isn't that much, but we know it is. We have sources—MIT and several other sources—and economic analysis that has taken place that says if that should happen, it will be something that occurs every year. At least these large amounts of money in the stimulus bills and in the bailout bills are one-shot deals, theoretically. But the other would be a tax increase on the American people.

I do have a dog in this fight. I do have a selfish concern. My wife and I have 20 kids and grandkids. My life is not going to change by anything that is passed in terms of a tax increase, but it does affect the next generations, and I think we are going to have to get to the point we are looking at not what is it today but down the road how are we going to pay for it.

To go back to the original \$700 billion bailout, if you do the math, there are 140 million taxpaying families in the country. Divide that by \$700 billion and that is \$5,000 a family. We are talking huge amounts. And should we pass this global warming tax increase that would be comparable to over \$300 billion, it would mean \$3,000 a family. And that is every year.

I think we need to overcome the problem that we have in following the media off this plank and look at the science and let the science tell us what to do. If we do that, we will find with everything I have talked about over the last 35 minutes is in fact true.

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

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

U.S. TRADE REPRESENTATIVE

Mr. BROWN. Madam President, this Chamber will confirm in the coming days a new U.S. Trade Representative. Mayor Kirk's confirmation represents an opportunity for American trade policy to break from the false choice between free trade and fair trade.

As our economy struggles with massive job losses, a shrinking middle class that we have seen during the entire Bush years, and a housing crisis brought on by wrong-headed policy, the housing crisis that undermines the pursuit of the American dream, our trade policy must be part of our response to the new realities of the global economy.

Mayor Kirk inherits a position traditionally focused on status quo trade policy, and expanding that policy with more of the same status quo trade policy that gives protection to large business, protection to big oil, protection to big drug companies—and even with new rights and new privileges—a status quo trade policy that suppresses the standard of living for American workers, and at the same time hurts workers in China and India and Mexico; a status quo trade policy that does nothing to curb the cost of climate change or the degradation of the environment; and a status quo trade policy that has yielded an \$800 billion—more than \$2 billion a day—trade deficit.

For 8 years the Bush trade policies were wrong. They are wrong now. They

should not continue this way in the future. Our trade deficit has reached annually, thanks to Bush trade policies and thanks to lax trade enforcement, a wrong-headed, unregulated, free-trade policy, which has allowed toys with lead paint, contaminated toothpaste and other products, and weakened the health and safety rules for our trading partners and our own communities.

We want more trade but not like this. Bush trade policies have devastated communities in my State, in towns such as Tiffin, Chillicothe, and Lorain, and done damage to your State in places such as Flint and Detroit and Hamtramck. Job loss does not just affect the worker or the worker's family, as tragic as that is for them, job loss, especially job loss in the thousands, devastates communities. It depletes the tax base. It means the layoff of police and fire personnel and schoolteachers. It hurts local business owners—the drug store, the grocery store, the neighborhood restaurant.

Massive job losses prevent middle-class growth. The Senator from New York, who is in the Chamber, talked about how the middle class in the last 10 years has shrunk. The middle class has shrunk in pure numbers. It has shrunk in income, in buying power. The middle-class people in this country have seen their incomes go down in part because of the Bush trade policy and partly because of tax policy and in part because of the economic policy generally.

Massive job losses prevent middle-class growth, as manufacturing jobs that once anchored a community are gone, but they demoralize a community. Ohio has seen the loss, during the Bush years, of more than 200,000 manufacturing jobs; nationwide, 4.4 million manufacturing jobs, 26 percent, more than one out of four manufacturing jobs in our country that simply disappeared.

We know in Michigan and Ohio and across the industrial heartland of this country and in every State, American manufacturing can compete and compete with anyone in the world if it is a fair fight. But the deck is stacked against us when our Government does not enforce our own trade laws that level that playing field.

Foreign competitors take an unfair advantage, and it is stopping American manufacturers from reaching their potential. We can no longer afford to sit on the sidelines. We must establish a manufacturing policy in this Nation that helps businesses stay here, that helps communities thrive, that rebuilds middle-class families in communities in my State.

It starts with reforming our trade policy. I am pleased to hear Mayor Kirk's emphasis on trade enforcement. Too many of our major trading partners are breaking the rules through massive currency imbalances, tax and capital subsidies, and through unfair labor and environmental practices.

In recent years, the Trade Representative has shown, to put it bluntly, a

terrible record in response to public demand for strong trade enforcement. The Trade Representative that has occupied that office for close to a decade simply does not enforce our trade laws. All five of the public petitions for trade enforcement actions filed during the Bush administration, each concerning currency manipulation or labor exploitations by China, every one of those five public petitions was denied by the U.S. Trade Representative.

In some cases those petitions were denied on the day they were submitted, as if the administration even bothered to read them. Wrong-headed economic policy, job-killing trade agreements have also fueled increasing income disparity at home and abroad. I traveled some years ago, after NAFTA passed—a trade agreement that has hurt our Nation—I traveled at my own expense to McAllen, TX, across the border, with a couple of friends to Reynosa, Mexico. I met a husband and wife who worked for General Electric. They lived in a shack about 15 by 20 feet, dirt floor, no running water, no electricity. If it rained hard, the dirt floor turned to mud.

If you walked through the neighborhood, you could see where people worked in that neighborhood because these shacks were made out of building materials from the companies they worked for or the companies that supply the companies for which they worked.

These two workers worked for General Electric Mexico, 3 miles from the United States of America. If you go to one of those plants where those workers worked, those plants looked a lot like an American plant. These workers made about 90 cents an hour and lived, as I said, in squalid conditions, as hard as they were working, 6 days a week, 10 hours a day.

I visited an auto plant nearby, and this auto plant looked exactly like an auto plant in Michigan or Ohio, except perhaps it was more modern. If you walked into the auto plant, things were clean, the technology was up to date, the workers were productive, working hard.

There was one difference between the auto plant in Reynosa, Mexico, and the auto plant in the United States; that is, the auto plant in Reynosa, Mexico, had no parking lot because the workers could not afford to buy the cars they made. That is what our trade policy has wrought.

You can go to Malaysia and go to a Motorola plant. The workers cannot afford to buy the cell phones they make. You can come back to this hemisphere and go to Costa Rica to a Disney plant and the workers cannot afford to buy the toys for their children, the toys they make, or you can go back across the sea to China and the workers in plant after plant after plant cannot afford to buy the material, buy the products they make.

Simply put, in this country, because of a strong union movement over the

years, that is another debate and another question, how the Employee Free Choice Act will help in building the middle class in this country, workers who worked hard and were productive, shared in the wealth they created.

As productivity went up, then workers' wages went up. As workers made more profits for their boss, as workers made money for their company, those workers shared in the wealth they created. It is the American free enterprise system. It is what Americans have stood for. It is why the middle class in this country, until recently, has been as strong as it has been.

I am glad to see the Obama administration will approach trade differently, will consider what goes on in Reynosa and what goes on in Malaysia and Costa Rica and China. The Obama administration will take a different direction on trade.

I am glad to see Mayor Kirk's emphasis on enforcement. That means correcting our imbalanced trade relationship with China. Enforcement also means using the tools of a trade agreement to correct labor abuses. I remember when the Jordan agreement overwhelmingly passed Congress. This agreement was held up—at the end of the Clinton administration—as a standard in labor provisions. But in 2001, the Bush administration backtracked, essentially turned the other way, as those labor standards and labor provisions were being ignored by the Jordanian Government. In fact, it even turned the other way when reports came out that there was human trafficking plaguing the citizens of Jordan.

As human rights groups revealed overwhelming evidence of labor violations and human trafficking, the Bush administration simply did not enforce trade agreements. At the time, the USTR sent a letter to Jordan's trade minister saying the United States would not enforce the labor provisions. So why should the Jordanian Government do it when they knew they did not have to?

Those days of turning away from our responsibilities are over. In November 2008 voters in my State, as they did in Michigan, as they did around the country, demanded real change, not symbolic differences in policy. The Panama Free Trade Agreement, negotiated under fast-track rules by President Bush, is more of the same failed model, trade model, and we are hearing stories now that it is time for this Senate and the House to vote on the Panama Free Trade Agreement. It is a little agreement. It is not too bad. It does not really do any damage.

Well, it does do damage. It is the same failed trade model that we saw with NAFTA, the same failed trade policy, the same model as the Central American Free Trade Agreement, the same kind of trade policy and trade mechanism and trade model as we saw with PNTR with China.

I hope the administration does not simply push up a Bush trade agree-

ment, change its shape a little bit, put some new handprints on it, and make some changes at the margin. I hope the administration will reshape these trade agreements, reshape our trade policy. We need to stop the pattern where the only protectionism in trade agreements is protectionism for the drug companies, protectionism for the oil companies, and protectionism for the financial services companies, many that have created the economic turmoil we now face.

I illustrated one time during a trade debate not too long ago that if we really were concerned about trade agreements, if we were really concerned about doing trade in the right way, of just simply eliminating the tariff reforms, trade agreements would be one page. It would simply say: Here is the schedule that eliminates trade tariffs.

But what we have seen in our trade agreements in the last 10 years is trade agreements that look something like this: This is not exactly the real trade agreement, but they are usually hundreds and hundreds of pages. And NAFTA, the Central American Free Trade Agreement, do you know why they are not just one page or two or three pages of repealing tariff schedules? The reason is because it is all about protections. You have protections for drug companies, you have protections for oil companies, you have protections for banks, you have protections for insurance companies.

That is what these trade agreements have all been about. They accuse us of protectionism. These trade agreements are bailouts for their wealthy friends, for their corporate buddies, for their big campaign contributors. These protections to my friends at the USTR's office during the Bush administration were all about protecting oil, protecting financial services, and we know what that has brought us.

Panama, the proposed trade agreement with Panama, includes terms that shift extraordinary power to corporations. Panama has a reputation as a banking secrecy jurisdiction and a tax haven. Panama was among 35 jurisdictions identified by the Organization for Economic Cooperation and Development 9 years ago as a tax haven.

The GAO reported a number of corporations, U.S. corporations, created subsidiaries in Panama for tax purposes. Now, why would we want to pass a trade agreement with a nation that has encouraged U.S. companies to move their earnings to their country to avoid U.S. taxes?

Why would we reward a country that makes a lot of money by enticing these corporations to come to their country? We will help you avoid your taxes? Why do we reward a country like that? Why do we want more of that, especially when we know and when we look at what has happened with corporate salaries. If we look at what has happened with the banks, and they know we do those kind of things, it simply does not make sense.

In addition, investments derived from illegal activities—namely, drug dealing—have also been known to exist in Panama. Several sources indicate that Panama serves as a tax haven for as many as 400,000—mostly, not all, United States—companies, and Panama has refused to sign a tax disclosure agreement with the United States. This is not just Panama saying, come visit us, come move some of your executives and, on paper, move some of your work to Panama. But then, to avoid taxes, we don't even make them disclose what those companies are and the taxes they have evaded. Such an agreement would deter tax cheats from evading taxes through Panama and would enable the IRS to verify that income subject to tax in the United States has been properly reported.

Offshore tax evasion is an enormous problem. We have heard Senator DORGAN talk about what has happened in the Cayman Islands. It is an enormous problem that would be potentially aggravated by the free trade agreement itself and also by Panama's continuing refusal to enter into a disclosure agreement with the United States. Why would we complete a trade deal which includes these extraordinary protections for corporations with a country that has secrecy issues? The old model for trade agreements no longer works.

As Mayor Kirk begins his work at USTR, as we confirm him in the next few days—and I hope we will—we can create an alternative framework that rewrites trade rules for globalization, trade rules that protect our national interests and strengthen our workers and communities.

We are all accountable in this body for trade votes, how our votes affect American workers, how our trade policies affect Lima and Zanesville and Dayton and Middleton and Portsmouth and Hamilton. We are all accountable for trade votes. Most of us want trade. We want more trade, but we want it under a different set of rules. Fidelity to a broken trade system will not put our economy back on track and workers back to work. The small business owner or manufacturer in a machine shop or tool and dye company in Akron or a local machine shop in Dayton or workers and business owners around the country don't want more of the same. It is time to rethink trade policy. We want trade, more of it. But we want it under a different set of rules that works for workers, for communities, and for the country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EMBRYONIC STEM CELL RESEARCH

Mrs. SHAHEEN. Mr. President, I rise today to express my strong support of expanded embryonic stem cell research and to thank President Obama for reversing the Federal limitations imposed on stem cell research by the previous administration. I also thank my colleagues Senators HARKIN, SPECTER, FEINSTEIN, HATCH, and REID, for their ongoing leadership on this issue.

Research on human embryonic stem cells began in 1998 and is still only in its infancy. In this short time, researchers have made great strides in stem cell research, discovering the scientific potential of embryonic stem cells and their ability to treat and cure diseases that affect patients and families across our country. Unfortunately, however, the true potential of embryonic stem cell research has not yet been realized. For the past 8 years, Federal funding has been limited to the study of embryonic stem cell lines derived before August 9, 2001, significantly hampering the ability of researchers to effectively study the full potential of these cells. Political issues, funding considerations, and the limited pipeline of talented researchers specializing in this new field have slowed the development of a robust research community focused on stem cell investigation.

Stem cells could be a boon to medical research and treatment in a variety of ways: as replacement cells for those cells that have been lost or destroyed because of disease; as tools for studying early events in human development; as test systems for new drug therapies; and as vehicles to deliver genes that could correct defects. The more that is learned about embryonic stem cells, the better scientists can assess their full therapeutic potential and that of other stem cell types.

This research is so critical to the scientific understanding of diseases, therapies, and cures that impact millions of Americans. Embryonic stem cells could lead to treatments for diseases that afflict up to 100 million Americans, including Alzheimer's, Parkinson's disease, diabetes, cancer, heart disease, spinal cord injuries, and so many other debilitating conditions.

Now, I have always been a supporter of stem cell research and have long recognized the importance of this critical research to the scientific community. However, stem cell research became personal for me in 2007 when my oldest granddaughter Elle was diagnosed with diabetes. But my family is not alone in either struggling with the disease of juvenile diabetes or recognizing the importance of stem cell research to a potential cure for the disease. Mimi Silverman of Bedford, NH, speaks eloquently about what it is like to be the parent of a diabetic. Her daughter Abby, who is now 30, was diagnosed with diabetes at the age of 7. Mimi knows about the toll that diabetes takes on the entire family and she

talks about the psychological effects on her family, not knowing what each day will bring. She describes the disease as a ticking timebomb in which there is always uncertainty and underlying apprehension.

A few years ago, Abby, Mimi's daughter, was 2 weeks away from getting married. She was living alone in Minneapolis, 1,500 miles away from her fiancé and her family. She was alone in her apartment and because of diabetes, she fell unconscious. Luckily, her fiancé called. He realized that Abby was incoherent and he was able to contact the apartment manager to unlock the door and get her help. But had her fiancé not called when he did, in all likelihood, Abby would not be alive today. Mimi is now a leading advocate in New Hampshire in support of stem cell research.

Laura Clark, from Antrim, NH, is 25 years old. Five years ago she was in the final year of her nursing studies at the University of New Hampshire. Unfortunately, she was in a tragic car accident on the way to the movies. As a result of the collision, Laura's neck was crushed and after two weeks in intensive care and 11 weeks in rehabilitation, Laura recovered but is now quadriplegic. While her spirit is strong, her life has changed dramatically. The accident not only affected Laura, but of course her family was affected as well. Her mother Kathy quit her job to stay home to take care of Laura, and her younger sister, who was in high school at the time, was not able to go on to college. Laura doesn't give up the hope that some day, as a result of stem cell research, a scientist will discover a way to help her regain her independence.

Stem cell research holds the potential to help Elle, to help Abby, and to help Laura, and so many others in New Hampshire and across this country. I thank President Obama for recognizing the importance of this issue and for providing an opportunity for us to reverse the stem cell policy that has slowed the pace of medical research and hindered the development of therapeutic treatments for medical conditions ranging from diabetes and spinal cord injuries to Parkinson's and Alzheimer's. I now look forward to working with my colleagues in the Senate and the new administration to ensure continued support of stem cell research. Through increased funding and ensuring that moral and ethical guidelines for research are established in this growing field, I am hopeful that the scientific community will continue with crucial stem cell innovations that will positively affect the lives of those three young women whom I talked about and so many people across this country.

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

OMNIBUS APPROPRIATIONS ACT

Mr. INOUE. Mr. President, last week when considering H.R. 1105, the

Omnibus Appropriations Act, 2009, I filed technical corrections to the table of congressionally directed spending items contained in the explanatory statement offered by the chairman of the Committee on Appropriations of the House of Representatives which accompanies the bill H.R. 1105.

I wish to add the following technical correction to the joint explanatory statement that accompanied H.R. 1105:

On page H2368 of the CONGRESSIONAL RECORD of February 23, 2009, the words "Perkins Career and Technical Education Act" should read "Higher Education Opportunity Act" and the Senate requesters associated with this item should be changed to "Conrad; Domenici; Dorgan."

FOREIGN OPERATIONS APPROPRIATIONS CONFERENCE REPORT

Mr. LEAHY. Mr. President, the Fiscal Year 2009 Omnibus Appropriations Act, which President Obama signed yesterday, contains \$36.6 billion in discretionary budget authority for the Department of State and Foreign Operations, which is the same amount approved by the Appropriations Committee in July 2008.

This represents a \$1.6 billion decrease from former President Bush's budget request of \$38.2 billion. I repeat—this legislation is \$1.6 billion below what former President Bush recommended in his budget.

It is a \$3.8 billion increase from the fiscal year 2008 enacted level, not counting supplemental funds, and \$968 million above the fiscal year 2008 level including fiscal year 2008 supplemental and fiscal year 2009 bridge funds.

The State and Foreign Operations portion of the omnibus does not contain any congressional earmarks. It does, as is customary and appropriate, specify funding levels for authorized programs, certain countries, and international organizations like the United Nations and the World Bank.

I want to thank Chairman INOUE, President Pro Tempore BYRD, and Ranking Member COCHRAN for their support throughout this protracted process. And I want to thank Senator GREGG, who as ranking member of the State and Foreign Operations Subcommittee worked with me to produce this bipartisan legislation that was reported by the Appropriations Committee with only one dissenting vote.

It was imperative that we enacted this legislation. The alternative of a year-long continuing resolution would have been devastating for the operations of the State Department and our embassies, consulates and missions around the world, and for programs that support a myriad of United States foreign policy interests and that protect the security of the American people. Many Senators on both sides of the aisle were encouraged that Senator Clinton was nominated for and confirmed to be Secretary of State. If we

want her to succeed we must provide the tools to do so. This legislation supports her highest priority of rebuilding the civilian capabilities of our government.

The omnibus provides \$7.8 billion for Department of State operations, a decrease of \$274 million below former President's Bush's request and \$1.2 billion above the fiscal year 2008 enacted level, not including supplemental funds. Counting emergency funds provided in fiscal year 2008 for personnel, operations and security costs in Iraq and Afghanistan, the omnibus provides a 5.6-percent increase.

These increases are attributed to a major investment in personnel, primarily to replace worldwide positions that were redirected to Iraq and invest particularly in countries of growing importance in South Asia. The omnibus supports the request of 500 additional positions, much of which will help posts left depleted, some by 25 percent, due to positions shifting to Iraq during the last 5 years. In addition, the omnibus recommends \$75 million for a new initiative to train and deploy personnel in postconflict stabilization. These critical investments would have been lost under a year-long continuing resolution.

The omnibus provides \$1.7 billion for construction of new secure embassies and to provide security upgrades to existing facilities, which is \$178 million below former President Bush's request. He had proposed a 41-percent increase which we did not have the funds to support. But an increase of \$99.5 million, or 13 percent, above the fiscal year 2008 enacted level is provided considering the significant threats our embassies faced last year alone, from Yemen to Belgrade. Even this lesser increase for embassy construction and security upgrades would be lost under a year-long continuing resolution.

Specifically, the omnibus provides \$4.24 billion for diplomatic and consular programs, which funds State Department personnel. This is an increase of \$464 million, or 12 percent, above the fiscal year 2008 enacted level and \$42 million above the President's request. This funds a major investment in personnel to increase language training and expand the number of personnel in regions of growing importance. Senators on both sides of the aisle have strongly endorsed this investment, but it would not be funded under a continuing resolution.

In fact, under a year-long continuing resolution the State Department would not have the resources to fund the staff currently serving at 267 posts overseas, due to exchange rate losses and the increased cost of security overseas. That means the United States would have even less representation than we do now, which none of us here would find acceptable.

The omnibus provides \$1.1 billion for worldwide security protection for non-capital security upgrades, an increase of \$355 million above the fiscal year

2008 enacted level and \$46 million below the request. This account funds all the Diplomatic Security agents at every post worldwide, armored vehicles, and training—all investments which, again, have bipartisan support. The increases would fund additional personnel for protection at high-threat embassies and oversight of security contractors in Iraq, Afghanistan and Israel-West Bank. This would not be possible under a continuing resolution.

Senators of both parties have expressed strong support for expanding international exchange programs, particularly in predominantly Muslim countries. The omnibus provides \$538 million for education and cultural exchanges, which is \$15.5 million above the President's request and an increase of \$36.6 million above the fiscal year 2008 enacted level. Those additional funds would be lost under a continuing resolution at the moment when the U.S. has the greatest opportunity to reintroduce our country, our people, and our values to the rest of the world.

The same is true of public diplomacy. The omnibus provides \$394.8 million for the State Department's public diplomacy activities, including outreach, media and programs in embassies to develop relationships with people in host countries. This is \$33.9 million above the fiscal year 2008 level, which would not be available under a continuing resolution.

The omnibus provides \$1.7 billion for construction of new secure embassies and maintenance of existing facilities, a \$280 million increase above the fiscal year 2008 enacted level and \$83 million below the President's request. Of this amount, \$801 million is for embassy maintenance, \$40 million less than the request and \$46 million above the fiscal year 2008 enacted level.

The omnibus provides \$770 million for planning, design and construction of new embassies and office buildings worldwide, \$178 million below the request and \$99 million above the fiscal year 2008 enacted level. Any Senator who has traveled abroad has seen the need to replace insecure and old embassies. There is already a long waiting list, and it would be even longer under a continuing resolution.

Former President Bush's budget underfunded the U.S. assessed contribution to U.N. Peacekeeping in fiscal year 2009 by assuming a reduction in every mission except Sudan. That was pie in the sky. The cost of most of these missions is increasing, not decreasing. The omnibus provides \$1.5 billion for U.N. Peacekeeping, an increase of \$295 million above the fiscal year 2008 enacted level and \$20 million above the President's request. However, compared to the total amount enacted in fiscal year 2008, the bill is \$173 million below the operating level in fiscal year 2008 including supplemental funds. These are costs we are obligated to pay by treaty. They support the troops of other nations in Darfur, the Congo, Lebanon, Haiti, and a dozen other countries.

The omnibus provides \$1.5 billion for contributions to international organizations, the same as the President's request and \$186 million above the fiscal year 2008 enacted level. The account funds the U.S. assessed dues to 47 international organizations, including NATO, IAEA, OECD, the U.N. and others for which, as a member of the organization, the U.S. is obligated by treaty to contribute. We either pay now or we pay later.

The omnibus provides \$709.5 million for the Broadcasting Board of Governors, an increase of \$39.5 million above the fiscal year 2008 enacted level and \$10 million above the former President Bush's budget request. This includes funding for languages which the former administration proposed to eliminate in fiscal year 2009, such as Russian, Georgian, Kazak, Uzbek, Tibetan and the Balkans, where freedom of speech remains restricted and broadcasting programs are still necessary to provide unbiased news.

For USAID, the omnibus provides \$808.6 million for operating expenses, \$41.4 million above former President Bush's request and \$179 million above the fiscal year 2008 enacted level. This continues efforts begun last year to address the serious staff shortage at USAID, but under a continuing resolution USAID's staff problems would continue to worsen. It would not be able to hire additional staff for Afghanistan and Pakistan, or for other posts where there is not sufficient oversight of contracting and procurement. It is a crisis situation that I and Senator GREGG are determined to fix.

For bilateral economic assistance, the omnibus provides a total of \$17.1 billion, \$1.3 billion below former President Bush's request and \$623.3 million above the fiscal year 2008 level. We received requests from most Senators—Democrats and Republicans—for funding from within this account, totaling far more than we could afford. A continuing resolution would have made it impossible to fund many, if not most, of those requests.

A good example is global health. The omnibus provides \$7.1 billion for global health and child survival, an increase of \$757 million above the request and \$737 million above the fiscal year 2008 enacted level. A continuing resolution would be devastating for these life-saving programs.

A total of \$495 million is provided for child survival and maternal health, an increase of \$125 million above former President Bush's request and \$49 million above the fiscal year 2008 enacted level. These funds are for programs that directly decrease child and maternal mortality from preventable diseases, like malaria, polio and pneumonia. Under a continuing resolution USAID would not be able to expand its malaria control programs to other countries in Africa with a high incidence of malaria, which kills a million people, mostly African children, every year.

The omnibus provides \$300 million for safe water programs, including increasing access to safe drinking water and sanitation, which is a key factor in improving public health.

Former President Bush proposed a steep cut in funding for family planning and reproductive health programs, even though they are the most effective means of reducing unwanted pregnancies and abortions. The omnibus, instead, provides a total of \$545 million from all accounts for family planning and reproductive health including \$50 million for the U.N. Population Fund, which is \$82 million above the fiscal year 2008 level. A continuing resolution would eliminate those additional funds, and the number of unintended pregnancies and abortions would increase.

The omnibus provides a total of \$5.5 billion for programs to combat HIV/AIDS, \$388 million above former President Bush's request and \$459 million above the fiscal year 2008 level. Of this amount, \$600 million is provided for the global fund to fight HIV/AIDS, which is \$400 million above the request. Additionally within the total, \$350 million is provided for USAID programs to combat HIV/AIDS, which is \$8 million above the request.

These additional funds, which pay for life-sustaining antiretroviral drugs, prevention and care programs, would be lost under a continuing resolution, to the detriment of 1 million people who would receive life-saving treatment this year. With this funding 2 million additional HIV infections would be prevented this year. Instead of 10 million lives we are saving today, we have the opportunity to save 12 million people. We have the opportunity with this bill to save 1 million more orphans or vulnerable children who are either infected with HIV or have been orphaned because a parent died from HIV/AIDS. Why would we not make this investment this year?

The development assistance account funds energy and environment programs, microcredit programs, private enterprise, rule of law, trade capacity, and many other activities that Senators on both sides of the aisle support. The omnibus provides \$1.8 billion for development assistance which is \$161 million above former President Bush's request and \$176 million above the fiscal year 2008 enacted level.

The omnibus provides \$350 million for international disaster assistance, \$52 million above the request and \$30 million above the fiscal year 2008 enacted level, excluding supplemental funds. These funds enable the United States to put its best face forward when disaster strikes, as it did with the tsunami, the earthquake in Pakistan, floods in Central America, and famine in Africa.

The omnibus provides \$875 million for the Millennium Challenge Corporation. This is \$1.3 billion below the request and \$669 million below the fiscal year 2008 enacted level. This reflects the

view of the House and Senate that the Congress supports the MCC but wants to see a slowdown in new compacts, while \$7 billion in previously appropriated funds are disbursed, and while the new administration decides how it wants to fund the MCC in the future. The agreement provides sufficient funds to continue current operations and to commence two new compacts of \$350 million each.

For the Peace Corps, the omnibus provides \$340 million, which is \$9 million above the fiscal year 2008 level. Those additional funds would have been lost under a continuing resolution.

The omnibus provides \$875 million for international narcotics control and law enforcement, which is \$327 million below the request and \$321 million above the fiscal year 2008 enacted level. Those additional funds for programs in Latin America, Pakistan, Afghanistan, and many other countries would be lost under a continuing resolution.

There is a total of \$405 million for continued support of the Merida Initiative, including \$300 million for Mexico and \$105 million for the countries of Central America. The fiscal year 2008 supplemental included \$400 million and \$65 million, respectively. We are all increasingly alarmed by the spread of drug-related violence and criminal gangs in Mexico, but under a continuing resolution there would be nothing for the Merida Initiative.

Migration and refugee assistance is funded at \$931 million, which is \$167 million above former President Bush's request and \$108 million above the fiscal year 2008 enacted level. That \$108 million would be lost under a continuing resolution. This amount is already \$557 million below what was provided in fiscal year 2008 including supplemental and fiscal year 2009 bridge funds. These funds are used for basic care and protection of refugees and internally displaced persons, whose numbers are not expected to decrease this year.

The omnibus provides \$4.9 billion for military assistance and peacekeeping operations, \$173 million below former President Bush's request but \$212.6 million above the fiscal year 2008 enacted level. The omnibus assumes \$170 million provided in the fiscal year 2008 supplemental as fiscal year 2009 bridge funds for military assistance to Israel, making the total amount for Israel equal to the President's request, \$2.55 billion. The additional \$212.6 million for other important bilateral relationships would be lost under a continuing resolution.

For contributions to the multilateral development institutions, which we owe by treaty, the bill provides \$1.8 billion. That is \$503 million below the former President's request and \$251 million above the fiscal year 2008 enacted level. A continuing resolution would have put us another \$251 million in arrears, in addition to the arrears we already owe.

The omnibus provides the amounts requested by the former President for the Export-Import Bank, an increase of \$26.5 million above fiscal year 2008. By not passing this legislation, these additional resources would not have been available to make U.S. businesses competitive in the global marketplace. At this time of economic downturn at home we should be doing everything we can to support U.S. trade.

These are the highlights of the fiscal year 2009 State and Foreign Operations portion of the omnibus that passed by a vote of 62–38. It contains funding to meet critical operational costs and programmatic needs which support U.S. interests and protect U.S. security around the world.

A handful of our friends in the minority spent days criticizing the omnibus because it contains earmarks. Apparently they would have preferred that unnamed, unelected bureaucrats make all the decisions about the use of taxpayer dollars. In fact, the total amount of the \$410 billion omnibus that Members of Congress—Democrats and Republicans—have earmarked for schools, fire and police departments, roads, bridges, hospitals, scientific research, universities and other organizations and programs in their states and districts which would not otherwise receive funding, is less than 1 percent. That is what the aggrieved speeches were about. A whopping 1 percent.

Some Senators complained that the omnibus—all but a small fraction of which would fund the budget requests of former President Bush—is more than we can afford. Those are the same Senators who, year after year, rubberstamped billions and billions of borrowed dollars to fund an unnecessary war and reconstruction programs in Iraq that were fraught with waste and abuse.

Some say that the intervention of the Economic Recovery and Reinvestment Act is why they opposed the omnibus. Regarding the Department of State and Foreign Operations, 99.6 percent of the omnibus has no correlation whatsoever to what was funded by the Recovery Act. This portion of the omnibus funds all of the United States' activities overseas. All of the key new investments I have described would not have been possible under a year-long continuing resolution.

The funding for State and Foreign Operations in the omnibus amounts to about 1 percent of the total budget of this country. However one views the Economic Recovery Act, the damage that a year-long continuing resolution would have caused to the functions of our embassies, consulates and missions, and to the foreign service officers who serve the American people around the world, would have been devastating. The damage to programs would be measured in lives.

We have seen the image of our country battered beyond recognition. The values our country was founded on were ignored, ridiculed, and diminished. Democrats and Republicans

alike recognize that the United States needs to reinvigorate its engagement in the world, particularly through rebuilding alliances and using diplomacy more effectively. The omnibus puts our money where our mouths are. The alternative would have been to retract, and to invite others to fill the vacuum. That might save money in the short term, but it would have cost us dearly in the future.

BUSINESS OF THE SENATE

Mr. LEAHY. Mr. President, I am glad Republican Senators abandoned their efforts to filibuster the nomination of the Deputy Attorney General. It was only after the majority leader filed for cloture that the Republican caucus came to the conclusion that such a maneuver was futile. I thank the majority leader for scheduling the debate and votes for the President's nominees to serve as Deputy Attorney General and Associate Attorney General. They have now been confirmed by the Senate.

The Republican minority, nonetheless, insisted on 7 hours of debate on the Deputy Attorney General nomination this week before allowing the vote. That was longer than the debate they demanded on the nomination of the Attorney General of the United States. I spoke yesterday to open the debate, as did the ranking Republican on the Senate Judiciary Committee, Senator SPECTER, who also supported the nomination. We both spoke, again, today to close the debate.

I followed the debate, and have responded by way of additional statements to correct the record on the Deputy Attorney General nominee.

Now I would like us to take a step back and see what has occurred. Yesterday, the Republican minority insisted on 5 hours of debate on the Ogden nomination. In fact, the Republican opposition devoted less than 1 hour to comment about the Ogden nomination. The rest of their time they consumed with criticism of the President's budget and policy initiatives to help the country recover from the economic crisis. I am not saying that the budget discussion is unimportant. I may not agree with their criticism, but the budget is certainly a topic about which Senators may wish to make statements. My point is that after delaying debate on the President's nomination for the No. 2 official at the Justice Department for 2 weeks, and demanding extended debate, they failed to use the time to discuss the nomination. Instead, they talked about unrelated issues.

In fact, they were so uninterested in debating the nomination that by the time Senator INHOFE came to the floor, all Republican time had been used on other discussions. As a courtesy, we made available time from the Democratic side that should have been used by supporters of the nomination. We accommodated the Senator from Oklahoma so that he could speak against the nomination.

Today, an additional 2 hours was demanded by the Republican majority to debate the Ogden nomination further before they would allow a vote. Of course, those Republicans who opposed the nomination used not 1 minute of time to debate it today—not 1 minute.

Indeed, of the time that the Republican minority insisted was necessary before the Senate could vote on the Ogden nomination, more than an hour was wasted in quorum calls with no speakers at all yesterday and approximately 1 hour was spent by opposition speakers—not 7 hours, not 3 hours, barely 1 hour. The Ogden debate could easily have been handled with the opposition taking an hour or an hour and one-half to speak.

I wish instead of this campaign to delay and obstruct the President, the minority would work with us on the consideration of matters of critical importance to the American people. I will note just one current example. This morning, the New York Times had a front-page story about financial frauds. Last week, the Senate Judiciary Committee reported an antifraud matter to the Senate. The Leahy-Grassley Fraud Enforcement and Recovery Act, S.386, needs to be considered without delay. It is an important initiative to confront the fraud that has contributed to the economic and financial crisis we face, and to protect against the diversion of the Federal efforts to recover from this downturn.

As the New York Times story demonstrates, improving our efforts to hold those accountable for the mortgage and financial frauds that have contributed to the worst economic crisis since the Great Depression is most timely. We need to do better, and our bipartisan bill, which has the support of the U.S. Department of Justice, can make a difference. In addition to Senator GRASSLEY, I thank Senator KAUFMAN, Senator KLOBUCHAR, Senator SCHUMER, and Senator SHELBY for working with us and for their interest in this important measure.

Our legislation is designed to reinvigorate our capacity to investigate and prosecute the kinds of frauds that have undermined our economy and hurt so many hard-working Americans. It provides the resources and tools needed for law enforcement to aggressively enforce and prosecute fraud in connection with bailout and recovery efforts. It authorizes \$245 million a year over the next couple of years for fraud prosecutors and investigators. With this funding, the FBI can double the number of mortgage fraud taskforces nationwide, and target the hardest hit areas. It includes resources for our U.S. Attorneys' Offices, as well as the Secret Service, the HUD Inspector General's Office and the U.S. Postal Inspection Service. It includes important improvements to our fraud and money laundering statutes to strengthen prosecutors' ability to confront fraud in mortgage lending practices, to protect TARP funds, and to uncover fraudulent

schemes involving commodities futures, options and derivatives as well as making sure the Government can recover the ill-gotten proceeds from crime.

Our bipartisan measure was favorably reported on a voice vote by the Judiciary Committee on March 5. I have been trying to get a time agreement to consider the measure ever since. The Senate should consider and pass it without delay. We can help make a difference for all Americans. Instead of wasting our time in quorum calls when no one is speaking, or demanding multiple hours of debates on nominations that can be discussed in much less time before being confirmed, let us work on matters that will help get us out of the economic ditch that we have inherited from the policies of the last administration, and let us begin to work together on behalf of the American people.

EL SALVADOR ELECTION

Mr. LEAHY. Mr. President, this Sunday the people of El Salvador will go to the polls to elect a new President. As one Senator who has followed developments in that country and observed with concern the steady rise in violent crime, including organized crime and drug trafficking, I hope that whoever wins the election makes reforming the police and justice system a priority.

United States assistance to El Salvador is a small fraction of what it was during the 1980s, but in 2006 El Salvador signed a 5-year compact with the Millennium Challenge Corporation. The compact totals \$461 million, and focuses on road construction, economic and social development in the area of the country bordering Honduras that bore the brunt of the worst consequences of the civil war.

I had hoped that a portion of the MCC compact would be used to strengthen El Salvador's dysfunctional judicial system, both to help reduce violent crime and attract foreign investment, but unfortunately that was not the decision of the Salvadoran Government or the Bush administration at the time. Nevertheless, the MCC compact does seek to improve the lives of some of El Salvador's poorest communities and I support it.

Recently, I have been concerned with reports that some Salvadorans involved in the election campaign may have asserted that if the opposition party candidate wins the election the United States will stop funding the MCC compact. Such an assertion, presumably to intimidate voters, would be completely false.

We take no position on the Salvadoran election. It is entirely for the people of El Salvador to decide who their next President will be. The MCC compact will continue regardless of who wins on Sunday, as long as the policies of the new Government, of whichever party, are consistent with

the MCC's eligibility criteria, including controlling corruption and investing in health and education.

I look forward to the results of Sunday's election and the opportunity for our two countries to work together for a brighter future.

10-YEAR ANNIVERSARY OF THE EXPANSION OF NATO

Ms. MIKULSKI. Mr. President, I rise today to recognize the 10-year anniversary of the expansion of the North Atlantic Treaty Organization, NATO.

During the debate on whether to expand NATO, I said that this debate holds special resonance for me. Growing up as a Polish American in east Baltimore, I learned about the burning of Warsaw at the end of the Second World War. The Germans burned Warsaw to the ground—killing a quarter of a million people—as Soviet troops watched from the other side of the Vistula River. I learned about the Katyn massacre—where Russia murdered more than four thousand Polish military officers and intellectuals in the Katyn Forest at the start of the Second World War.

The tragedies that Poland, the Czech Republic, and Hungary experienced in the aftermath of the Second World War are etched on my heart. That was the one reason I fought so long and so hard for Poland and the others to be part of the western family of nations.

Despite the importance of history, my support for NATO enlargement was based on the future. My support was based on what is best for America. Thankfully when we voted to bring Poland, the Czech Republic, and Hungary into NATO, the yeas carried the day. Since that day, those three nations have exceeded every expectation as strong allies of the United States, and the naysayers' fears during the debate on the NATO expansion have also been shown as unwarranted.

The NATO expansion nations of 1999, Poland, the Czech Republic, and Hungary have more than lived up to their obligations under the NATO alliance. Poland has made enormous investments into all areas of its military. As a result, over the last 10 years the number of Polish troops serving on NATO missions has steadily grown from 1500 to over 3500. Another 300 Polish military personnel serve in prestigious academic and administrative positions in NATO institutions around the world. Polish naval vessels also operate as part of NATO standing reaction forces all over the world, providing cutting edge mine detection and countermeasures expertise.

Poland has also emerged as one of the United States' strongest allies in the war against terrorism and extremism around the globe. Polish troops accompanied American soldiers into Iraq when they invaded in 2003, and maintained a mission that grew as large as 2500 troops up until the end of 2008. Nearly 30 Polish soldiers gave

their lives in Iraq. Poland also has one of the largest contingents in Afghanistan. Over 1600 Polish soldiers fight every day to stabilize the Afghan province of Ghazni. Nine Polish soldiers have been killed and dozens wounded in Iraq.

In closing, I wish to speak a bit about history. My colleagues have heard me speak about Poland's history many times in the past. For 40 years, I watched the people of Poland live under brutal, communist rule. They did not choose Communism—it was forced upon them. Each ethnic group in America brings our own history to our wonderful American mosaic. Bringing these three nations into NATO family of nations 10 years ago was one of the best decisions we made in the post-cold war era. Of all the things I have done in my years in the Senate, this is one of those for which I am most proud.

LORD'S RESISTANCE ARMY

Mr. FEINGOLD. Mr. President, I wish to express my grave concern at the continuing massacres, kidnappings, and terror orchestrated by the Lord's Resistance Army, the LRA, in northeastern Congo and southern Sudan. As many of my colleagues know, I have long been engaged in efforts to bring an end to this—one of Africa's longest running and most gruesome rebel wars. In 2004, I authored and Congress passed the Northern Uganda Crisis Response Act, which committed the United States to work vigorously for a lasting resolution to this conflict. In 2007, I visited displacement camps in northern Uganda and saw first-hand the impact the violence orchestrated by the LRA has had throughout the region. I have been frustrated as the LRA has been able to move in recent years across porous regional borders to gain new footholds in northeastern Congo, southern Sudan, and even the Central African Republic, with little consequence.

Just over 2 months ago, the Ugandan, Congolese, and South Sudanese militaries launched a joint offensive against the LRA's primary bases in northeastern Congo. Serious concerns have been raised about the planning and implementation of this operation. Since the military strike began, the LRA has been able to carry out a series of new massacres in Congo and Sudan, leaving over 900 people dead. That is a killing rate that, according to the Genocide Intervention Network, exceeds that in Darfur or even in Somalia. Hundreds of new children have been abducted and new communities have been devastated and displaced. It is tragically clear that insufficient attention and resources were devoted to ensuring the protection of civilians during the operation. Meanwhile, the LRA's leader, Joseph Kony, and his commanders escaped the initial aerial assault and have continued to evade the militaries. Thus far, this operation has resulted in the worst-case scenario: it has failed to stop the LRA, while

spurring the rebels to intensify their attacks against civilians.

I am not ruling out that this offensive—still ongoing—may yet succeed. Indeed, I strongly hope it does. On several occasions last year, Kony refused to sign a comprehensive peace agreement with the Government of Uganda, an agreement that even included provisions to shield him from an International Criminal Court indictment. At the same time, as negotiations were still underway, his forces launched new attacks in Congo, Sudan, and, for the first time, Central African Republic. They abducted hundreds of youths to rebuild their ranks. It was apparent that Kony was not interested in a negotiated settlement, despite the good efforts of mediators and northern Ugandan civil society leaders. I supported those peace negotiations, but it became increasingly clear that the LRA's leaders would only be stopped when forced to do so.

For many years I have pressed for a political solution to the crisis in northern Uganda. I pressed for the international community to work collectively to support efforts to bring peace and stability to this war-torn area. And against all odds, the most recent peace talks in Juba, South Sudan, did see a collective effort but to no avail. These negotiations were not perfect but for some time offered a path forward and provided a framework to address the underlying grievances of communities in northern Uganda. But then, it became increasingly clear that Joseph Kony had no intention of ever signing the final agreement and had instead been conducting new abductions to replenish his rebel group. It became increasingly clear that Kony and his top commanders would stand in the way of any comprehensive political solution.

These failed talks justify military action against the LRA's top command, but that action must be carefully considered. As we have seen too many times, offensive operations that are poorly designed and poorly carried out risk doing more harm than good, inflaming a situation rather than resolving it. Before launching any operation against the rebels, the regional militaries should have ensured that their plan had a high probability of success, anticipated contingencies, and made precautions to minimize dangers to civilians. It is widely known that when facing military offensive in the past, the LRA have quickly dispersed and committed retaliatory attacks against civilians. Furthermore, to be sustainable, military action needs to be placed within a larger counterinsurgency strategy that integrates outreach to local populations, active programs for basic service provision and reconstruction in affected areas, and mechanisms for ex-combatant disarmament, demobilization and reintegration. Those mechanisms are especially important in the case of the LRA because of the large number of child abductees who make up the rebel ranks.

As this operation continues, I hope the regional militaries are identifying their earlier mistakes and adjusting their strategy in response. Meanwhile, the international community cannot continue to stay on the sidelines as these massacres continue. The United Nations Security Council should take up this matter immediately and, in coordination with the Secretary-General and his Special Representative for LRA-affected areas, develop a plan and new resources to enhance civilian protection. I urge the Obama administration to use its voice and vote at the Security Council to see that this happens. At the same time, I urge the administration to develop an interagency strategy for how the United States can contribute to longer term efforts to disarm and demobilize the LRA, restore the rule of law in affected areas of Congo and Sudan, and address political and economic marginalization in northern Uganda that initially gave rise to this rebel group.

This is not to suggest the United States has not already been involved with the ongoing operation. AFRICOM officials have acknowledged that they provided assistance and support for this operation at the request of the regional governments.

As a 17-year member of the Subcommittee on African Affairs and someone who has been involved with AFRICOM since its conception, I would like to offer some thoughts on this matter. While I supported AFRICOM's creation, I have been concerned about its potential to eclipse our civilian agencies and thereby perpetuate perceptions on the continent of a militarized U.S. policy. It is essential that we get this balance right and protect chief of mission authority. By doing so, we can help ensure AFRICOM contributes to broader efforts to bring lasting peace and stability across Africa. When I visited AFRICOM's headquarters last December and talked with senior officials, we discussed the important roles that it can play. They include helping to develop effective, well-disciplined militaries that adhere to civilian rule, strengthening regional peacekeeping missions, and supporting postconflict demobilization and disarmament processes. In my view, assisting a multilateral operation to disarm an armed group that preys on civilians and wreaks regional havoc fits this job description, theoretically, at least.

To put it bluntly, I believe supporting viable and legitimate efforts to disarm and demobilize the LRA is exactly the kind of thing in which AFRICOM should be engaged. Of course, the key words there are viable and legitimate. We should not be supporting operations that we believe are substantially flawed and do not have a high probability of success. Furthermore, we should ensure that operations we assist do not exacerbate inter-state tensions or violate international humanitarian law. If we get involved, even in an advisory capacity, we have

to be willing to take responsibility for outcomes, whether anticipated or not. To that end, it is critical that the State Department is not only involved but plays a leading role in ensuring that any military activities are coordinated with long-term political strategies and our overarching foreign policy objectives.

In the case of this current operation against the LRA, as I have already outlined, I do not believe these conditions were met or the necessary due diligence undertaken before its launch. But we cannot just give up on the goal of ending the massacres and threat to regional stability posed by this small rebel group. That is precisely why I am urging the development of an interagency strategy to drive U.S. policy going forward. By putting in place such a proactive strategy, we can better help the region's leaders to get this mission right and protect their people from the LRA's continuing atrocities. This could finally pave the way for a new future for this region and its people and help shape an AFRICOM that works effectively for both Africa and America's security interests.

CLEAN TEA

Mr. CARPER. Mr. President, I have come to the floor of the Senate many times to discuss the importance of curbing greenhouse gas emissions. Over the past several Congresses, I have introduced legislation to create a mandatory cap-and-trade program to help utilities reduce their emissions of carbon dioxide, while also regulating unhealthy emissions of mercury, nitrogen oxide and sulfur dioxide. Hopefully, later this year, Congress will consider an economy-wide, cap-and-trade bill to curb greenhouse gas emissions.

But one area that has not received enough attention or comprehensive treatment in climate change proposals is the transportation sector.

In all fairness, it is tricky to address. Mobile sources—like cars and trucks—are numerous and do not stay in any one jurisdiction. The amount of pollution they produce is impacted by the efficiency of the vehicle, the type of fuel it uses, as well as how far, fast and often the vehicle is driven. Managing all of those different inputs is not an easy thing to do. But we must find a way if we are serious about addressing climate change.

The transportation sector produces 30 percent of greenhouse gas emissions and is the fastest growing source of pollution. If we do not curb emissions from transportation, we will either fail to reduce greenhouse gas emissions to the level scientists tell us is necessary to stave off climate change. Or we will have to ask other sectors to make up the difference.

When the transportation sector has been considered before, the focus has always been on vehicle fuel economy standards or tailpipe emissions standards. Last Congress, I was extremely

proud to play a role in increasing the Corporate Average Fuel Economy, CAFE, standard for cars and trucks for the first time in 32 years. The new standard requires the entire U.S. fleet of cars and trucks to average 35 mpg by 2020.

The new standard has a better chance of success because it applies across the entire U.S. fleet, removing the loophole that encouraged auto manufacturers to build larger cars. At the same time, we structured the standard in a way that allows manufacturers to specialize in the vehicles for which they are known. Instead of having every manufacturer meet the 35 mpg standard, those that build smaller cars will meet a higher standard and those that build larger cars will meet a lower one. But in the end, the fleet as a whole will reach 35 mpg. We increased CAFE in a way that garnered the support of both environmentalists and the automobile industry—a model I hope we can follow in developing climate change legislation.

In the same bill that raised CAFE, Congress also established a Renewable Fuel Standard, RFS, requiring that 36 billion gallons of renewable fuel is sold in 2020—up from 9 billion gallons today.

Taken together, the CAFE and RFS is expected to save two million barrels of oil per day and save consumers more than \$80 billion at the pump. It will also reduce emissions of carbon dioxide by 18 percent.

While this is a major improvement, we must remember that our goal is to reduce greenhouse gas emissions by 60 to 80 percent. We need to look for other ways to make the transportation system cleaner.

That is where the bill we are introducing today comes in. The Clean Low-Emission Affordable New Transportation Act, or CLEAN TEA, would reserve a portion of any auction proceeds from a climate change bill, and dedicate it to funding transportation projects that reduce greenhouse gas emissions.

This is a critical piece of the puzzle which, if left out, hampers the effectiveness of the other measures taken by car companies and fuel producers. For example, in 1975, we created CAFE standards to reduce oil use. But at the same time, we closed down transit systems and built homes far from workplaces, schools, groceries and doctors. As a result, driving increased by 150 percent. Therefore, even though cars got significantly more efficient, American use of oil increased 50 percent. We cannot afford to make that mistake again.

CLEAN TEA requires States and metropolitan planning organizations to review their long-range transportation plans to determine what they could do to reduce greenhouse gas emissions by making their transportation system more efficient and providing alternative forms of transportation. Once they establish a goal that is appropriate for their area and a list of

projects to help them meet that goal, they would receive funding to build those projects. Eligible projects are anything that is proven to reduce greenhouse gas emissions, including transit, freight or passenger rail, sidewalks and bike lanes, carpools and vanpools, intelligent transportation systems, congestion pricing measures and coordination of development and transportation plans.

Ten percent of auction proceeds might sound like a lot. But as I mentioned before, the transportation sector is 30 percent of the problem and growing faster than any other sector. In addition, these projects that would reduce greenhouse gas emissions will save Americans money and create jobs.

The American Public Transit Association recently found that people who use transit regularly save \$1,800 a year in transportation costs. The Surface Transportation Policy Project has found that those who live in areas with access to public transportation incur significantly lower costs than those who do not. This is incredibly important in a weak economy or when gas prices are high. Most people do not realize that transportation is the second highest expense in most American households—more than health care. For some, transportation costs are even higher than their mortgage or rent.

Last spring and summer, when gas prices went to \$4 a gallon across the country, Americans sought ways to save money by driving less. Many of them found that their transportation options were quite limited. Their neighborhoods had no sidewalks and there was little or no transit service. Those who had options, exercised them. But those who didn't either had to pay the price of gas and skimp elsewhere or reduce their quality of life. This is unacceptable.

We fund our transportation system through a gas tax, which is to say that we pay for roads and transit by burning gasoline. When people drive less, our transportation budgets dry up. So states and localities that seek to reduce oil use, lower greenhouse emissions and save their constituents money, get their budgets cut. CLEAN TEA reverses that by sending money to states and localities based on how much they reduce emissions.

As we develop a climate change bill, we must consider how every sector of the economy can play a part in lowering greenhouse gas emissions. When it comes to the transportation system, we—right here in Congress—have a lot to say about how that system is developed, how efficient it is and how polluting it is. We should make sure that, as we tell American businesses to get their houses in order, we clean up our act as well.

Through CLEAN TEA, we have the chance to make progress addressing many problems at once—finding additional funding for transportation infrastructure, building money-saving

transportation alternatives and lowering greenhouse gas emissions from the transportation sector.

Mr. SPECTER. Mr. President, I have sought recognition to comment on my cosponsorship of the Clean, Low-Emission, Affordable, New Transportation Efficiency Act, CLEAN TEA.

This bill, which I introduced along with Senator CARPER, would establish a fund for transportation initiatives designed to reduce greenhouse gas emissions. The fund would be supported by 10 percent of the proceeds of any future cap-and-trade system established by Congress to address the issue of climate change. The funding could be used by States and local planning organizations for the development of projects such as rail, transit, transit-oriented land use and other initiatives designed to reduce emissions from the transportation sector. It is important to note, however, that the bill is not focused solely on providing alternatives to auto use. Highway operational improvements such as demand management programs and intelligent transportation systems would also be eligible if they reduce emissions by utilizing highway capacity in a more efficient manner.

These are important steps in lowering our Nation's greenhouse gas emissions, reducing our dependence on foreign oil and promoting transportation mobility. Since transportation accounts for one-third of greenhouse gas emissions, it stands to reason that revenue generated from a cap-and-trade system should be devoted to creating a more sustainable transportation future.

WOMEN'S HISTORY MONTH

Mr. FEINGOLD. Mr. President, I am proud to help celebrate Women's History Month today. This is a time to celebrate the contributions of women throughout our history and to recognize the work of so many to secure women's rights and fulfill our Nation's promise of equal justice under the law.

My own State can be proud that so many Wisconsin women have made critical contributions to the movement for women's suffrage, to education, and to countless other areas of American life. Wisconsin achieved extraordinary things to pave the way for suffrage and social progress for generations to come. According to the Wisconsin Historical Society, in 1919 Wisconsin was the first State to ratify the 19th amendment to grant women the right to vote. Sixty years before that historic moment, one of the great leaders of the suffrage movement, Carrie Chapman Catt, was born in Ripon, WI. Catt's lifelong effort to pass the 19th amendment, especially her leadership of the National American Woman Suffrage Association, was vital to the Amendment's ultimate success. And Catt didn't stop there. Once the amendment was ratified, she founded the League of Women Voters to continue

and build on the momentum for change that the women's suffrage movement created. Catt's lifetime of persistence and dedication—as a leader for change and, earlier in her life, as the only woman in her graduating class at Iowa Agricultural College and Model Farm—reminds us how hard women throughout our history have worked to secure our rights and freedoms.

We also remember the amazing Wisconsin women who have enriched their local communities, including Margaret Schurz. Schurz started the first kindergarten in the Nation in Watertown, WI, in 1856. Her efforts led to the implementation of kindergarten and early-education programs throughout the United States. Her legacy is a great example of the impact Wisconsin women have had in bringing about progressive change in education and many other areas.

This month we also know that we must continue to advocate for fundamental fairness and equality for women. The enactment of the Lily Ledbetter Fair Pay Act of 2009 to help ensure protection from pay discrimination represents another step forward, but there remains a long road ahead of us. In addition to passing the Fair Pay Act, Congress needs to do more to ensure all of America's citizens receive equal pay for equal work. Wage discrimination costs families thousands of dollars each year. This is hard-earned money that working women simply cannot afford to lose. I am a proud cosponsor of the Paycheck Fairness Act introduced earlier this year. This legislation strengthens penalties for employers who violate the Equal Pay Act and requires the Department of Labor to provide training to employers to help eliminate pay disparities.

I applaud President Obama's announcement that he will convene a White House Council on Women and Girls to ensure that the Federal Government is coordinated in its response to the challenges facing women and girls in our country. As we commemorate Women's History Month, we must continue to honor the tremendous contributions women have made, and renew our commitment to advancing the rights of women everywhere.

REAL STIMULUS ACT

Mr. INHOFE. Mr. President, I have cosponsored Senator VITTER's legislation, The REAL, Resources from Energy for America's Liberty, Stimulus Act of 2009. It is crucial that this Nation realize the need to develop our oil and natural gas resources from the Outer Continental Shelf and ANWR, enact the kind of responsible streamlining of government to not hinder that development, and provide important regulatory relief.

I have consistently highlighted the amounts of U.S. reserves, and I think it is important to continue to point out the amount of reserves in the United States. The OCS holds 14 billion barrels

of oil and 55 trillion cubic feet of gas, which is equivalent to 25 years worth of imports from Saudi Arabia. ANWR holds 10 billion barrels or 15 years worth of imports from Saudi Arabia. Today we would have 1 million additional barrels of oil a day coming from ANWR had President Clinton not vetoed legislation in 1995 to authorize that production. Production from ANWR is entirely responsible. Compared to the size of Alaska, ANWR's 19 million acres is about the same size of South Carolina, and of that area, we propose opening about 1.5 million acres to exploration which is roughly 6 percent of ANWR. Of those 1.5 million acres, only 2,000—an area the size of Washington's Dulles International Airport—would be devoted to drilling. This is only one example of new production which can occur in an environmentally exacting manner.

The legislation also includes important regulatory reforms which outside the energy production components of this bill would be referred to the Environment and Public Works Committee for consideration. Some of the EPW related provisions include streamlining environmental considerations in the leasing of the OCS and ANWR and streamlining reviews for new nuclear power plant licensing. The bill includes language meant to ensure that Federal projects and actions are not needlessly delayed, and therefore made more costly, by required environmental reviews. Too often the NEPA mandated environmental review process is used as the means to slow or stop projects, not based on substantive environmental grounds but, rather, simply because selected individuals oppose the projects. We need to reduce the ability of these not-in-my-backyard interests to continue to manipulate Federal law this way. Too many jobs and economic resources are at stake.

The bill importantly excludes greenhouse gases from the definition of pollutant and prohibits the EPA Administrator from granting waivers to enforce their own tail pipe emission standards. Granting these States a waiver will only result in a patchwork of State regulations and compliance will vary greatly depending on product demand in each State. The U.S. auto industry, already on life support, faces a \$47 billion burden this year due to increased national fuel economy standards, according to the National Automobile Dealers Association.

Finally, the bill keeps activists from using the Endangered Species Act from hindering crucial energy exploration and production. Activists' efforts to list species and restrict human activities based on climate change are backdoor attempts to regulate greenhouse gas emissions under the Endangered Species Act. Directly linking species threats to climate change under ESA means that any increase in carbon dioxide or greenhouse gas emissions anywhere in the country could be subject to legal challenges due to arguments

that those activities are harming any species that is in decline. It allows endless litigation on major activities that are funded, carried out, or authorized by the Federal Government. The economic impacts of regulating greenhouse gases under ESA are enormous. For example, any permit for a powerplant, refinery, or road project in the United States could be subject to litigation if it contributes to total carbon emissions. ESA prompted lawsuits and bureaucratic delays could even extend to past fossil fuel-linked Federal projects if they could increase greenhouse gas emissions or reduce natural carbon dioxide uptake. The ESA is over 30 years old. Its only real success has been to provide full time employment for the radical activists and the trial bar. Most importantly, despite billions of Federal dollars spent, millions of acres of property rights restricted, and the years of red tape delays, barely 1 percent of listed species have actually recovered. If that is not justification to restructure an outdated, ineffective law, I don't know what is—there has to be a better way.

I have long said America is not running out of oil and gas or running out of places to look for oil and gas. America is running out of places where we are allowed to look for oil and gas. The American public has got to demand that the Democrats in Congress allow us to produce from our own resources without unnecessary and burdensome Government regulation.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

Thank you for the opportunity to provide opinion on our current problems. I work at the site, and was named the outstanding researcher for 2006. By way of further background, I hold a PhD in chemistry, and I have heretofore always voted [conservative].

It seems to me that the key question to be addressed is "what is the role of the Federal government guiding and fostering energy development and usage in the United States?" If I could ask one question of yourself, Mr. Risch, Mr. Obama, and Mr. McCain, that would be it.

It further seems to me that the de facto energy policy of our party is "the private sector will do it." I believe that what we have proven over the past 40 years is that this is incorrect. The current cost of energy supports my position: \$4 gasoline (with \$5 in sight), rising food prices (fueled by a nonsensical corn to ethanol policy), plus the cost of the war in Iraq (Alan Greenspan is correct; it is all about oil). Certainly the cost of electricity and other energy sources will follow suit. While the private sector has proven extremely adept at maximizing profits over a 3 month quarterly-reporting time frame, that appears to be the limit of their time horizon. It is sadly ironic that decisions made in 1974 by France regarding nuclear power and by Brazil (a dictatorship at the time!) in 1975 regarding ethanol, were vastly more far-sighted than what our country has chosen by arrogating energy leadership to the private sector.

Alternatively I believe that strong interaction lead by the Federal government and involving the private sector can solve the problem. While I understand that sounds socialistic, that is exactly how we were able to harness our power to address the challenge of the second world war and the cold war.

I would recommend that you set a goal to have the country be free of imported oil in 15 years. To accomplish this, we will need to find another way to power the transportation sector, and electricity is the only viable alternative. The government should subsidize mass transit and utilization of electric cars and development of next-generation electric cars should be subsidized. Financing for subsidies should come from taxes on the egregious profits realized by oil companies, which we are subsidizing in the form of military defense of the middle east. Clearly the supply of electricity will need to be greatly augmented, and nuclear fission is the best answer for this. While I do not believe that wind or solar have the efficiency to supply the amount of electricity needed, research into improving these technologies should be fostered.

In the process of implementing these policies, a highly desirable collateral effect would be to greatly spur American science. Federal support for basic and applied research would stabilize the funding base, and improve the desirability of the scientific disciplines, which are not in favor with young Americans, because the return on mastery of the fields of math, biology, chemistry and physics are not currently commensurate with the investment required to learn them. To fund this, you will have to figure out how to reign in health care, another item which will require forceful government intervention.

While I am encouraged by your interest in my opinion, I am dismayed by the timing. At this point, the horse is long out of the barn, and if you have done anything to address the situation, it has been invisible to me. Yet, you still have a good fraction of your term remaining, enough time to start acting in the best interest of the United States and her institutions, and to start de-prioritizing those of [individuals] who are only interested in their bottom lines.

Best regards and good luck.

GARY.

To quickly preface my story, I am a professional that nets a salary of roughly \$38,000/year with a small family. We have made the

decision that raising good kids and having a mother in the home is more important than making more money. With my salary and my wife's very part-time job, in the past we have been able to absorb minor blows such as unexpected medical situations, needed vehicle repairs, and other unforeseen bills. With the way things are now, such as gas and food prices, we have had to strategize and make every dollar count. There is no complaint on my end, although if and when the next unexpected medical bill happens, it will be difficult. Fortunately we have faith that all will be okay and that we will always be able to pay our bills and enjoy life.

By no means am I asking for a handout. On the contrary, I wish the elected officials that act as our government would step out of the way and allow the hard-working Americans do what they do best; use their intellect to solve problems. Please allow the free market do what it was designed to do. We firmly believe that God created this beautiful Earth for our "responsible" use. What I mean is that we should use the resources that are available to us (which are in wonderful abundance here) while at the same time replenish what we can for our posterity. We never bought into this "Green" movement and have since discovered that it was all a hoax with horrible intentions.

We will survive whatever comes our way. My family has the "American Spirit". I wish that Congress would adopt that same spirit.

DILLON, *Meridian*.

Thank you for asking those you represent what we think and feel about this crisis. The cost of oil going up has affected so many more things than just filling up our tank. We are faced with the choice of going to the doctors, (we have insurance), or get gas or groceries!! We have been unable to have children on our own, and we decided for me to go back to work to save up money for fertility treatments. But now that the gas, food & utility prices have shot up, we are beginning to wonder if we will be able to get to work let alone ever achieve our dream.

I see my siblings trying to raise their children and make ends meet with gas prices the way they are. I hear it in the voices of my co-workers, family, and friends. This is not right! We elected our politicians to be our representatives, not to go to Washington and do what they want. Listen to the majority not the minority. "For the people by the people." We the people are talking. Are you all listening????

First: Drill off shore and in Alaska. Second: Keep working on alternatives like hydrogen, coal to oil, nuclear facilities etc. This country is full of the best and brightest. We ought to show that.

ANNETTE, *Meridian*.

Subject: Final Destination of Alaska Oil is—?

American taxpayers paid to have the Alaskan pipeline built to relieve dependence on foreign oil in the 70s. When oil prices started to drop, the oil companies, BP, Exxon, and etc. cried poor-mouth. They were not getting an adequate return on their investment in the North Slope oil fields. [Congress gave approval for the companies] to take American oil to Asia for a better price than they could get on the West Coast of California or other American markets. Then prices in America started rising, but the oil (our oil!) was still being shipped to Asian countries. To my knowledge, this is still where a lot of the Alaska oil is going.

Question: Is Congress still letting these greedy ruthless oil companies ship desperately needed American oil to Asia for higher prices? If not, when did it stop and where is it being shipped? If they are still

shipping American oil to Asia, why the heck hasn't Congress stopped the process?

A response to this situation, and/or a clarification of what is the present status of Alaska oil shipments would be appreciated.

JOE, *Boise*.

I am against increasing domestic production of oil in sensitive areas such as the Arctic. It has not been made clear to me that it would have any other than a minor affect on prices and supply.

I am adjusting to the high gas prices by driving a fuel efficient vehicle and parking the others and using them only when absolutely necessary. I also am careful in my driving habits such as keeping my speed at or below 60 and avoiding undo acceleration. I turn my engine off at stop lights when I expect the wait will be long. I coast down hills when it is safe to do so with the engine off although this can be a dangerous practice.

Here's what I feel our government including congress could to help the situation:

1. Set a national speed of 55 or 60 as was done in the 70s. I think that many people do not understand that higher speeds require more gas than lower speeds to go the same distance because of air friction. This is not publicized. It should be.

2. Stop all speculation in oil trading by whatever means necessary. For me, the frequent (mostly) up and down variations in price at the gas station are more unsettling than the high price.

3. Declare new fuel efficiency standards under emergency conditions. Not some silly minor improvement by 2020! As has been done [in the past]. The auto manufacturers demonstrated how rapidly through research and development just how fast they could come up with catalytic converters in the 70s to meet emission standards. Give them credit! They can perform miracles if they are forced to. Force them!

4. Keep oil prices high but stable. Painful as it is, it seems to me the only way to effect the needed changes. I have no longer any confidence in energy leadership by either government or industry. Government just does what industry wants and what industry wants is to keep things as they are. Our government needs to take a leadership role. For a long, long time, congress and the administration have failed miserably in that role. It is time for a change.

5. Require new cars to have a fuel consumption meter clearly visible to the driver. This would encourage efficient driving. When the driver sees how his miles-per-gallon drops to near zero when accelerating up a hill—well, he might learn to drive more conservatively.

It seems to me that this is our second warning regarding the consequences of our dependence on oil, the first being in the early 70s. Perhaps this is our last warning.

DAVID, *Viola*.

I am but a young college student. I currently live in Middleton with my family for the summer. I will be headed back to University of Idaho this fall for my sophomore year. The \$4 per gallon gas prices are ridiculous. While living here in the summer, I begin to realize how lucky I am to be headed back to Moscow where I can get anywhere in town just by riding a bike or walking. Living in Middleton, I need to drive 15 miles to go to work seeing as there are not very many job opportunities located in my town. Some people have to drive even further to get to their jobs. I have seen my parents struggle with the prices. They always consider how much it is going to cost us to drive somewhere if we plan on going on a family trip. It definitely complicates things.

I am currently studying Wildlife Resources at my school and have learned much about

how environments are affected by polluting toxins that come from coal plants. This should not be an alternative. Also, corn ethanol is not effective, because in order to create enough fuel for everyone in our country, we would need to drastically increase the corn production. Nuclear power, on the other hand, I am unsure about, but what I am sure about is that we are in a decade of change—one that is challenging us. People need to realize that "global warming" is not a farce and people should not use excuses such as "Well, Idaho had a higher average of snowfall this year than in the past 5 years." There is a reason it is called "global warming" and not "Idaho warming". It has to do with average global temperatures and the changing of these temperatures cause climate changes, which could be why we saw so much snow this past winter.

Anyways, to get back on track, we need to shift to cleaner ways of generating energy. We have all heard of harnessing wind, water, solar, and geothermal energy. These are all very costly, but run clean. The solutions are not to use more coal or drill for more oil. Those solutions are just prolonging the problem, which is our dependency. If we open up more drilling sites in America then the gas may be lowered a little bit, but American oil is still finite and will eventually deplete which will put us in the same situation we are in now. The \$4 per gallon is a wakeup call that we need to change the way we are doing things and progress; not regress. Hopefully you will help to make this progression that we so desperately need.

DYLAN, *Middleton*.

Thank you for letting me express my frustrations.

This is a very simple problem to solve. Start drilling and alleviate the problems we are currently seeing at the gas pumps, food prices, and other high prices that are occurring with the high prices of fuel. If streamlined and the ability of Congress to cut red tape that is currently enacted, we could start pulling oil out of the ground in 18 months and not 5 to 10 years. Pulling oil out of the ground will make the prices fall plain and simple. [Some] will say that more oil will not cause prices to fall due to the oil companies, but basic economics 101 will tell you that more supply equals less prices plain and simple. It is not rocket science, but [some groups have] been more interested in the redistribution of wealth rather than letting the free market take it is course.

I hear lies and intentional misstatements of the truth coming from [some politicians]. When [will truth-tellers start] educating the public on how much oil we currently have in North America (more than Saudi Arabia), and letting extreme environmentalist entities that they bow to run the show on our energy policy.

I keep hearing from [some] that we cannot drill our way to energy independence. What is their solution then? I have not heard of anything that they are coming up with to alleviate the problem. They do not want nuclear power plants, they do not want to burn coal, and drilling offshore and in ANWR would be horrible for the environment. I have some news for [those folks]: their French buddies have nuclear power plants that are safe and provide clean energy for the people of France. Burning coal or emitting carbon dioxide does not create global warming; it is a natural effect that has occurred over and over again throughout the history of the Earth. Sport fisherman fish off of oil rigs in the sea, and caribou do not care about an oil rig, or pipeline laying on the ground either.

It is time [that we had some leadership and challenged the false information] on energy

policy. If not, the [conservative voices will] have less leadership in Congress, and we will have an energy crisis in the greatest county in the world.

P.S. Can we get some more oil refineries as well?

CORY.

First off, thank you for soliciting comments from your constituents.

Everyone is concerned about, and affected by energy prices. Gas prices are just the tip of the iceberg. Food prices, goods and services prices, utility bills, natural gas up double from last year, airline prices, the housing/credit crisis and a very weak dollar are all affected by our energy emergency. This is not a matter of choice. Either we pursue energy independence or we risk losing the America our forefathers created and our brave soldiers have died fighting for.

Why are we the only civilized country not aggressively pursuing energy independence? France is over 70% nuclear, the EU has plans for over 20 coal plants across Europe, Canada is drilling near our northeastern border, Russia recently gave major tax breaks to oil companies to explore inside their borders and find alternative energy, Brazil is aggressively drilling, China is building dozens of coal plants, nuclear plants and hydroelectric dams, they have also secured a lease (from Cuba) 50 miles off the shore of Key West, Florida. The US hasn't built a refinery in over 30 years. There is something wrong with this picture. Is everyone else on the wrong energy path? Or could it be we are falling behind? I think the answer is obvious.

To me the solution is twofold. Short term and long term. Short term: Allow private industry to aggressively pursue all sources of energy within our borders. We are sitting on billions of barrels of oil, oil shale and coal. Go get it now! We have nuclear technology, coal to oil technology, wind, solar. Long term: Offer incentives to private industries to create new alternative energy sources. American innovators have proved time and time again they are capable of getting the job done. Get the government out of their way and let them lead the world into the next generation of energy production.

DENNIS.

I am writing concerning your call for Idahoans to tell about how oil prices are affecting us. Fortunately I live very close to work so I do not drive much to commute. I do however have to transport children to day care, school and other activities. Trips are almost out of the question now.

Having looked into the facts I fully support drilling in ANWR and OCS. I find it disturbing that we are not already doing so when I hear that other countries, especially some that are not overly friendly to us, are permitting to drill off of our coasts. I think the U.S. should pursue all avenues of collecting domestic fuel sources including coal shale to oil and nuclear. This country should pursue nuclear power in large scale, hydrogen, and other alternatives as well. The fact remains, as you know, that we will need petroleum-based fuels for the foreseeable future and we should produce some of our own.

I think the ethanol projects are a joke as corn is a food product that has so many other uses.

BRANDON, Idaho Falls.

The most difficult part of paying so much at the pump is feeling that the whole situation is—at best—the fault of our Washington politicians who have been influenced by environmentalists who seem determined to return our lifestyle to the horse and buggy era.

The most vital step in all you propose is to start claiming our drilling rights in the gulf

and to pass legislation which allows us to take advantage of our own oil reserves. The environmentalists have hijacked this whole country by tying the hands of oil companies, who would doubtless do everything possible to lessen our dependence on foreign oil by drilling within our own borders.

DEBORAH.

ADDITIONAL STATEMENTS

REMEMBERING JOSEPH SONNEMAN

• Mr. BEGICH. Mr. President, I wish to commemorate the life of a very special resident of my home State of Alaska, longtime political activist Joe Sonneman.

Dr. Sonneman passed away March 8, 2009, from Lou Gehrig's disease. He was 64.

He made his unique mark on Alaska beginning in 1971, when he first visited to research a doctoral dissertation on the relationship between oil revenues and state government. He returned after graduate school and lived in the 49th State for most of the rest of his life. In true Alaskan fashion he proved himself to be a jack of many trades. Dr. Sonneman—known most often around his adopted hometown of Juneau only as “Joe”—was a photographer, postal worker, public policy analyst and taxi driver. He also earned a law degree from Georgetown University and was a frequent candidate for Congress.

On behalf of his family and his many friends I ask today that we honor his memory. I ask that his obituary, published March 10, 2009, in the Juneau Empire, be printed into the CONGRESSIONAL RECORD.

The information follows:

[From the Juneau Empire, Mar. 10, 2009]

(By Joseph Sonneman)

Longtime Juneau political activist Dr. Joseph Sonneman died early March 8, 2009, at Providence Regional Medical Center in Everett, Wash., after a three-year struggle with ALS, amyotrophic lateral sclerosis, also known as Lou Gehrig's disease. He was 64.

He was born in Chicago in 1944, and attended Chicago public schools.

After serving in the U.S. Army from 1963 to 1966, including service as a radar repairman in Korea, he earned a Bachelor of Science in economics from the University of Chicago, and master's and doctorate degrees from Claremont graduate school. While in the master's program in government finance, he was an intern at the NASA Johnson Space Center in Houston. He first came to Juneau in 1971 to conduct research for his doctoral dissertation on the effect of oil income on Alaskan government financial decisions.

When he finished graduate school, he returned to Alaska where he worked as a photographer, budget analyst, taxi driver, heavy equipment oiler on the Alaska pipeline, postal worker, and university instructor. He became interested in the law and earned a J.D. degree from Georgetown School of Law in 1989. He was a member of the Alaska, Hawaii and Washington, D.C. Bar Associations and conducted a law and legal research practice in Juneau.

He was active in politics all his life, and served on numerous local and state Demo-

cratic Party committees and as Alaska Democratic Party treasurer. He ran for Mayor of Juneau in 1973. He also ran in the primaries for the U.S. House in 1974, and for the U. S. Senate in 1978, 1992, 1996, and in 1998 succeeded in becoming the Democratic Party nominee for U.S. Senate but lost the election to Republican incumbent Frank Murkowski.

He was a member of Veterans of Foreign War Post 5559; Pioneers of Alaska Juneau Igloo Number 6; Juneau World Affairs Council; Juneau Chapter of AARP; and Paralyzed Veterans of America, and served on the Juneau Commission on the Aging.

As a photographer, he followed the example of Klondike Gold Rush photographer A. E. Hegg, and documented the construction of the Trans-Alaska Pipeline with an 8-by-10-inch view camera. Over his career, he had one-person shows at the San Jose Museum of Art, the University of Oklahoma Museum of Art, the Alaska State Museum, the Chicago Museum of Science and Industry and Harper Hall at Claremont Graduate University.

After his diagnosis of ALS, he moved to Washington to be closer to family members. He lived for two years at the Washington State Veterans Home near Seattle and was also an intermittent patient at the Veterans' Administration hospital in Seattle.

Survivors include his mother, Edith Sonneman of Chicago; and sisters Eve Sonneman of New York, Toby Sonneman of Bellingham, Wash., and Milly Sonneman of Sausalito, Calif.

Burial will be at the Sitka National Cemetery with Jewish graveside services at a date yet to be determined. Arrangements are also pending for a Juneau memorial service.

Donations in Dr. Sonneman's memory may be made to the Joe Sonneman Prize In Photography Endowment c/o David Carpenter, Claremont Graduate University Advancement Office, 165 10th St., Claremont, CA 91711. •

2009 NATIONAL CHAMPIONS

• Mr. VITTER. Mr. President, I would like to recognize the St. Catherine of Siena girls' varsity cheerleaders for being named the 2009 National Champions at the National High School Cheerleading Championship held in Orlando, FL, on February 8. I would like to take a few moments to congratulate them on their tireless efforts to bring their school and our State success.

The event was held at the Walt Disney World Resort and is produced by the Universal Cheerleaders Association. It is the most prestigious event for cheerleaders. Close to 8,000 of the Nations top cheerleaders from 400 teams in 33 States were invited to participate in the competition, including St. Catherine of Siena.

The St. Catherine squad is under the direction of Sandy Spitale and Debra L'Hoste and includes 22 students from the fifth, sixth, and seventh grades. Its members are Lauren Artigues, Ashley Barbier, Brooke Caldwell, Caroline Caldwell, Kaitlyn Coman, Elizabeth Cousins, Claire Crumb, Elise Delahoussaye, Rachel Douglass, Tiffany Forest, Callie Frey, Thia Le, Krista Liljeberg, Kelli Murphy, Allie Nicaud, Tessa Norris, Rachael Poissenot, Jessica Pottinger, Sophia Serpas, Kelsey Singletary, Kyla Szubinski, and Victoria Varisco. They were the only team from Louisiana to take home the title this year.

In addition to their impressive competitive skills, the SCS cheerleading squad also actively participates in community events through the year and represents the youth of the Greater New Orleans Area proudly. They have received numerous Leadership and Community Service Awards for their involvement in various volunteer programs.

Thus, today I congratulate these young ladies on their accomplishments as a competitive team and also as young leaders in their community.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

At 2:21 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 38. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

H. Con. Res. 64. Concurrent resolution urging the President to designate 2009 as the "Year of the Military Family".

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 80. An act to amend the Lacey Act Amendments of 1981 to treat nonhuman primates as prohibited wildlife species under that Act, to make corrections in the provisions relating to captive wildlife offenses under that Act, and for other purposes; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 38. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service; to the Committee on Rules and Administration.

H. Con. Res. 64. Concurrent resolution urging the President to designate 2009 as the "Year of the Military Family"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 570. A bill to stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 49. A bill to help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

*John P. Holdren, of Massachusetts, to be Director of the Office of Science and Technology Policy.

*Jane Lubchenco, of Oregon, to be Under Secretary of Commerce for Oceans and Atmosphere.

Mr. ROCKEFELLER. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nominations beginning with Kent P. Bauer and ending with Mark S. Mackey, which nominations were received by the Senate and appeared in the Congressional Record on February 25, 2009.

Coast Guard nominations beginning with Corinna M. Fleischmann and ending with Kelly C. Seals, which nominations were received by the Senate and appeared in the Congressional Record on February 25, 2009.

By Mr. BAUCUS for the Committee on Finance.

*Ronald Kirk, of Texas, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*David S. Kris, of Maryland, to be an Assistant Attorney General.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. SHAHEEN (for herself and Mr. GREGG):

S. 576. A bill to provide for the liquidation or reliquidation of certain entries of newspaper printing presses and components thereof; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mr. KENNEDY):

S. 577. A bill to amend title 18, United States Code, to provide penalties for individuals who engage in schemes to defraud aliens and for other purposes; to the Committee on the Judiciary.

By Mr. CRAPO:

S. 578. A bill for the relief of Tim Lowery and Paul Nettleton of Owyhee County, Idaho; to the Committee on the Judiciary.

By Mr. BURR (for himself and Mrs. HAGAN):

S. 579. A bill to establish a comprehensive Federal tobacco product regulatory program, to create a Tobacco Regulatory Agency, to prevent use of tobacco products by youth, and to provide protections for adult tobacco product users through the regulation of the tobacco products manufacturing industry; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG (for himself and Mrs. SHAHEEN):

S. 580. A bill to prevent the undermining of the judgments of courts of the United States by foreign courts, and for other purposes; to the Committee on the Judiciary.

By Mr. BENNET (for himself, Mr. CASEY, Mr. JOHANNES, and Mr. SANDERS):

S. 581. A bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANDERS (for himself and Mr. DURBIN):

S. 582. A bill to amend the Truth in Lending Act to protect consumers from usury, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRYOR (for himself, Ms. SNOWE, Mr. JOHNSON, Mr. ALEXANDER, and Mr. DURBIN):

S. 583. A bill to provide grants and loan guarantees for the development and construction of science parks to promote the clustering of innovation through high technology activities; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself and Mr. CARPER):

S. 584. A bill to ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways; to the Committee on Environment and Public Works.

By Mr. AKAKA (for himself, Mr. BINGAMAN, and Mr. DURBIN):

S. 585. A bill to provide additional protections for recipients of the earned income tax credit; to the Committee on Finance.

By Mrs. MURRAY:

S. 586. A bill to direct the Secretary of Health and Human Services to implement a National Neurotechnology Initiative, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR:

S. 587. A bill to establish a Western Hemisphere Energy Cooperation Forum to establish partnerships with interested countries in the hemisphere to promote energy security through the accelerated development of

sustainable biofuels production and energy alternatives, research, and infrastructure, and for other purposes; to the Committee on Foreign Relations.

By Mr. KERRY:

S. 588. A bill to amend title 46, United States Code, to establish requirements to ensure the security and safety of passengers and crew on cruise vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself, Mr. VOINOVICH, Mr. WHITEHOUSE, Mr. COCHRAN, and Mr. CARDIN):

S. 589. A bill to establish a Global Service Fellowship Program and to authorize Volunteers for Prosperity, and for other purposes; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself and Mr. PRYOR):

S. 590. A bill to assist local communities with closed and active military bases, and for other purposes; to the Committee on Armed Services.

By Mr. REID (for himself and Mr. ENSIGN):

S. 591. A bill to establish a National Commission on High-Level Radioactive Waste and Spent Nuclear Fuel, and for other purposes; to the Committee on Environment and Public Works.

By Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, and Mr. SCHUMER):

S. 592. A bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself and Mr. SCHUMER):

S. 593. A bill to ban the use of bisphenol A in food containers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY (for himself and Ms. STABENOW):

S. 594. A bill to require a report on invasive agricultural pests and diseases and sanitary and phytosanitary barriers to trade before initiating negotiations to enter into a free trade agreement, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LUGAR:

S. Res. 74. A resolution expressing the sense of the Senate on the importance of strengthening bilateral relations in general, and investment relations specifically, between the United States and Brazil; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself and Mr. CASEY):

S. Res. 75. A resolution commemorating the 150th anniversary of the founding of the Philadelphia Zoo: America's First Zoo; considered and agreed to.

ADDITIONAL COSPONSORS

S. 49

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 49, a bill to help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

S. 211

At the request of Mrs. MURRAY, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 262

At the request of Mr. CASEY, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 262, a bill to improve and enhance the operations of the reserve components of the Armed Forces, to improve mobilization and demobilization processes for members of the reserve components of the Armed Forces, and for other purposes.

S. 277

At the request of Mr. BROWN, his name was added as a cosponsor of S. 277, a bill to amend the National and Community Service Act of 1990 to expand and improve opportunities for service, and for other purposes.

S. 310

At the request of Mrs. BOXER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 310, a bill to amend the Public Health Service Act to ensure that safety net family planning centers are eligible for assistance under the drug discount program.

S. 379

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 379, a bill to provide fair compensation to artists for use of their sound recordings.

S. 416

At the request of Mrs. FEINSTEIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 416, a bill to limit the use of cluster munitions.

S. 428

At the request of Mr. DORGAN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 428, a bill to allow travel between the United States and Cuba.

S. 473

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 473, a bill to establish the Senator Paul Simon Study Abroad Foundation.

S. 475

At the request of Mr. BURR, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 482

At the request of Mr. FEINGOLD, the name of the Senator from California

(Mrs. BOXER) was added as a cosponsor of S. 482, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 484

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 535

At the request of Mr. NELSON of Florida, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Illinois (Mr. DURBIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 541

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 541, a bill to increase the borrowing authority of the Federal Deposit Insurance Corporation, and for other purposes.

S. 546

At the request of Mr. REID, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Maryland (Mr. CARDIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 546, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service of Combat-Related Special Compensation.

At the request of Mr. SCHUMER, his name was added as a cosponsor of S. 546, *supra*.

S. 561

At the request of Mr. THUNE, his name was added as a cosponsor of S. 561, a bill to authorize a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

S. 564

At the request of Mr. FEINGOLD, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 564, a bill to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II.

S. 567

At the request of Mr. CRAPO, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 567, a bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gains rates.

S. 570

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 570, a bill to stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

S. 571

At the request of Mr. MENENDEZ, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 571, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, and study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. RES. 66

At the request of Mr. BOND, the names of the Senator from New York (Mr. SCHUMER), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 66, a resolution designating 2009 as the "Year of the Noncommissioned Officer Corps of the United States Army".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. KENNEDY):

S. 577. A bill to amend title 18, United States Code, to provide penalties for individuals who engage in schemes to defraud aliens and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Immigration Fraud Prevention Act of 2009, on behalf of myself and Senator KENNEDY, to prevent the exploitation of people, citizens, and non-citizens alike, who are preyed on when seeking immigration assistance.

The Immigration Fraud Prevention Act would prevent and punish fraud and misrepresentation in the context of immigration proceedings. The act would create a new Federal crime to penalize those who engage in schemes to defraud aliens in connection with Federal immigration laws.

Specifically, the act would make it a Federal crime to wilfully and knowingly defraud or obtain or receive money or anything else of value from any person by false or fraudulent pretenses, representations, or promises; and to wilfully, knowingly, and falsely

represent that an individual is an attorney or accredited representative in any matter arising under Federal immigration law.

Violations of these crimes would result in a fine, imprisonment of not more than 5 years, or both.

The bill would also authorize the Attorney General and the Secretary of Homeland Security to use task forces currently in existence to detect and investigate individuals who are in violation of the immigration fraud crimes as created by the bill.

The act would also work to prevent immigration fraud by requiring that Immigration Judges issue warnings about unauthorized practice of immigration law to immigrants in removal proceedings, similar to the current law that requires notification of pro bono legal services to these immigrants; requiring the Attorney General to provide outreach to the immigrant community to help prevent fraud; providing that any materials used to carry out notification on immigration law fraud is done in the appropriate language for that community; and requiring the distribution of the disciplinary list of individuals not authorized to appear before the immigration courts and the Board of Immigration Appeals, BIA, currently maintained by the Executive Office of Immigration Review, EOIR.

Unfortunately, the need for Federal action to prevent and prosecute immigration fraud has escalated in recent years as citizens and non-citizens attempt to navigate the immigration legal system. Thus far, only States have sought to regulate the unauthorized practice of immigration law.

Since immigration law is a federal matter, I believe the solution to such misrepresentation and fraud should be addressed by Congress.

By enacting this bill, Congress would help prevent more victims like Vincent Smith, a Mexican national who has resided in California since 1975. His wife is an American citizen, and they live with their 6 U.S. citizen children in Palmdale, CA.

Mr. Smith would likely have received a green card at least two different times during his stay in California. However, in attempting to get legal counsel, Mr. Smith hired someone whom he thought was an attorney, but was not. As a result, Mr. Smith was charged more than \$10,000 for processing his immigration paperwork, which was never filed. Mr. Smith now has no legal status and faces removal proceedings.

Another victim of immigration fraud is Raul, a Mexican national, who came to the United States in 2000. He also married a U.S. citizen, Loraina, making him eligible to apply for a green card. Raul and his wife went to Jose for legal help. Jose's business card said he had a "law office" and that he was an "immigration specialist." But Jose was not a specialist and charged Raul \$4,000 to file a frivolous asylum petition.

While Raul thought he was going to receive a green card, he was instead placed into removal proceedings.

From California to New York, there are hundreds of stories like these. Many immigrants are preyed on because of their fears—others on their hope of realizing the American dream. They are charged exorbitant fees for the filing of frivolous paperwork that clog our immigration courts and keep families and businesses waiting in limbo for years.

Law enforcement officials say that many fraudulent "immigration specialists" close their businesses or move on to another part of the state or country before they can be held accountable. They can make \$100,000 to \$200,000 a year and the few who have been caught rarely serve more than a few months in jail. Often victims of such crimes are deported, sending them back to their home countries without accountability for the perpetrator of the fraud.

Most recently, hundreds of immigrants were exploited by Victor M. Espinal, who was arrested for allegedly posing as an immigration attorney. Nearly 125 of Mr. Espinal's clients attended the New York City Bar Association's free clinic to address their legal and immigration options. According to prosecutors, Mr. Espinal falsely claimed on his business cards that he was licensed and admitted to the California bar as well as the bar in the Dominican Republic.

Organizations such as the Los Angeles Country Bar Association, National Immigration Forum, American Immigration Lawyers Association, and American Bar Association have been documenting this exploitation for many years. Today, I ask my colleagues to join me and Senator KENNEDY in putting an end to it.

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

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

S. 577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Fraud Prevention Act of 2009".

SEC. 2. SCHEMES TO DEFRAUD ALIENS.

(a) AMENDMENTS TO TITLE 18.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1041. Schemes to defraud aliens

"(a) IN GENERAL.—Any person who willfully and knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws or any matter the offender willfully and knowingly claims or represents is authorized by or arises under Federal immigration laws, to—

"(1) defraud any person; or

"(2) obtain or receive money or anything else of value from any person by means of false or fraudulent pretenses, representations, promises, shall be fined under this title, imprisoned not more than 5 years, or both.

“(b) MISREPRESENTATION.—Any person who willfully, knowingly, and falsely represents that such person is an attorney or an accredited representative (as that term is defined in section 1292.1 of title 8, Code of Federal Regulations or any successor regulation to such section) in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 5 years, or both.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding after the item related to section 1040 the following: “1041. Schemes to defraud aliens.”.

(b) INVESTIGATION OF SCHEMES TO DEFRAUD ALIENS.—The Attorney General and the Secretary of Homeland Security shall use the Executive Office of Immigration Review to detect and investigate individuals who are in violation of section 1041 of title 18, United States Code, as added by subsection (a)(1).

SEC. 3. NOTICE AND OUTREACH.

(a) NOTICE TO ALIENS IN IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Subparagraph (E) of section 239(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1229(a)(1)) is amended to read as follows:

“(E)(i) The alien may be represented by counsel and the alien will be provided—

“(I) a period of time to secure counsel under subsection (b)(1); and

“(II) a current list of counsel prepared under subsection (b)(2).

“(ii) A description of who may represent the alien in the proceedings, including a notice that immigration consultants, visa consultants, and other unauthorized individuals may not provide that representation.”.

(2) LIST OF DISCIPLINED PRACTITIONERS.—Subsection (b) of section 239 of the Immigration and Nationality Act (8 U.S.C. 1229) is amended—

(A) by redesignating paragraph (3) as paragraph (6); and

(B) by inserting after paragraph (2) the following new paragraphs:

“(3) LIST OF DISCIPLINED PRACTITIONERS.—The Attorney General shall provide for lists (updated no less often than quarterly) of persons who are prohibited for providing representation in immigration proceedings.

“(4) FOREIGN LANGUAGE MATERIALS.—The materials required to be provided to an alien under this subsection shall be provided in appropriate languages, including English and Spanish.

“(5) ORAL NOTIFICATION.—At the earliest possible opportunity, an immigration judge shall orally advise an alien in a removal proceeding of the information described in paragraphs (2) and (3).”.

(b) OUTREACH TO IMMIGRANT COMMUNITIES.—

(1) AUTHORITY TO CONDUCT.—The Attorney General, through the Director of the Executive Office for Immigration Review, and the Secretary of Homeland Security shall carry out a program to educate aliens regarding who may provide legal services and representation to aliens in immigration proceedings through cost-effective outreach to immigrant communities.

(2) PURPOSE.—The purpose of the program authorized under paragraph (1) is to prevent aliens from being subjected to fraud by immigration consultants, visa consultants, and other individuals who are not authorized to provide legal services or representation to aliens.

(3) AVAILABILITY.—The Attorney General and the Secretary of Homeland Security shall make information regarding fraud by immigration consultants, visa consultants, and other individuals who are not authorized to provide legal services or representation to aliens available—

(A) at appropriate offices that provide services or information to aliens; and

(B) through Internet websites that are—

(i) maintained by the Attorney General or the Secretary; and

(ii) intended to provide information regarding immigration matters to aliens.

(4) FOREIGN LANGUAGE MATERIALS.—Any educational materials used to carry out the program authorized under paragraph (1) shall be made available to immigrant communities in appropriate languages, including English and Spanish.

By Mr. BENNET (for himself, Mr. CASEY, Mr. JOHANNIS, and Mr. SANDERS):

S. 581. A bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JOHANNIS. Mr. President, I rise today to offer my support for the Military Family Nutrition Protection Act, which we introduced today to protect the eligibility of military families for nutrition assistance programs. This bill will do a great service to the families of our men and women serving in uniform in combat zones overseas.

When a soldier is deployed to a combat zone such as Iraq or Afghanistan, he or she receives a temporary increase in pay called “combat pay.” Too often, combat pay increases the soldier’s salary to a level that makes his family ineligible for essential nutrition assistance programs like the School Lunch and School Breakfast programs; the Special Supplemental Nutrition Program for Women, Infants, and Children; and other programs. The family can no longer receive government assistance for food, despite the fact that the soldier’s increase in pay is only temporary.

Our bill will remove this burden from our military families and stop punishing them for the sacrifices their loved ones make overseas. The bill stipulates that combat zone pay be excluded from consideration when determining a family’s eligibility for all child nutrition programs. That way, when a soldier deploys to a combat zone, his or her family can continue to receive the nutrition assistance it needs, and our soldiers have one less thing to worry about in the combat zone.

As Secretary of Agriculture, I proposed a similar combat pay exemption for Food Stamp eligibility, a proposal that was included in the final version of the Farm Bill passed by Congress last year. The Military Family Nutrition Protection Act is the logical next step to ensuring our military families get the assistance they need while their loved ones are away at war.

As a member of the Senate Agriculture Committee, I am proud to co-sponsor this important piece of legislation. I look forward to working on the

upcoming reauthorization of the child nutrition programs, and I will urge my colleagues on the Committee and in the Senate to include the Military Family Nutrition Protection Act as part of that reauthorization.

By Mr. SANDERS (for himself and Mr. DURBIN):

S. 582. A bill to amend the Truth in Lending Act to protect consumers from usury, and for other purposes; to the Committee on Banking, Housing, and Urban affairs.

Mr. SANDERS. Mr. President, as I think all Americans understand, there is a new sense of outrage today at what Wall Street has done through their greed, their recklessness and, perhaps, illegal behavior, in plunging this Nation and, in fact, the world into a deep recession, which has caused the loss of millions and millions of jobs, had an extraordinarily negative impact on so many people’s lives in terms of their savings and their ability to send their kids to college, and in terms of the loss of their homes. That is what Wall Street has done.

In my view, as I have said time and time before, we must have a deep investigation to understand what this crisis was, who are the people responsible for all of this damage, and we must hold them accountable. In fact, it will be a test of the criminal justice system of this country if, in fact, we have the courage to say to these millionaires and billionaires: You know what, the law applies to you too, and you cannot act illegally and cause so much damage to our country and the world.

One of the many senses of anger and frustration that we hear from the American people, one of them that I hear about very often from Vermonters, as well as people all over this country, is that at a time when we are providing hundreds of billions of dollars to bail out Wall Street, at a time when large banks are borrowing money from the Fed at a zero interest rate, the response of Wall Street has been to say: Thank you very much for all of that, and now we are going to charge you 15, 20, 25, 30 percent interest rates on your credit cards.

It seems to me that when the middle class is shrinking, when people are losing their savings, when people are losing their jobs, it is an absolute outrage that Wall Street, which is being bailed out by the taxpayers of this country, is now charging exorbitant and usurious interest rates for the American people.

What we are seeing now all over this country is millions of people who are suddenly receiving notices from these banks that say, oh, by the way, we are going to double or triple your interest rate. That is wrong and that has to end.

I am not going to quote from the Bible, but trust me, it goes back to the Bible, where there are very clear references to the immorality of usury. In fact, what we have to understand is that what Wall Street and these credit

card companies today are doing is not anything different than what gangsters and loan shark artists do who break people's kneecaps when they don't pay back, only these gangsters have three-piece suits and have millions of dollars. But at the same time they are destroying people's lives by charging 25, 30 percent interest rates.

Today, I will be introducing legislation that will require any lender in this country to immediately cap all interest rates on consumer loans at 15 percent, including credit cards.

How do we select 15 percent as the appropriate number to deal with the usury which is going on in this country? The reason we selected that number is because 15 percent is the same interest rate cap Congress imposed on credit union loans almost 30 years ago when it amended the Federal Credit Union Act.

Many people do not know this, but, in fact, right now credit unions, with certain exceptions, have to charge interest rates of 15 percent or lower. I do not see the credit unions of this country coming to Congress for hundreds of billions of dollars in bailouts. In fact, they are doing quite well. They are responding to the credit needs of their small businesses in their communities and to individuals. They are doing well. They have survived and have thrived with this regulation.

Right now, the National Credit Union Administration imposes a 15-percent cap, except under certain circumstances where the interest rate can go as high as 18 percent. The legislation I will be introducing today also would allow banks to charge higher interest rates if the Federal Reserve determines that is a necessity to maintain the safety and the soundness of lenders.

Essentially all we are saying today is we have to end the outrage by which Wall Street and large credit card companies are ripping off the American people, and the solution we are proposing is to simply emulate what the Federal Credit Union Act does for the credit unions all over this country.

I am very proud Senator DICK DURBIN is an original cosponsor of this legislation. I hope many of my colleagues will join him in sponsoring this bill.

Interestingly enough, the proposal we are introducing today is very similar to one former Senator Al D'Amato advocated for in 1991 when he offered an amendment to cap credit card interest rates. The D'Amato amendment would have capped all credit card interest rates at 14 percent. I should mention that amendment was adopted by the Senate with a vote of 74 to 19. If the Senate voted overwhelmingly in favor of that amendment back in 1991, I hope we will have at least or more support for my bill today because the problem today actually is far more severe.

This is legislation the American people want. The American people are sick and tired of being ripped off by Wall

Street, especially when they are bailing out these large financial institutions.

Credit card use today is no longer just for luxuries. All over this country, people are buying their groceries with credit cards, and they are buying other basic necessities with credit cards because they have no other alternative. Young people are paying some of their college expenses with credit cards. Given that reality, given the fact that the middle class is hurting, it seems to me that if we are going to respond to the needs of the American people, we need to deal with the usury that is going on in this country. We need to cap interest rates.

I look forward very much to my colleagues supporting this legislation.

By Mr. PRYOR (for himself, Ms. SNOWE, Mr. JOHNSON, Mr. ALEXANDER, and Mr. DURBIN):

S. 583. A bill to provide grants and loan guarantees for the development and construction of science parks to promote the clustering of innovation through high technology activities; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce, with my colleague, Senator PRYOR, the Building a Stronger America Act. This bipartisan legislation is a vital step toward recognizing the value of "science parks"—which are concentrated high-tech, science, and research-related businesses—in strengthening America's global competitiveness. Through the development of new innovative technologies, competing and complementary companies working within close quarters are able to build upon each other's ideas when entering the national and global marketplace. Unlike well known industrial parks, science parks focus primarily on innovation and product advancement. These parks are a vital part of the Nation's economy, creating 2.57 jobs for each core job in a science park.

As ranking member of the Senate Committee on Small Business and Entrepreneurship and a senior member of the Senate Commerce Committee, I adamantly encourage increased investment in new and existing science, research, and technology parks throughout the United States as it is vital in the creation of new jobs. Our legislation would allow the Secretary of Commerce to guarantee up to 80 percent of loans exceeding \$10 million for the construction of science parks. Additionally, the bill would provide grants for the development of feasibility studies and plans for the construction or expansion of science parks. This bipartisan measure would drive innovation and regional entrepreneurship by enabling science parks to renovate or build, while also encouraging rural and urban States to undertake studies on developing their own successful clusters.

On August 9, 2007, the President signed into law, the America Competes

Act legislation authorizing \$43 billion of new funding over the next three fiscal years that will boost Federal investment in math and science education programs. The bill we are introducing today would help to ensure that this workforce is provided with avenues in which to operate, building on the efforts of the America Competes Act by increasing research funding and education for our innovative workforce.

In my home State of Maine, we simply do not have the population density in any given area to support traditional science parks. However, Maine is a national leader in providing business "incubation" services. Incubators are critical to the success of new companies. To help startup entrepreneurs in Maine, incubation centers around the State provide business support tailored to companies in their region. The benefit of business incubators in Maine has been nothing short of monumental, with 87 percent of all businesses that graduate from incubators remaining in business, surviving, and creating new jobs. The seven technology centers located throughout Maine play a pivotal role in promoting technology-led economic development by advancing their own regional competitive advantages. Under the Building a Stronger America Act, both science parks and business incubators will be eligible for its vital assistance.

Residency in science parks provides businesses with numerous advantages, including access to a range of management, marketing, and financial services. At its heart, a science park provides an organized link to local research centers or universities, providing resident companies with the constant access to the expertise, knowledge, and technology they need to grow. These innovation centers are specifically geared toward the needs of new and small companies, providing a controlled environment for the incubation of firms and the achievement of high growth.

It is also vital to point out that the jobs science parks reflect the needs of a high-tech, innovative, and global marketplace. Science parks have helped lead the technological revolution and have created more than 300,000 high-paying science and technology jobs, along with another 450,000 indirect jobs, for a total of 750,000 jobs in North America.

Our Nation's capacity to innovate is a key reason why our economy continues to grow and remains the envy of the world. Through America's investments in science and technology, we continually change our country for the better. Ideas by innovative Americans in the private and public sector have paid enormous dividends, improving the lives of millions throughout the world. We must continue to encourage all avenues for advancing this vital sector if America is to compete at the forefront of innovation, and I urge my colleagues to support this legislation.

By Mr. AKAKA (for himself, Mr. BINGAMAN and Mr. DURBIN):

S. 585. A bill to provide additional protections for recipients of the earned income tax credit; to the Committee on Finance.

Mr. AKAKA. Mr. President, today I am introducing the Taxpayer Abuse Prevention Act. Refund anticipation loans, RALs, are short term loans facilitated by tax preparers and secured by a taxpayer's expected tax refund which typically carry a three or four digit interest rate. These predatory RALs prey on low-income taxpayers, diminishing their earned tax credits.

Earned Income Tax Credit, EITC, benefits are intended to help working families meet their food, clothing, housing, transportation, and education needs. According to the Internal Revenue Service, IRS, in 2007 EITC filers made up 63 percent of all RAL consumers despite being only 17 percent of the taxpayer population. The National Consumer Law Center estimates \$567 million was drained out of the EITC program in 2007 by RAL loan and add-on fees. Working families cannot afford to lose a significant portion of their EITC funds by expensive, short-term RALs.

The high interest rates and fees charged on RALs are not justified because these loans are outstanding for only a short length of time and present minimal risk to lenders because of the Debt Indicator, DI, program. The DI program is a service provided by the IRS that informs the lender whether or not an applicant owes Federal or State taxes, child support, student loans, or other government obligations, which assists tax preparers in ascertaining the ability of applicants to obtain their full refund so that the RAL can be repaid.

It is troubling that the Department of the Treasury facilitates the use of RALs. In 1995, use of the DI program was suspended because of massive fraud in e-filed returns with RALs. The use of the DI program was reinstated in 1999. The effect of the DI program on total RAL volume is clear: the number of RALs fell dramatically following the suspension of the program in 1995 and rose again to pre-suspension levels immediately following its reinstatement in 1999. Use of the DI program should once again be stopped because it is helping tax preparers make excessive profits from low- and moderate-income taxpayers who utilize RALs. The Department of the Treasury should not be facilitating the use of RALs that allow tax preparers to reap outrageous profits by exploiting working families.

The Taxpayer Abuse Prevention Act will protect consumers against predatory loans, reduce the involvement of the Department of the Treasury in facilitating the exploitation of taxpayers by terminating the DI program, and expand access to opportunities for saving and lending at mainstream financial services. My bill prohibits refund anticipation loans that utilize EITC bene-

fits. Other federal benefits, such as Social Security, have similar restrictions to ensure that the beneficiaries receive the intended benefit.

My bill also limits several of the objectionable practices of RAL providers. It will prohibit lenders from using tax refunds to collect outstanding obligations for previous RALs. In addition, mandatory arbitration clauses for RALs that utilize federal tax refunds would be prohibited to ensure that consumers have the ability to take future legal action if necessary.

Too many working families are susceptible to predatory lending because they are left out of the financial mainstream. Between 25 and 56 million adults are unbanked, or not using mainstream, insured financial institutions. The unbanked rely on alternative financial service providers to obtain cash from checks, pay bills, send remittances, utilize payday loans, and obtain credit. Many of the unbanked are low- and moderate-income families that can ill afford to have their earnings unnecessarily diminished by reliance on high-cost and often predatory financial services. In addition, the unbanked are unable to save in preparation for the loss of a job, a family illness, a down payment on a first home, or education expenses.

To address this problem, my bill also expands access to mainstream financial services. Electronic Transfer Accounts, ETAs, are low-cost accounts at banks and credit unions intended for recipients of certain Federal benefit payments, such as Social Security payments. My bill expands the eligibility for ETAs to include EITC benefits. These accounts will allow taxpayers to receive direct deposit refunds into an account without the need for a RAL.

Furthermore, my bill would mandate that low- and moderate-income taxpayers be provided opportunities to open low-cost accounts at federally insured banks or credit unions via appropriate tax forms. Providing taxpayers with the option of opening a bank or credit union account through the use of tax forms provides an alternative to RALs and immediate access to financial opportunities found at banks and credit unions.

The timeliness of this legislation has never been greater. I urge all of my colleagues to support this important bill that offers consumer protection from predatory RALs and expand access to mainstream financial services.

I want to thank my colleagues, Senator BINGAMAN and Senator DURBIN, for cosponsoring this legislation.

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

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

S. 585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Abuse Prevention Act".

SEC. 2. PREVENTION OF DIVERSION OF EARNED INCOME TAX CREDIT BENEFITS.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) is amended by adding at the end the following new subsection:

“(n) PREVENTION OF DIVERSION OF CREDIT BENEFITS.—The right of any individual to any future payment of the credit under this section shall not be transferable or assignable, at law or in equity, and such right or any moneys paid or payable under this section shall not be subject to any execution, levy, attachment, garnishment, offset, or other legal process except for any outstanding Federal obligation. Any waiver of the protections of this subsection shall be deemed null, void, and of no effect.”.

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

SEC. 3. PROHIBITION ON DEBT COLLECTION OFFSET.

(a) IN GENERAL.—No person shall, directly or indirectly, individually or in conjunction or in cooperation with another person, engage in the collection of an outstanding or delinquent debt for any creditor or assignee by means of soliciting the execution of, processing, receiving, or accepting an application or agreement for a refund anticipation loan or refund anticipation check that contains a provision permitting the creditor to repay, by offset or other means, an outstanding or delinquent debt for that creditor from the proceeds of the debtor's Federal tax refund.

(b) REFUND ANTICIPATION LOAN.—For purposes of subsection (a), the term “refund anticipation loan” means a loan of money or of any other thing of value to a taxpayer because of the taxpayer's anticipated receipt of a Federal tax refund.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 4. PROHIBITION OF MANDATORY ARBITRATION.

(a) IN GENERAL.—Any person that provides a loan to a taxpayer that is linked to or in anticipation of a Federal tax refund for the taxpayer may not include mandatory arbitration of disputes as a condition for providing such a loan.

(b) EFFECTIVE DATE.—This section shall apply to loans made after the date of the enactment of this Act.

SEC. 5. TERMINATION OF DEBT INDICATOR PROGRAM.

The Secretary of the Treasury shall terminate the Debt Indicator program announced in Internal Revenue Service Notice 99-58.

SEC. 6. EXPANSION OF ELIGIBILITY FOR ELECTRONIC TRANSFER ACCOUNTS.

(a) IN GENERAL.—The last sentence of section 3332(j) of title 31, United States Code, is amended by inserting “other than any payment under section 32 of such Code” after “1986”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 7. PROGRAM TO ENCOURAGE THE USE OF THE ADVANCE EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall, after consultation with such private, nonprofit, and governmental entities as the Secretary determines appropriate, develop and implement a program to encourage the greater utilization of the advance earned income tax credit.

(b) REPORTS.—Not later than the date of the implementation of the program described in subsection (a), and annually thereafter, the Secretary of the Treasury shall report to the Committee on Finance of the

Senate and the Committee on Ways and Means of the House of Representatives on the elements of such program and progress achieved under such program.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as are necessary to carry out the program described in this section. Any sums so appropriated shall remain available until expended.

SEC. 8. PROGRAM TO LINK TAXPAYERS WITH DIRECT DEPOSIT ACCOUNTS AT FEDERALLY INSURED DEPOSITORY INSTITUTIONS.

(a) **ESTABLISHMENT OF PROGRAM.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall enter into cooperative agreements with federally insured depository institutions to provide low- and moderate-income taxpayers with the option of establishing low-cost direct deposit accounts through the use of appropriate tax forms.

(b) **FEDERALLY INSURED DEPOSITORY INSTITUTION.**—For purposes of this section, the term “federally insured depository institution” means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(c) **OPERATION OF PROGRAM.**—In providing for the operation of the program described in subsection (a), the Secretary of the Treasury is authorized—

(1) to consult with such private and non-profit organizations and Federal, State, and local agencies as determined appropriate by the Secretary, and

(2) to promulgate such regulations as necessary to administer such program.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as are necessary to carry out the program described in this section. Any sums so appropriated shall remain available until expended.

By Mrs. MURRAY:

S. 586. A bill to direct the Secretary of Health and Human Services to implement a National Neurotechnology Initiative, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, today I am pleased to introduce legislation that would make a tremendous difference in the lives of the millions of Americans suffering from neurological illnesses, injuries, or disorders.

An estimated one in three Americans suffers from some kind of neurological condition, from Alzheimer's to Parkinson's to multiple sclerosis. An increasing number of our troops and veterans suffer from disorders such as Traumatic Brain Injury, TBI, and Post-Traumatic Stress Disorder, PTSD.

Yet, despite this, we still have only a limited understanding of how the brain works, or how best to treat, diagnose, and cure neurological diseases and conditions. It is taking a terrible toll on our families and communities.

I know from experience how devastating these brain injuries and disorders are for victims and their families. My own father developed MS when I was young, and when he became too sick to work, my family had to rely on food stamps for a time just to get by.

Every day, we hear heart-wrenching stories of Iraq and Afghanistan vet-

erans suffering from TBI and PTSD. Veterans with these disorders are more likely to struggle with joblessness, homelessness, substance abuse, and depression. Many are in pain, desperate for help, but unsure where to find it. And, tragically, an increasing number are taking their own lives as a result.

A recent study by the Institute of Medicine, IOM, found that the long-term health consequences of TBI alone include dementia, Parkinson's-like symptoms, seizures, and problems related to socialization and unemployment. Clearly, TBI and related disorders will affect our servicemembers and veterans far into the future, and we owe it to them to develop better treatments and understanding of these injuries and disorders.

The Neurotechnology Initiative Act of 2009, which I am introducing today, would coordinate our efforts to support new developments in research, speed up our understanding of the human brain, and help lead to treatments for all victims of neurological disorders.

The legislation would make needed improvements to the research system in our country, which now is disjointed, often limiting the ability for life-altering research to reach patients in need. For example, it costs nearly \$100 million more—and takes 2 years longer than average—to bring a drug that treats a neurological disease to the market. The combined economic burden of these illnesses and disorders is estimated at \$1 trillion annually.

The National Neurotechnology Initiative Act would increase funding to the National Institutes of Health, NIH; help remove bottlenecks in the system to speed up research; coordinate neurological research across federal agencies by creating a blueprint for neuroscience at NIH; and streamline the FDA approval process for life-changing neurological drugs—without sacrificing safety.

The act also has economic benefits. It will help create jobs in the emerging field of neurotechnology. By developing better treatments, we can reduce health care costs for everyone.

This research also has the potential to transform highly specialized areas of medicine, computing, and defense. Most importantly, it could save or improve the lives of millions of Americans.

I am proud that this bill has support in the House, and I look forward to working on it with my colleagues here in the Senate.

By Mr. LUGAR:

S. 587. A bill to establish a Western Hemisphere Energy Cooperation Forum to establish partnerships with interested countries in the hemisphere to promote energy security through the accelerated development of sustainable biofuels production and energy alternatives, research, and infrastructure, and for other purposes; to the Committee on Foreign Relations.

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

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

S. 587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Western Hemisphere Energy Compact”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Western Hemisphere Energy Cooperation Forum.
- Sec. 5. United States-Brazil biofuels partnership.
- Sec. 6. International agricultural extension programs.
- Sec. 7. Biofuels feasibility studies.
- Sec. 8. Regional development banks.
- Sec. 9. Carbon credit trading mechanisms.
- Sec. 10. Energy crisis response preparedness.
- Sec. 11. Energy foreign assistance.
- Sec. 12. Energy public diplomacy.
- Sec. 13. Report.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The engagement of the United States Government on energy issues with governments of willing countries in the Western Hemisphere is a strategic priority because such engagement can help to—

(A) reduce the potential for conflict over energy resources;

(B) maintain and expand reliable energy supplies;

(C) expand the use of renewable energy; and

(D) reduce the detrimental effects of energy import dependence.

(2) Several nations in the Western Hemisphere, including Brazil, Canada, Mexico, the United States, and Venezuela, are important for global energy security and climate change mitigation.

(3) Current energy dialogues and agreements should be expanded and refocused, as needed, to meet the challenges described in paragraph (1).

(4) Countries in the Western Hemisphere can most effectively meet their common needs for energy security and sustainability through partnership and cooperation. Cooperation between governments on energy issues will enhance bilateral and regional relationships among countries in the Western Hemisphere. The Western Hemisphere is rich in natural resources, including biomass, oil, natural gas, and coal, and there are significant opportunities for the production of renewable energy, including hydroelectric, solar, geothermal, and wind power. Countries in the Western Hemisphere can provide convenient and reliable markets for their own energy needs and for foreign trade in energy goods and services.

(5) Development of sustainable energy alternatives in countries in the Western Hemisphere can improve energy security, balance of trade, and environmental quality, and can provide markets for energy technology and agricultural products.

(6) Brazil and the United States have led the world in the production of ethanol. Deeper cooperation on biofuels with other countries in the hemisphere would extend economic, security, and political benefits. The Government of the United States has actively worked with the Government of Brazil to develop a strong biofuels partnership and to increase the production and use of biofuels. On March 9, 2007, the Memorandum of Understanding Between the United States

and Brazil to Advance Cooperation on Biofuels was signed in Sao Paulo, Brazil.

(7) Private sector partnership and investment in all sources of energy is critical to providing energy security in the Western Hemisphere. Several countries in the Western Hemisphere have endangered their investment climate. Other countries in the Western Hemisphere have been unable to make reforms necessary to create investment climates necessary to increase the domestic production of energy.

(8) It is the policy of the United States to promote free trade in energy among countries in the Western Hemisphere, which would—

(A) help support a growing energy industry;

(B) create jobs that benefit development and alleviate poverty;

(C) increase energy security through supply diversification; and

(D) strengthen integration among countries in the Western Hemisphere through closer cooperation.

SEC. 3. DEFINITIONS.

In this Act:

(1) **BIOFUEL.**—The term “biofuel” means any liquid fuel that is derived from biomass.

(2) **BIOMASS.**—The term “biomass” means any organic matter that is available on a renewable or recurring basis, including agricultural crops, trees, wood, wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, animal wastes, municipal wastes, and other waste materials.

(3) **PARTNER COUNTRY.**—The term “partner country” means a country that has agreed to conduct a biofuels feasibility study under section 7.

(4) **REGIONAL DEVELOPMENT BANK.**—The term “regional development bank” means the African Development Bank, the Inter-American Development Bank, the Andean Development Corporation, the European Bank for Reconstruction and Development, and the Asian Development Bank.

SEC. 4. WESTERN HEMISPHERE ENERGY COOPERATION FORUM.

(a) **ESTABLISHMENT.**—The Secretary of State, in coordination with the Secretary of Energy, shall seek to establish a ministerial forum with countries in the Western Hemisphere to be known as the Western Hemisphere Energy Cooperation Forum (in this subsection referred to as the “Energy Forum”).

(b) **PURPOSES.**—The purposes of the Energy Forum shall be to—

(1) strengthen relationships between countries of the Western Hemisphere through cooperation on energy issues;

(2) enhance cooperation, including information and technology cooperation, between major energy producers and major energy consumers in the Western Hemisphere;

(3) explore possibilities for countries in the Western Hemisphere to work together to promote renewable energy production (particularly in biofuels) and to lessen dependence on oil imports without reducing food security;

(4) ensure the energy supply is sufficient to facilitate continued economic, social, and environmental progress in the countries of the Western Hemisphere;

(5) provide an opportunity for open dialogue and joint commitments among partner countries and with private industry;

(6) provide partner countries the flexibility necessary to cooperatively address broad challenges posed to the energy supply of the Western Hemisphere and to find solutions that are politically acceptable and practical in policy terms; and

(7) improve transparency in the energy sector.

(c) **ACTIVITIES.**—The Secretary of State, together with the Secretary of Energy, shall seek to implement, in cooperation with partner countries—

(1) an energy crisis initiative that will promote national and regional measures to respond to temporary energy supply disruptions, including participation in a Western Hemisphere energy crisis response mechanism in accordance with section 9(b);

(2) an energy sustainability initiative to facilitate the long-term security of the energy supply by fostering reliable sources of energy and improved energy efficiency, including—

(A) developing, deploying, and commercializing technologies for producing sustainable renewable energy within the Western Hemisphere;

(B) promoting production and trade in sustainable energy, including energy from biomass;

(C) facilitating investment, trade, and technology cooperation in energy infrastructure, petroleum products, natural gas (including liquefied natural gas), and energy efficiency (including automotive efficiency), cleaner fossil energy, renewable energy, and carbon sequestration technologies;

(D) promoting regional infrastructure and market integration;

(E) developing effective and stable regulatory frameworks;

(F) developing policy instruments to encourage the use of renewable energy and improved energy efficiency;

(G) establishing educational training and exchange programs between partner countries;

(H) identifying and removing barriers to trade in technology, services, and commodities;

(I) promoting dialogue and common measures of environmental sustainability for energy practices; and

(J) mapping potential energy resources from hydrocarbons, hydrokinetic, solar, wind, biomass, and geothermal;

(3) an energy for development initiative to promote energy access for underdeveloped areas through energy policy and infrastructure development, including—

(A) increasing access to energy services for the poor;

(B) improving energy sector market conditions;

(C) promoting rural development through biomass and other renewable energy production and use;

(D) increasing transparency of, and participation in, energy infrastructure projects;

(E) promoting development and deployment of technology for clean and sustainable energy development, including biofuel and clean coal technologies;

(F) facilitating the use of carbon sequestration methods in agriculture and forestry, including facilitating participation in international carbon markets; and

(G) developing microenergy opportunities;

(4) a climate change mitigation and adaptation initiative, including activities such as—

(A) coordinating regional public and private partnerships for greenhouse gas reduction;

(B) identifying opportunities and facilitating mechanisms for forest preservation and reclamation;

(C) sharing best practices in energy policy formulation and execution;

(D) identifying areas at severe risk for climate change, such as drought, flooding, and other environmental phenomena that could lead to crisis;

(E) identifying areas in need of agricultural innovation to prepare for climate

change, including using biotechnology where appropriate; and

(F) cataloging greenhouse gas emissions in the Western Hemisphere, including private sector reporting; and

(5) the increase use of biofuels based on the studies provided by each partner country under section 7.

(d) **IMPLEMENTATION.**—It is the sense of Congress that—

(1) all partner countries should meet at least once every year;

(2) partner countries should meet on a sub-regional basis, as needed; and

(3) civil society, indigenous populations, and private industry representatives should be integral to the activities of the Energy Forum.

(e) **WESTERN HEMISPHERE ENERGY INDUSTRY GROUP.**—

(1) **AUTHORITY.**—The Secretary of State, in coordination with the Secretary of Commerce and the Secretary of Energy, shall seek to establish a Western Hemisphere Energy Industry Group (in this subsection referred to as the “Energy Group”) within the Energy Forum. The Energy Group should include representatives from industry and governments in the Western Hemisphere.

(2) **PURPOSES.**—The purposes of the Energy Group are to—

(A) increase public-private partnerships;

(B) foster private investment;

(C) enable countries in the Western Hemisphere to devise energy agendas that are compatible with industry capacity and cognizant of industry goals; and

(D) promote transparency in financial flows in the extractive industries in accordance with the principles of the Extractive Industries Transparency Initiative.

(3) **DISCUSSION TOPICS.**—It is the sense of Congress that the Energy Group should—

(A) promote a secure investment climate;

(B) research and deploy biofuels and other alternative fuels and clean electrical production facilities, including clean coal and carbon capture and storage;

(C) develop and deploy energy efficient technologies and practices in the industrial, residential, and transportation sectors;

(D) invest in oil and natural gas production and distribution;

(E) maintain transparency of data relating to energy production, trade, consumption, and reserves;

(F) promote biofuels research; and

(G) establish training and education exchange programs.

(f) **OIL AND NATURAL GAS WORKING GROUP.**—

(1) **ESTABLISHMENT.**—The Secretary of State and the Secretary of Energy shall seek to establish an Oil and Gas Working Group within the Energy Forum or the Energy Group.

(2) **PURPOSE.**—The purpose of the Oil and Gas Working Group shall be to strengthen dialogue between international oil companies, national oil companies, and civil society groups on issues relating to international standards on transparency, social responsibility, and best practices in leasing and management of oil and natural gas projects.

(g) **APPROPRIATION.**—There are authorized to be appropriated to the Secretary of State \$6,000,000 for fiscal year 2010 to carry out this section.

SEC. 5. UNITED STATES-BRAZIL BIOFUELS PARTNERSHIP.

(a) **IN GENERAL.**—The Secretary of State, in coordination with the Secretary of Energy, shall work with the Government of Brazil to—

(1) coordinate efforts to promote the production and use of biofuels among countries

in the Western Hemisphere, giving preference to those countries that are among the poorest and most dependent on petroleum imports, including—

(A) coordinating the biofuels feasibility studies described in section 7;

(B) collaborating on policy and regulatory measures to—

(i) promote domestic biofuels production and use, including related agricultural and environmental measures;

(ii) reform the transportation sector to increase the use of biofuels, increase efficiency, reduce emissions, and integrate the use of advanced technologies; and

(iii) reform fueling infrastructure to allow for the use of biofuels and other alternative fuels;

(2) invite the European Union, China, India, South Africa, Japan, and other interested countries to join in and expand existing international efforts to promote the development of a global strategy to create global biofuels markets and promote biofuels production and use in developing countries;

(3) assess the feasibility of working with the World Bank and relevant regional development banks regarding—

(A) biofuels production capabilities; and

(B) infrastructure, research, and training related to such capabilities; and

(4) develop a joint and coordinated strategy regarding the construction and retrofitting of pipelines and terminals near major fuel distribution centers, coastal harbors, and railroads.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of State \$6,000,000 for fiscal year 2010 to carry out this section.

SEC. 6. INTERNATIONAL AGRICULTURAL EXTENSION PROGRAMS.

(a) **IN GENERAL.**—The Secretary of Agriculture shall work with the Government of Brazil, the Government of Canada, and other governments of partner countries, to facilitate joint agricultural extension activities related to biofuels crop production, biofuels production, and the measurement and reduction of greenhouse gas emissions.

(b) **EDUCATIONAL GRANTS.**—The Secretary of Energy, in coordination with the Secretary of State and the Secretary of Agriculture, and in collaboration with the Government of Brazil, shall establish a grant program to finance advanced biofuels research and collaboration between academic and research institutions in the United States and Brazil.

(c) **FUNDING SOURCES.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal year 2010—

(A) to the Secretary of Agriculture, \$10,000,000 to carry out subsection (a); and

(B) to the Secretary of Energy, \$14,000,000 to carry out subsection (b).

(2) **SUPPLEMENTAL FUNDING SOURCES.**—The Secretary of State shall work with the Government of Brazil, the government of each partner country, regional development banks, the Organization of American States, and other interested parties to identify supplemental funding sources for the biofuels feasibility studies described in section 7.

SEC. 7. BIOFUELS FEASIBILITY STUDIES.

(a) **IN GENERAL.**—The Secretary of State, in consultation with the Secretary of Energy, shall work with each partner country to conduct a study to determine the feasibility of increasing the production and use of biofuels in each such country.

(b) **ANALYSIS OF THE ENERGY POLICY FRAMEWORK.**—The study conducted under subsection (a) shall analyze—

(1) the energy policy of the partner country, particularly the impact of such policy on the promotion of biofuels; and

(2) the status and impact of any existing biofuels programs of the country.

(c) **ASSESSMENT OF DEMAND.**—The study conducted under subsection (a) shall assess, with respect to the partner country—

(1) the quantitative and qualitative current and projected demand for energy by families, villages, industries, public transportation infrastructure, and other energy consumers;

(2) the future demand for heat, electricity, and transportation;

(3) the demand for high-quality transportation fuel;

(4) the local market prices for various energy sources; and

(5) the employment, income generation, and rural development opportunities from the biofuels industry.

(d) **ASSESSMENT OF RESOURCES.**—The study conducted under subsection (a) shall—

(1) assess the present and future biomass resources that are available in each geographic region of the partner country to meet the demand assessed under subsection (c);

(2) include a plan for increasing the availability of existing biomass resources in the country; and

(3) include a plan for developing new, sustainable biomass resources in the country, including wood, manure, agricultural residues, sewage, and organic waste.

(e) **ANALYSIS OF AVAILABLE TECHNOLOGIES SYSTEMS.**—Based on the assessments described in subsections (c) and (d), the study for each partner country shall—

(1) analyze available technologies and systems for using biofuels in the country, including—

(A) converting biomass crops and agroforestry residues into pellets and briquettes;

(B) using low-pollution stoves;

(C) engaging in biogas production;

(D) engaging in charcoal and activated coal production;

(E) engaging in biofuels production;

(F) using combustion and co-combustion technologies; and

(G) using biofuels technologies in various geographic regions;

(2) analyze the economic viability of biomass technologies in the country; and

(3) compare the technologies and systems in the country relating to biofuels with the technologies and systems for conventional energy supplies to determine if biofuels technology is cost-effective, low-maintenance, and socially acceptable, and the impact of biofuels on economic development.

(f) **ENVIRONMENTAL ASSESSMENT.**—The study conducted by each partner country under subsection (a) shall assess—

(1) the probable environmental impact of increased biomass harvesting and production, and biofuels production and use; and

(2) the availability of financing for biofuels from global carbon credit trading mechanisms.

(g) **FOOD SECURITY ASSESSMENT.**—The study conducted by each partner country under subsection (a) shall assess the potential impact on food stocks and prices in the partner country.

(h) **DEVELOPMENT OF POLICY OPTIONS TO PROMOTE BIOFUELS PRODUCTION AND USE.**—

(1) **IN GENERAL.**—The study conducted by each partner country under subsection (a) shall identify and evaluate policy options to promote biofuels production and use, after taking into account—

(A) the existing energy policy of the country; and

(B) the technologies available to convert local biomass resources into biofuels in the country.

(2) **COORDINATION.**—In conducting the evaluation under paragraph (1), the partner

country shall provide for participation of local, national, and international public, civil society, and private institutions that have responsibility or expertise in biofuels production and use.

(3) **PRINCIPAL ISSUES.**—The study shall address with respect to the partner country—

(A) the potential of biomass in the country and the barriers to the production of biofuels from such biomass products;

(B) the strategies for creating a market for biomass products;

(C) the potential contribution biofuels have in reducing fossil fuel consumption;

(D) environmental sustainability issues and policy options and the mitigating effect on carbon emissions of increased biofuels production;

(E) the potential contribution biofuels have on economic development, poverty reduction, and sustainability of energy resources;

(F) programs for the use of biofuels in the transportation sector;

(G) economic cooperation across international borders to increase biofuels production and use;

(H) the potential for technological collaboration and joint ventures for biofuels and the technological, cultural, and legal barriers that may impede such collaboration and joint ventures; and

(I) the economic aspects of the promotion of biofuels, including job creation, financing and loan mechanisms, credit mobilization, investment capital, and market penetration.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of State \$20,000,000 for fiscal year 2010 to carry out this section.

SEC. 8. REGIONAL DEVELOPMENT BANKS.

The Secretary of the Treasury shall instruct the United States Executive Director to each regional development bank and inform the public that it is the policy of the United States that assistance provided by such bank should encourage development of renewable energy sources, including energy derived from biomass. In coordination with the Secretary of State and the Secretary of Energy, the Secretary of the Treasury shall provide information regarding progress in the development of renewable energy sources, including energy derived from biomass. The information shall be included in the annual report to Congress required by section 13 on the implementation of this Act.

SEC. 9. CARBON CREDIT TRADING MECHANISMS.

(a) **IN GENERAL.**—The Secretary of State shall work with interested governments in the Western Hemisphere and other countries to facilitate regional and hemispheric carbon trading mechanisms consistent with the United Nations Framework Convention on Climate Change and existing trade and financial agreements to—

(1) establish credits for the preservation of tropical forests;

(2) use greenhouse gas-reducing agricultural practices;

(3) jointly fund greenhouse gas sequestration studies and experiments in various geological formations; and

(4) jointly fund climate mitigation studies in vulnerable areas in the Western Hemisphere.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of State \$10,000,000 for fiscal year 2010 to carry out this section.

SEC. 10. ENERGY CRISIS RESPONSE PREPAREDNESS.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Cooperation between the United States Government and the governments of other countries during an energy crisis promotes

the national security of the United States and of the other countries.

(2) Credible contingency plans to respond to energy shortages may serve as a deterrent to the manipulation of energy supplies by export and transit countries.

(3) The vulnerability of most countries in the Western Hemisphere to supply disruptions from political, natural, or terrorism causes may introduce instability in the Western Hemisphere and can be a source of conflict, despite the existence of major energy resources in the Western Hemisphere. The United States and Canada are the only members of the International Energy Program in the Western Hemisphere.

(4) Regional and international agreements for the management of energy emergencies in the Western Hemisphere will benefit market stability and encourage development in participating countries.

(b) ESTABLISHMENT OF AN ENERGY CRISIS RESPONSE MECHANISM FOR THE WESTERN HEMISPHERE.—

(1) AUTHORITY.—The Secretary of State, in coordination with the Secretary of Energy, shall immediately seek to establish a Western Hemisphere energy crisis response mechanism (in this subsection referred to as the “mechanism”).

(2) SCOPE.—The mechanism established under paragraph (1) shall include—

(A) real-time information sharing and a coordination mechanism to respond to energy supply emergencies in the Western Hemisphere;

(B) technical assistance in the development and management of national and regional strategic energy reserves in the Western Hemisphere;

(C) the promotion of increased energy infrastructure integration between countries in the Western Hemisphere;

(D) emergency demand restraint measures in the Western Hemisphere;

(E) the development of the ability of countries in the Western Hemisphere to switch energy sources and to switch to alternative energy production capacity;

(F) energy demand intensity reduction programs as measured by energy consumption per unit of economic activity; and

(G) measures to strengthen sea lanes and infrastructure security in the Western Hemisphere.

(3) MEMBERSHIP.—The Secretary shall seek to include in the mechanism each major energy producer and major energy consumer in the Western Hemisphere and other members of the Energy Forum established pursuant to section 4(a).

(4) STUDY.—The Secretary of Energy shall—

(A) conduct a study of supply vulnerability relating to natural gas in the Western Hemisphere; and

(B) submit a report to the Committee on Foreign Relations and the Committee on Energy and Natural Resources of the Senate and the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives that includes recommendations for infrastructure and regulatory needs for reducing supply disruption vulnerability and international coordination.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Energy \$10,000,000 for fiscal year 2010 to carry out this section.

SEC. 11. ENERGY FOREIGN ASSISTANCE.

(a) IN GENERAL.—The Administrator of the United States Agency for International Development (in this section referred to as the “Administrator”) shall seek to increase United States foreign assistance for renewable energy, including assistance for activi-

ties to reduce dependence on imported energy by switching to biofuels.

(b) DEVELOPMENT STRATEGY REVIEW.—The Administrator shall—

(1) review country assistance strategies and make recommendations to increase assistance for renewable energy activities; and

(2) submit the results of the review conducted under paragraph (1) to the Committee on Foreign Relations and the Committee on Energy and Natural Resources of the Senate and the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives not later than 180 days after the date of the enactment of this Act.

(c) EXPEDITED SUSTAINABLE ENERGY GRANTS.—

(1) AUTHORIZATION.—The Administrator is authorized to award grants to nongovernmental organizations for sustainable energy and job creation projects in at-risk nations, such as Haiti. Applications for grants shall be submitted in such form and in such manner as the Administrator determines and grants shall be awarded on an expedited basis upon approval of the application.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the United States Agency for International Development \$10,000,000 to provide grants under this subsection.

SEC. 12. ENERGY PUBLIC DIPLOMACY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State \$5,000,000 for public diplomacy activities relating to renewable energy in the Western Hemisphere.

(b) LIMITATION.—Not less than 50 percent of any amount appropriated pursuant to paragraph (1) shall be used for education activities implemented through civil society organizations.

SEC. 13. REPORT.

The Secretary of State, in consultation with the Secretary of Energy, shall submit an annual report to Congress on the activities carried out to implement this Act.

By Mr. FEINGOLD (for himself,
Mr. VOINOVICH, Mr.
WHITEHOUSE, Mr. COCHRAN, and
Mr. CARDIN):

S. 589. A bill to establish a Global Service Fellowship Program and to authorize Volunteers for Prosperity, and for other purposes; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I am pleased to introduce the Global Service Fellowship Act with Senators VOINOVICH, WHITEHOUSE, COCHRAN and CARDIN. This important bill would provide more Americans the opportunity to volunteer overseas and strengthen our commitment to international volunteerism. This bill also authorizes Volunteers for Prosperity, VFP, an office created by President Bush under Executive Order 13317. As the new administration seeks to rebuild and restore our image abroad, increasing the number of Americans volunteering abroad is a critical component of that work. The federal government should facilitate such international volunteering experiences for U.S. citizens by promoting both short and long-term opportunities.

My bill would not only provide more opportunities for people-to-people engagement, it would also reduce barriers that the average citizen faces when

trying to volunteer internationally. First of all, my bill would reduce financial barriers by awarding fellowships designed to defray some of the costs associated with volunteering. The fellowship can be applied toward many of the costs associated with such travel including airfare, housing, or program costs. By providing financial assistance, the Global Service Fellowship program opens the door for more Americans to participate—not just those with the resources to pay for it.

Secondly, my bill reduces volunteering barriers by offering flexibility in the length of the volunteer opportunity. I hear frequently from constituents who are unable to participate in volunteer programs because they cannot leave their jobs or family for years or months at a time, but are interested in creating cross cultural connections and contributing meaningfully to positive global change. A survey released by the Pew Global Attitudes Project in December 2008 indicates that between 2002 and 2008, opinions of the U.S. declined steeply in 14 out of the 19 countries polled. The Global Service Fellowship Program offers U.S. citizens an immediate opportunity to help reverse this negative trend on a schedule that works for them—from a month up to a year. My bill provides a commonsense approach to the time limitations of the average American while also recognizing the important role people-to-people engagement can play in countering negative views of our country around the world.

Not only does this bill make it easier for all Americans to apply for fellowships, it also engages Congress by giving Members of Congress the opportunity to notify their constituents who are awarded the fellowship—and calls on the recipient to report back to USAID and to their congressional representatives once they have returned from their time abroad. Through this process, Congress will see firsthand the benefit international volunteering brings to their communities and the Nation.

This program would cost \$15 million, which is more than offset by a provision in my bill that would require the IRS to deposit all of its fee receipts in the Treasury as miscellaneous receipts. This program would be a valuable addition to our public diplomacy, development, and humanitarian efforts overseas and I encourage my colleagues to support the bill.

By Ms. SNOWE (for herself and
Mr. PRYOR):

S. 590. A bill to assist local communities with closed and active military bases, and for other purposes; to the Committee on Armed Services.

Ms. SNOWE. Mr. President, I rise in support of legislation that Senator PRYOR and I have introduced, the Defense Communities Assistance Act of 2009. As base communities nationwide struggle with a host of issues—from

the tumultuous economy, to closures as a result of the latest Defense Base Closure and Realignment, BRAC, round, to an influx in service personnel—the Federal Government must provide assistance to its base communities to effectively implement the various initiatives of the Department of Defense and to spur economic growth. This legislation, which is supported by the Association of Defense Communities, ADC, seeks to accomplish that goal by providing immediate benefits to all base communities, for both closed and active military installations across the country.

During even the best of economic times, the closure of a military base can devastate a local economy. Today, with our economy in a troubling recession, the outlook is even more grim, with communities facing overwhelming challenges in redeveloping a former military installation. For instance, the closure of the Naval Air Station Brunswick, NASB, in my home State of Maine will create profoundly negative economic consequences with an estimated loss of 6,500 jobs. Given these trying economic times, we must ensure that every effort is made to foster redevelopment in communities affected by base closures.

There is no question that the negative effects of base closures are disproportionately and unfairly borne by the communities where bases have closed. At the same time, communities surrounding active bases must cope with realignments, global repositioning, and grow the force initiatives to accommodate service personnel influxes at their own expense. That is why this comprehensive measure includes key provisions to assist not only bases facing closure, but active base communities absorbing growth impacts.

Accordingly, this legislation would grant permanent authority for the military departments to exchange real property deemed excess to the DOD, in return for the construction of new facilities, or to limit encroachments, at other active installations. This authority provides military departments with greater flexibility in real estate asset management and has previously only been available to property on an installation that had been closed or realigned.

In recent years, the Army has engaged in pilot programs at installations to procure municipal services, such as water and electricity, from a city or county government. These municipal service agreements have been successful, saving the Army several million dollars and providing significant benefits. In the National Defense Authorization Act for fiscal year 2008, this authority was extended to the other two military departments and allowed each service to purchase municipal services for three installations. This legislation builds on that success and greatly extends the military departments' authority to purchase, from

a county government or other local government, municipal services for military installations across the country.

Additionally, this bill would address the Defense State Memorandum of Agreement, DSMOA, program which was established to facilitate and fund State oversight of contaminated DOD sites, including BRAC sites. DOD has recently interpreted DSMOA in a manner that has severely impaired state budgets, which has in turn reduced State oversight at these sites. The Defense Communities Assistance Act would ensure that funding under DSMOA may be used for state BRAC property transfer activities while also preventing withholding DSMOA funds when States exercise their enforcement authority.

Additionally, section 330 of the National Defense Authorization Act for fiscal year 1993 was originally adopted with the intention of protecting parties involved in base redevelopment from liability for undiscovered pre-existing pollution conditions at closed military installations. Regrettably, recent court decisions have been inconsistent in interpreting section 330 creating uncertainty that has left base closure property holders with difficulty in obtaining environmental insurance among other problems. This bill provides vital clarification to ensure the original intention of protecting parties involved in base redevelopment from unnecessary liability at closed military installations.

Furthermore, the national economic problems that our country currently faces demand swift and efficient action to avert a deeper and more intractable recession. That is why this legislation would repeal section 3006 of the National Defense Authorization Act for fiscal year 2002, thereby encouraging the Secretary of Defense to provide no-cost Economic Development Conveyances, EDCs, to base communities as a preferred property disposal mechanism. This provision would help to spur job generation and economic development immediately.

As a result of five BRAC rounds, hundreds of military installations have been decommissioned or downsized with the expectation that the properties would be available for local reuse and economic development. At the same time, an inconsistent and time consuming transfer process by the military departments has left thousands of acres of former installation property in Federal ownership, with the fallow acreage hampering the host community's economic recovery. There is tremendous risk that in the current economic climate, with property values at their lowest position in the past decade, these properties will sit fallow for years without the use of no-cost EDCs.

This measure is stimulative in nature by getting property off the books of the Federal Government and into the hands of developers to be redevel-

oped quickly so that displaced workers in the community will once again become employed. Encouraging expedited free, or less than fair market value, property transfers would result in incentives for private investment, significant infrastructure and public benefits, and the potential generation of tens of thousands of jobs. That is why it is a responsible course of action for the Government to provide these communities with the tools and resources, such as no-cost EDCs, needed to recover from a closure.

The timeframe and uncertainty of the BRAC transfer process is the single greatest obstacle to redevelopment of the underutilized lands. Expediting transfer of these former military bases would stimulate both private and public investment in infrastructure and redevelopment, resulting in job creation and economic development activity, the rebuilding of inadequate local infrastructure funded by the redevelopment project, and local, State, and Federal tax generation. Moreover, the Federal Government would be relieved of its property management responsibilities, saving hundreds of millions of dollars annually.

I urge my colleagues to join Senator PRYOR and me in support of this legislation.

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

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

S. 590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Defense Communities Assistance Act of 2009".

SEC. 2. SENSE OF CONGRESS.

It is the sense of the Congress, that as the Federal Government implements base closures and realignments, global repositioning, and grow the force initiatives, it is necessary to assist local communities coping with the impact of these programs at both closed and active military installations. To aid communities to either recover quickly from closures or to accommodate growth associated with troop influxes, the Federal Government must provide assistance to communities to effectively implement the various initiatives of the Department of Defense.

SEC. 3. PERMANENT AUTHORITY TO CONVEY PROPERTY AT MILITARY INSTALLATIONS TO SUPPORT MILITARY CONSTRUCTION AND AGREEMENTS TO LIMIT ENCROACHMENT.

Section 2869(a)(3) of title 10, United States Code, is amended by striking "shall apply only during the period" and all that follows through "September 30, 2008" and inserting "without limitation on duration".

SEC. 4. EXTENSION OF AUTHORITY TO PURCHASE MUNICIPAL SERVICES FOR MILITARY INSTALLATIONS IN THE UNITED STATES.

(a) PERMANENT AUTHORITY.—Chapter 146 of title 10, United States Code, is amended by inserting after section 2465 the following new section:

“§ 2465a. Contracts for procurement of municipal services for military installations in the United States

“(a) **CONTRACT AUTHORITY.**—Subject to section 2465 of this title, the Secretary concerned may enter into a contract for the procurement of municipal services described in subsection (b) for a military installation in the United States from a county, municipal government, or other local governmental unit in the geographic area in which the installation is located.

“(b) **COVERED MUNICIPAL SERVICES.**—The municipal services that may be procured for a military installation under the authority of this section are as follows:

- “(1) Refuse collection.
- “(2) Refuse disposal.
- “(3) Library services.
- “(4) Recreation services.
- “(5) Facility maintenance and repair.
- “(6) Utilities.

“(c) **EXCEPTION FROM COMPETITIVE PROCEDURES.**—The Secretary concerned may enter into a contract under subsection (a) using procedures other than competitive procedures if—

“(1) the term of the proposed contract does not exceed 5 years;

“(2) the Secretary determines that the price for the municipal services to be provided under the contract is fair, reasonable, represents the least cost to the Federal Government, and, to the maximum extent practicable, takes into consideration the interests of small business concerns (as that term is defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a))); and

“(3) the business case supporting the Secretary's determination under paragraph (2)—

“(A) describes the availability, benefits, and drawbacks of alternative sources; and

“(B) establishes that performance by the county or municipal government or other local governmental unit will not increase costs to the Federal Government, when compared to the cost of continued performance by the current provider of the services.

“(d) **LIMITATION ON DELEGATION.**—The authority to make the determination described in subsection (c)(2) may not be delegated to a level lower than a Deputy Assistant Secretary for Installations and Environment, or another official of the Department of Defense at an equivalent level.

“(e) **CONGRESSIONAL NOTIFICATION.**—The Secretary concerned may not enter into a contract under subsection (a) for the procurement of municipal services until the Secretary notifies the Committees on Armed Services of the Senate and the House of Representatives of the proposed contract and a period of 14 days elapses from the date the notification is received by the committees. The notification shall include a summary of the business case and an explanation of how the adverse impact, if any, on civilian employees of the Department of Defense will be minimized.

“(f) **GUIDANCE.**—The Secretary of Defense shall issue guidance to address the implementation of this section.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2465 the following new item:

“2465a. Contracts for purchase of municipal services for military installations in the United States.”.

(c) **EXTENSION OF PILOT PROGRAM.**—Section 325(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 2461 note) is amended by striking “September 30, 2010” and inserting “September 30, 2020”.

SEC. 5. REIMBURSABLE ACTIVITIES UNDER THE DEFENSE-STATE MEMORANDUM OF AGREEMENT PROGRAM.

Section 2701(d)(1) of title 10, United States Code, is amended by inserting before the period at the end the following: “and the processing of property transfers before or after remediation, provided the Secretary shall not condition funding based on the manner in which a State exercises its enforcement authority, or its willingness to enter into dispute resolution prior to exercising that enforcement authority.”.

SEC. 6. INDEMNIFICATION OF TRANSFEREES OF CLOSING DEFENSE PROPERTIES.

Section 330(a)(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 2687 note), is amended by striking “cost or other fee” and all that follows through “contaminant,” and inserting “cost, statutory or regulatory requirement or order, or other cost, expense, or fee arising out of any such requirement or claim for personal injury, environmental remediation, or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant, or contaminant”.

SEC. 7. REQUIREMENT FOR NO-COST ECONOMIC DEVELOPMENT CONVEYANCES.

(a) **REPEAL OF CERTAIN REQUIREMENTS.**—Subsection (a) of section 3006 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1350), and the amendments made by that subsection, are hereby repealed. Effective as of the date of the enactment of this Act, the provisions of section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) that were amended by section 3006(a) of the National Defense Authorization Act for Fiscal Year 2002, as such provisions were in effect on December 27, 2001, are hereby revived.

(b) **REGULATIONS.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to implement the provisions of section 2905 of the Defense Base Closure and Realignment Act of 1990 revived by subsection (a) to ensure that the military departments transfer surplus real and personal property at closed or realigned military installations without consideration to local redevelopment authorities for economic development purposes, and without the requirement to value such property.

(c) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the status of current and anticipated economic development conveyances, projected job creation, community re-investment, and progress made as a result of the enactment of this section.

By Mr. REID (for himself and Mr. ENSIGN):

S. 591. A bill to establish a National Commission on High-Level Radioactive Waste and Spent Nuclear Fuel, and for other purposes; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I am pleased to say that we are closing the book on our Nation's failed nuclear waste policy. After decades of fighting the Yucca Mountain project, I can say with confidence that Nevada will not serve as the Nation's nuclear waste dump.

Nevadans and all Americans will be safer and more secure thanks to Presi-

dent Obama's commitment to finding scientifically sound and responsible solutions to dealing with nuclear waste.

I am proud to say that I have been working on a new volume in this terribly difficult debate. Bad policy like the Yucca Mountain project is easy to oppose. But it is not always easy to craft better policy.

That is what I am doing with Senator ENSIGN today—working to replace our failed approach to dealing with nuclear waste with a much better policy. We are unveiling our plan to form a congressional commission to evaluate and make recommendations on alternative approaches to managing nuclear waste.

This is a step that is way past due.

I began opposing the idea of dumping nuclear waste in Nevada when it was first proposed in the early 1980s. I was still a member of the House then, and I continued this fight in the Senate with most Nevadans firmly behind my efforts to kill the project. I have fought against the Yucca Mountain project vigorously, but from the very beginning I was also calling for long-range planning on nuclear waste because it was the right thing to do.

I continued calling for researching alternatives to Yucca in 1995 when I introduced legislation with my close friend and colleague, Senator Dick Bryan, to establish a commission on nuclear waste. Unfortunately, Congress did not listen, even though evidence was piling up showing that Yucca Mountain could become a death trap for Nevadans.

The Government's decades-long focus on Yucca Mountain has left us barren with very few good proposals for dealing with nuclear waste. Now that President Obama and Secretary Chu have taken Yucca Mountain off the table, we need to begin looking closely at new ideas. We should even dust off some older ones that have been ignored for far too long.

The legislation we are introducing today forms a temporary commission to review and make recommendations on a wide variety of alternatives to Yucca.

The commission will look at everything from at-reactor dry cask storage to reprocessing. The commission will consider having the Federal Government take title to nuclear waste, but will also consider chartering a Federal corporation to manage nuclear waste.

Very importantly, the commission will consider the security of temporary storage facilities for nuclear waste so we can give assurances to communities near nuclear power plants that their safety will not be compromised.

The cosponsors of this legislation do not all share the same views about nuclear power and we do not share the same views about nuclear waste. For example, I have long said that nuclear waste needs to remain on site where it is produced until the Government has a safe and scientifically sound solution. Others would like to reprocess and

reuse nuclear waste in nuclear reactors. Many still feel that some form of permanent disposal is a good solution.

But forming a commission is something the bill's sponsors and others agree upon because it will create a process that will help our Nation take a critical step away from the failed Yucca Mountain policy.

I look forward to continuing working with my colleagues to make sure we take responsible actions necessary to begin addressing nuclear waste.

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

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

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “National Commission on High-Level Radioactive Waste and Spent Nuclear Fuel Establishment Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of Commission.
- Sec. 3. Purposes.
- Sec. 4. Composition.
- Sec. 5. Duties.
- Sec. 6. Powers.
- Sec. 7. Applicability of Federal Advisory Committee Act.
- Sec. 8. Staff.
- Sec. 9. Compensation; travel expenses.
- Sec. 10. Security clearances.
- Sec. 11. Reports.
- Sec. 12. Authorization of appropriations.
- Sec. 13. Termination.

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the “National Commission on High-Level Radioactive Waste and Spent Nuclear Fuel” (referred to in this Act as the “Commission”).

SEC. 3. PURPOSES.

The purposes of the Commission are—

(1) to evaluate potential improvements in the approach of the United States to high-level radioactive waste and spent nuclear fuel management in the event that the proposed Yucca Mountain high-level waste repository is never operational or constructed for any spent nuclear fuel, high-level waste, or other radioactive waste disposal; and

(2) to submit to the appropriate committees of Congress a report that contains a description of the findings, conclusions, and recommendations of the Commission to improve the approach of the United States for the management of defense waste, spent nuclear fuel, high-level waste, and commercial radioactive waste.

SEC. 4. COMPOSITION.

(a) **MEMBERS.**—The Commission shall be composed of 9 members who meet each qualification described in subsection (b), of whom—

(1) 2 shall be appointed by the Majority Leader of the Senate, in consultation with the chairperson of each appropriate committee of the Senate;

(2) 2 shall be appointed by the Minority Leader of the Senate, in consultation with the ranking member of each appropriate committee of the Senate;

(3) 2 shall be appointed by the Speaker of the House of Representatives, in consultation with the chairperson of each appro-

priate committee of the House of Representatives;

(4) 2 shall be appointed by the Minority Leader of the House of Representatives, in consultation with the ranking member of each appropriate committee of the House of Representatives; and

(5) 1 shall be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(b) QUALIFICATIONS.—

(1) **NONGOVERNMENTAL APPOINTEES.**—An individual appointed to the Commission may not be—

- (A) engaged in any high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy; or
- (B) an officer or employee of—
 - (i) the Federal Government;
 - (ii) an Indian tribe;
 - (iii) a State; or
 - (iv) a unit of local government.

(2) **OTHER QUALIFICATIONS.**—Individuals appointed to the Commission shall, to the maximum extent practicable, be prominent United States citizens, with national recognition and significant depth of experience in engineering, fields of science relevant to used nuclear fuel management, energy, governmental service, environmental policy, law, public administration, or foreign affairs.

(3) **DEADLINE FOR APPOINTMENT.**—All members of the Commission shall be appointed by not later than 90 days after the date of enactment of this Act.

(c) **CHAIRPERSON.**—The individual appointed under subsection (a)(5) shall serve as Chairperson of the Commission.

(d) **INITIAL MEETING.**—The Commission shall meet and begin the operations of the Commission as soon as practicable after the date of enactment of this Act.

(e) ADMINISTRATION.—

(1) **MEETINGS.**—After the initial meeting of the Commission, the Commission shall meet on the call of the Chairperson or a majority of the members of the Commission.

(2) **QUORUM.**—Five members of the Commission shall constitute a quorum.

(3) **VACANCIES.**—Any vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner in which the original appointment was made.

SEC. 5. DUTIES.

(a) **IN GENERAL.**—The Commission shall—

(1) conduct an evaluation to advise Congress on the feasibility, cost, risks, and legal, public health, and environmental impacts (including such impacts on local communities) of alternatives to the spent fuel and high-level waste strategies of the Federal Government including—

(A) transferring from the Department of Energy responsibility for the high-level radioactive waste and spent fuel management program of the United States to a Government corporation established for that purpose;

(B) endowing such a Federal Government corporation with authority and funding necessary to provide for storage and management of high-level radioactive waste and spent nuclear fuel;

(C) cost-sharing options between the Federal Government and private industry for the development of nuclear fuel management technology and licensing;

(D) establishing Federal or private centralized interim storage facilities in communities that are willing to serve as hosts;

(E) research and development leading to deployment of advanced fuel cycle technologies (including reprocessing, transmutation, and recycling technologies) that are not vulnerable to weapons proliferation;

(F) transferring to the Department of Energy title to—

(i) spent nuclear fuel inventories at reactor sites in existence as of the date of enactment of this Act; and

(ii) future nuclear fuel inventories at reactor sites;

(G) while long-term solutions for spent nuclear fuel management are developed, requiring the transfer of spent nuclear fuel inventories—

(i) to at-reactor dry casks in a manner to ensure public safety and the security of the inventories; and

(ii) after the date on which the spent nuclear fuel inventory has been stored in a cooling pond for a period of not less than 7 years;

(H) permanent, deep geologic disposal for civilian and defense wastes, and interim strategies for the treatment of defense wastes; and

(I) additional management and technological approaches, including improved security of spent nuclear fuel storage installations, as the Commission determines to be appropriate for consideration;

(2) consult with Federal agencies (including the Nuclear Waste Technical Review Board and the National Academy of Sciences), interested individuals, States, local governments, organizations, and businesses as the Commission determines to be necessary to carry out the duties of the Commission;

(3) submit recommendations on the disposition of the existing fees charged to nuclear energy ratepayers, and the recommended disposition of the available balances consistent with the recommendations of the Commission regarding the management of spent nuclear fuel; and

(4) analyze the financial impacts of the recommendations of the Commission described in paragraph (3) on the contractual liability of the Federal Government under section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222).

(b) **REPORT.**—The Commission shall submit to Congress a final report in accordance with this Act containing such findings, conclusions, and recommendations as the Commission considers appropriate.

SEC. 6. POWERS.

(a) **HEARINGS AND EVIDENCE.**—The Commission or, on the authority of the Commission, any subcommittee may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission considers to be appropriate.

(b) **CONTRACTING.**—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge the duties of the Commission under this Act.

(c) **INFORMATION FROM FEDERAL AGENCIES.**—

(1) **IN GENERAL.**—The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this Act.

(2) **FURNISHING OF INFORMATION.**—Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics in a timely manner directly to the Commission, on request made by the Chairperson of the Commission, or any member designated by a majority of the Commission.

(3) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and staff of the Commission in a manner that is consistent with applicable law (including regulations and Executive orders).

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the duties of the Commission.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the Federal Government may provide to the Commission such services, funds, facilities, staff, and other support services as the Commission may reasonably request and as may be authorized by law.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the Federal Government.

SEC. 7. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

SEC. 8. STAFF.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The Chairperson, in accordance with rules agreed on by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out the duties of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of that title.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) does not apply to members of the Commission.

(b) DETAILEES.—

(1) IN GENERAL.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission.

(2) RIGHTS.—The detailee shall retain the rights, status, and privileges of the regular employment of the detailee without interruption.

(c) CONSULTANT SERVICES.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of that title.

SEC. 9. COMPENSATION; TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from the home or regular place of business of a

member of the Commission in the performance of services for the Commission, a member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 10. SECURITY CLEARANCES.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the maximum extent practicable pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this Act without the appropriate security clearances.

SEC. 11. REPORTS.

(a) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall make available to the public for comment an interim report containing such findings, conclusions, and recommendations as have been agreed to by a majority of the Commission members.

(b) FINAL REPORT.—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to Congress a final report, the contents of which shall—

(1) contain the items described in subsection (a), as agreed to by a majority of the members of the Commission;

(2) contain the opinion of each member of the Commission who does not approve of any item contained in the final report (including an explanation of the opinion and any alternative recommendation); and

(3) take into account public comments received under subsection (a).

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

SEC. 13. TERMINATION.

(a) IN GENERAL.—The authority provided to the Commission by this Act terminates on the last day of the 180-day period beginning on the date on which the final report is submitted under section 11(b).

(b) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—During the 180-day period referred to in subsection (a), the Commission may conclude the activities of the Commission, including providing testimony to committees of Congress concerning reports of the Commission and disseminating the final report of the Commission.

By Mrs. FEINSTEIN (for herself and Mr. SCHUMER):

S. 593. A bill to ban the use of bisphenol A in food containers, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to ban Bisphenol A, BPA, from food and drink containers. I am pleased to be working with Congressman MARKEY on this issue, and he will be introducing identical legislation in the House. I would also like to thank my colleague Senator SCHUMER, who has agreed to cosponsor this legislation.

I believe this is a good and necessary bill. The science shows that BPA is added to food and drink containers, and leaches into these foods and beverages, especially when heated in a plastic container.

Make no mistake, chemicals are everywhere, even in our food. In many cases, we know very little about their safety. I strongly believe that the time has come to utilize a precautionary standard in all food and beverages with respect to chemical additives. If you do not know for certain the chemical is benign, it should not be used.

Bisphenol A, known commonly as BPA, is one such example. It is used in consumer products all around us: plastic containers that store food, compact discs, water bottles, canned soups and other canned foods, even baby bottles.

More than 100 studies suggest that BPA exposure at very low doses is linked to a variety of health problems, including prostate and breast cancer, obesity, attention deficit and hyperactivity disorder, brain damage, altered immune system, lowered sperm counts, and early puberty.

The National Toxicology Program in the Department of Health and Human Services has cited "some concern" that Bisphenol A may affect neural development in fetuses, infants, and children at current human exposures.

The solution is simple. My legislation will ban the use of Bisphenol A from food and drink containers. This ban will be effective 180 days following enactment of the legislation.

The bill will create a waiver process, in case a company demonstrates that it is technologically impossible to replace BPA in that time frame. A manufacturer can receive a one year waiver, which is renewable, while they work to remove BPA from their product. They must submit a plan to remove BPA, and their product must be labeled as containing BPA.

The legislation also directs the Food and Drug Administration to routinely review the "List of Substances Generally Regarded as Safe." If new evidence emerges that suggests a chemical is not safe for use in a particular manner, it will be removed from the product.

Scientists have raised alarms regarding BPA for some time. It is an endocrine disruptor, mimicking estrogen when it is exposed to a cell.

Scientists at Stanford University accidentally discovered BPA's estrogen-mimicking effects in 1993. A mysterious estrogen-like chemical skewed results of their lab work, and they finally realized that BPA was leaching from laboratory flasks.

We know that BPA is found in almost everyone. Data from the National Health and Nutrition Survey, NHANES, conducted by the Centers for Disease Control found BPA in the bodies of 92.6 percent of the people surveyed. The study did not examine the exposure of children under 6. But it did find that levels were highest in young children, a troubling finding given that exposure to BPA is potentially most dangerous during these critical early years of development.

We know a major source of this exposure: the cans that contain our food,

the containers we eat from, even the baby bottles used to serve formula.

The Environmental Working Group commissioned an independent lab to study BPA in cans in 2007. They tested 97 cans of some of the most popular consumer products. Their findings will alarm any consumer: 53 of the 97 cans tested had detectable levels of BPA; 20 of the 53 cans with BPA have high enough levels that consuming that canned product would expose a person to levels near those that have been found to impact laboratory rats; 1 in 10 cans contained enough BPA to expose a pregnant woman or child to more than 200 times the Government's safe level. The same is true for 1 out of every 3 cans of infant formula.

For women who regularly eat canned food, their exposure level throughout a pregnancy may exceed safe doses.

These are not exotic products, but the canned goods that are in pantries across this county: meal replacement shakes, canned soups, vegetables, and canned pastas, like ravioli.

Baby bottles are also a common exposure source. Multiple studies have confirmed that many of the most popular brands of baby bottles leach BPA. A coalition of health and environmental groups, in their recent report "Baby's Toxic Bottle", identified several popular brands of baby bottles that leach BPA when heated: Avent; Disney, Dr. Brown's, Evenflo; Gerber; Playtex.

Now every parent knows that milk served to babies is often heated, at least to room temperature. And these bottles, when heated, leached between 5 and 8 parts per billion of BPA, a level that is within the range that has been shown to cause harm in animal studies.

We know that BPA is a hormone disrupting chemical, and may act like estrogen when in the human body. While the science is still emerging, research is connecting Bisphenol A with a variety of serious health effects. These include: early onset of puberty; hyperactivity; lowered sperm count; miscarriage.

The chemical industry will try to reassure consumers that BPA is safe, and that studies have found these health effects only in laboratory animals exposed to BPA in high doses.

But new evidence that goes beyond laboratory rat models is emerging. Last year, researchers at the Yale School of Medicine linked BPA to problems in brain function and mood disorders in monkeys, for the first time connecting the chemical to health problems in primates.

The Yale scientists exposed monkeys to low levels of BPA, which the Environmental Protection Agency, EPA, have deemed safe for humans.

Researchers found that this chemical exposure interfered with brain cell connections vital to memory, learning and mood.

The researchers stated that the findings suggest that exposure to low-dose BPA may cause widespread effects on brain structure and function.

In September of last year, the Journal of the American Medical Association, JAMA, published a study that links BPA levels in people to several serious health problems.

The study examined the BPA concentrations found in 1455 adults who participated in the 2003-2004 National Health and Nutrition Examination Survey, NHANES, a study which detected BPA in more than 90 percent of Americans tested. Using this data, researchers linked higher BPA concentrations to adverse health affects, including: cardiovascular disease; type II diabetes; clinically abnormal concentrations of some liver enzymes.

The Los Angeles Times reported on the study on September 17th, stating "that the quarter of the group with the highest BPA levels—levels still considered safe by the FDA—were more than twice as likely to suffer from diabetes and cardiovascular disease as the quarter with the lowest levels."

This is the first large scale study to be done examining human exposure, and I believe it must be taken very seriously.

Industry continues to insist that BPA is not harmful. But one study shows us why we should be skeptical about research coming from chemical companies.

In 2006, the journal Environmental Research published an article comparing the results of government funded studies into low dose exposure to BPA with studies funded by the BPA industry.

The results are astounding; 92 percent of the Government funded studies found that exposure to BPA caused health problems in animals.

However, none of the industry funded research identified any health problems in animals exposed to low levels of BPA.

This raises serious questions about the validity of the chemical industry's studies. It also illustrates why our Nation's regulatory agencies should not and cannot solely rely on chemical companies to conduct research into their products.

The Food and Drug Administration agrees that the science is incomplete. The FDA's Science Board released a report in October 2008 that raised serious questions about the previous FDA assessments that found BPA to be safe.

In response, the FDA has asked for more studies and more research. More research is fine, but I feel strongly that we must not leave a dangerous chemical on the market while scientists learn exactly how dangerous it is.

Sufficient evidence exists for us to act now. I believe strongly in taking a precautionary approach to our chemical policy; people should be protected from chemicals until we know that they are safe for use.

There is a great deal wrong with the regulatory system in this country and the way we address dangerous chemicals. Our system is essentially backwards. Chemicals are added to products

before we know much about them. To be removed from the market, a chemical must be proven to be exceedingly dangerous.

That means that while we wait for evidence of harm to develop, our children are using dangerous products, and possibly eating contaminated food.

I believe it should be the reverse. We should follow the lead of the European Union, and Canada, and remove chemicals until we know them to be safe. We should not be waiting for proof of danger, which too often comes in the form of birth defects, cancer, and other irreversible health harms.

While we continue to work to change our regulatory system, the time has come to apply this precautionary principle to BPA. Without question, there is more scientific work to be done. But we must not continue to expose our citizens to these risks while we wait to confirm BPA's dangers beyond a reasonable doubt.

The Canadian government has already taken this approach with BPA, moving to eliminate polycarbonate baby bottles that contain Bisphenol A last year. Canadian officials stated that because safe alternatives are readily available, this ban is a prudent way to reduce risk for vulnerable infants.

Many large retailers and producers, including Toys "R" Us, Nalgene, and Wal-Mart have agreed to no longer sell or produce baby bottles or plastic water bottles containing BPA. And just last week, the leading manufacturers of baby bottles announced they would no longer sell baby bottles made with BPA.

This is great news. I commend them, but we should not be forced to rely on retailers to protect American consumers from health hazards.

The Congress agreed with this precautionary approach and banned six plasticizing chemicals, called phthalates, in legislation last year. Like BPA, phthalates have been linked to a variety of health problems in young children. Instead of doing nothing with the evidence mounts, Congress chose to step in and protect children from this risk.

The time has come to do the same with Bisphenol A.

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

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

S. 593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ban Poisonous Additives Act of 2009".

SEC. 2. BAN ON USE OF BISPHENOL A IN FOOD AND BEVERAGE CONTAINERS.

(a) TREATMENT OF BISPHENOL A AS ADULTERATING THE FOOD OR BEVERAGE.—For purposes of applying section 402(a)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(6)), a food container (which for purposes of this Act includes a beverage container) that is composed, in whole or in part,

of bisphenol A, or that can release bisphenol A into food (as defined for purposes of the Federal Food, Drug, and Cosmetic Act), shall be treated as a container described in such section (relating to containers composed, in whole or in part, of a poisonous or deleterious substance which may render the contents injurious to health).

(b) EFFECTIVE DATES.—

(1) REUSABLE FOOD CONTAINERS.—

(A) DEFINITION.—In this Act, the term “reusable food container” means a reusable food container that does not contain a food item when it is introduced or delivered for introduction into interstate commerce.

(B) APPLICABILITY.—Subsection (a) shall apply to reusable food containers on the date that is 180 days after the date of enactment of this Act.

(2) OTHER FOOD CONTAINERS.—Subsection (a) shall apply to food containers that are packed with a food and introduced or delivered for introduction into interstate commerce on or after the date that is 180 days after the date of enactment of this Act.

(c) WAIVER.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the “Secretary”), after public notice and opportunity for comment, may grant to any facility (as that term is defined in section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d)) a waiver of the treatment described in subsection (a) for a certain type of food container, as used for a particular food product, if such facility—

(A) demonstrates that it is not technologically feasible to replace Bisphenol A in such type of container for such particular food product; and

(B) submits to the Secretary a plan and timeline for removing Bisphenol A from such type of container for that food product.

(2) APPLICABILITY.—A waiver granted under paragraph (1) shall constitute a waiver of the treatment described in subsection (a) for any facility that manufactures, processes, packs, holds, or sells the particular food product for which the waiver was granted.

(3) LABELING.—Any product for which the Secretary grants such a waiver shall display a prominent warning on the label that the container contains Bisphenol A, in a manner that the Secretary shall require, which manner shall ensure adequate public awareness of potential health effects associated with bisphenol-A.

(4) DURATION.—

(A) INITIAL WAIVER.—Any waiver granted under paragraph (1) shall be valid for not longer than 1 year after the applicable effective date in subsection (b).

(B) RENEWAL OF WAIVER.—The Secretary may renew any waiver granted under subparagraph (A) for a period of not more than 1 year.

(d) LIST OF SUBSTANCES THAT ARE GENERALLY RECOGNIZED AS SAFE.—

(1) REVIEW.—The Secretary, acting through the Commissioner of Food and Drugs, shall, not later than 1 year after enactment of this Act and not less than once every 5 years thereafter, review—

(A) the substances that are generally recognized as safe, listed in part 182 of title 21, Code of Federal Regulations (or any successor regulations);

(B) the direct food substances affirmed as generally recognized as safe, listed in part 184 of title 21, Code of Federal Regulations (or any successor regulations); and

(C) the indirect food substances affirmed as generally recognized as safe, listed in part 186 of title 21, Code of Federal Regulations (or any successor regulations).

(2) PUBLIC COMMENT.—In conducting the review described in paragraph (1), the Sec-

retary shall provide public notice and opportunity for comment.

(3) REMEDIAL ACTION.—If, after conducting the review described in paragraph (1), the Secretary determines that, with regard to a substance listed in such part 182, 184, or 186, new scientific evidence, including scientific evidence showing that the substance causes reproductive or developmental toxicity in humans or animals, supports—

(A) banning a substance;

(B) altering the conditions under which a substance may be introduced into interstate commerce; or

(C) imposing restrictions on the types of products for which the substance may be used,

the Secretary shall remove such substance from the list of substances, direct food substances, or indirect food substances generally recognized as safe, as appropriate, and shall take other remedial action, as necessary.

(4) DEFINITION.—In this Act, the term “reproductive or developmental toxicity” has the meaning given such term in section 409(h)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by section 3.

(e) SAVINGS PROVISION.—Nothing in this Act shall affect the right of a State, political subdivision of a State, or Indian Tribe to adopt or enforce any regulation, requirement, liability, or standard of performance that is more stringent than a regulation, requirement, liability, or standard of performance under this Act or that—

(1) applies to a product category not described in this Act; or

(2) requires the provision of a warning of risk, illness, or injury associated with the use of food containers composed of bisphenol A.

SEC. 3. AMENDMENTS TO SECTION 409 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Subsection (h) of section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)(1)) is amended—

(1) in paragraph (1)—

(A) by striking “manufacturer or supplier for a food contact substance may” and inserting “manufacturer or supplier for a food contact substance shall”; and

(B) by inserting “(A)” after “notify the Secretary of”;

(C) by striking “, and of” and inserting “; (B)”; and

(D) by striking the period after “subsection (c)(3)(A)” and inserting “; (C) the determination of the manufacturer or supplier that no adverse health effects result from low dose exposures to the food contact substance; and (D) the determination of the manufacturer or supplier that the substance has not been shown, after tests which are appropriate for the evaluation of the safety of food contact substances, to cause reproductive or developmental toxicity in man or animal.”; and

(2) by striking paragraph (6) and inserting the following:

“(6) In this section—

“(A) the term ‘food contact substance’ means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food; and

“(B) the term ‘reproductive or developmental toxicity’ means biologically-adverse effects on the reproductive systems of female or male humans or animals, including alterations to the female or male reproductive system development, the related endocrine system, fertility, pregnancy, pregnancy outcomes, or modifications in other functions that are dependent on the integrity of the reproductive system.”.

By Mr. CASEY (for himself and Ms. STABENOW):

S. 594. A bill to require a report on invasive agricultural pests and diseases and sanitary and phytosanitary barriers to trade before initiating negotiations to enter into a free trade agreement, and for other purposes; to the Committee on Finance.

Mr. CASEY. Mr. President, I rise today to introduce the Agriculture Smart Trade Act along with my colleague Senator STABENOW. The goal of this legislation is to ensure that, as we consider the various free trade agreements that come before the Senate, we are also looking at the big picture, including the increased risk of accidentally importing invasive pests or diseases and the ability for American agricultural producers to access new export markets once trade agreements are in effect. Our bill is supported by United Fresh, the national association of fruit and vegetable growers and processors, and the U.S. Apple Association.

The bill does two things. First, it requires the administration to send a report to Congress prior to the start of formal trade negotiations with a foreign nation detailing potential invasive pests and disease that could pose a risk to U.S. agriculture. Furthermore, this report must identify what additional agricultural inspectors and other personnel are needed to prevent these pests and diseases from being brought into the United States.

Second, the bill requires the administration to disclose in the same report all sanitary and phytosanitary, also known as SPS, trade barriers that could unduly restrict export markets for American commodities. What we have seen in the past is that a trading partner will raise SPS barriers to prevent American products from entering their country. Some of these SPS barriers are not grounded in science are simply non-tariff trade barriers. As the Administration begins negotiations for a trade agreement, we all need to take a look at what kinds of SPS issues we have with potential trading partners. Are their SPS concerns based in science? We need to be sure that once an agreement is in effect, we will have access to those foreign markets as stipulated in the trade agreement.

I want to be very clear that this bill does not in any way limit the President's authority to negotiate trade agreements under Fast-Track, nor does it prevent trade legislation from being considered by the Congress. What this bill does is provide the Senate and the House of Representatives with a more complete picture of what potential trade agreements involve beyond the obvious import and export quotas.

Regardless of how any senator feels about the free trade agreements that we review and debate, I think all of my colleagues will agree with me that increased international trade means an increased risk of importing bugs and diseases that have the potential to devastate our food sources, jeopardize the

livelihoods of our farmers, and cost our states a fortune. We need to acknowledge the risk and put in place the best safeguards we can to prevent the accidental introduction of these harmful pests.

I am not merely speculating about the risk of invasive pests and disease. It is a fact that all of our states are battling insects and crop diseases and dreading the next outbreak.

Most recently in Pennsylvania we discovered that the western part of our state is infested with the Emerald Ash Borer, an invasive beetle that was accidentally imported to the U.S. through Detroit via wooden shipping pallets from China. This beetle is costing our commercial nursery growers millions of dollars in lost stock. Senator Stabenow knows better than anyone how much money, time and other resources the Ash Borer has cost the states of Michigan, Illinois, Indiana, Ohio, and Pennsylvania. But that's just one example. Orange growers in Florida have spent the past decade fighting to contain and eradicate citrus canker, an invasive disease that causes citrus trees to produce less and less fruit until they prematurely die. And California and Texas have dealt with expensive eradication programs to deal with the Mediterranean fruit fly or "Med fly."

The list goes on and on. There is not a single state that has not been impacted by invasive pests or diseases. So I hope that my colleagues will support the Agriculture Smart Trade Act, and help us make smart decisions that will protect our growers and our economy while opening new export markets. Because that is what this bill is about—smart trade.

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

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

S. 594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agriculture Smart Trade Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) **FREE TRADE AGREEMENT.**—The term "free trade agreement" means a trade agreement entered into with a foreign country that provides for—

(A) the reduction or elimination of duties, import restrictions, or other barriers to or distortions of trade between the United States and the foreign country; or

(B) the prohibition of or limitation on the imposition of such barriers or distortions.

(2) **INVASIVE AGRICULTURAL PESTS AND DISEASES.**—The term "invasive agricultural pests and diseases" means agricultural pests and diseases, as determined by the Secretary of Agriculture—

(A) that are not native to ecosystems in the United States; and

(B) the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

(3) **SANITARY AND PHYTOSANITARY MEASURES.**—The term "sanitary and phytosanitary measure" has the meaning given that term in the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization referred to in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3)).

SEC. 3. REQUIREMENT FOR REPORTS BEFORE INITIATING NEGOTIATIONS TO ENTER INTO FREE TRADE AGREEMENTS.

(a) **IN GENERAL.**—Not later than 90 days before the date on which the President initiates formal negotiations with a foreign country to enter into a free trade agreement with that country, the President shall submit to Congress a report on—

(1) invasive agricultural pests or diseases in that country; and

(2) sanitary or phytosanitary measures imposed by the government of that country on goods imported into that country.

(b) **CONTENTS OF REPORT.**—The report required under subsection (a) shall include the following:

(1) **INVASIVE AGRICULTURAL PESTS AND DISEASES.**—With respect to any invasive agricultural pests or diseases in the country with which the President intends to negotiate a free trade agreement—

(A) a list of all invasive agricultural pests and diseases in that country;

(B) a list of agricultural commodities produced in the United States that might be affected by the introduction of such pests or diseases into the United States; and

(C) a plan for preventing the introduction into the United States of such pests and diseases, including an estimate of—

(i) the number of additional inspectors, officials, and other personnel necessary to prevent such introduction and the ports of entry at which the additional inspectors, officials, and other personnel will be needed; and

(ii) the total cost of preventing such introduction.

(2) **SANITARY AND PHYTOSANITARY MEASURES.**—With respect to sanitary or phytosanitary measures imposed by the government of the country with which the President intends to negotiate a free trade agreement on goods imported into that country—

(A) a list of any such sanitary and phytosanitary measures that may affect the exportation of agricultural commodities from the United States to that country;

(B) an assessment of the status of any petitions filed by the United States with the government of that country requesting that that country allow the importation into that country of agricultural commodities produced in the United States;

(C) an estimate of the economic potential for the exportation of agricultural commodities produced in the United States to that country if the free trade agreement enters into force; and

(D) an assessment of the effect of sanitary and phytosanitary measures imposed or proposed to be imposed by the government of that country on the economic potential described in subparagraph (C).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 74—EXPRESSING THE SENSE OF THE SENATE ON THE IMPORTANCE OF STRENGTHENING BILATERAL RELATIONS IN GENERAL, AND INVESTMENT RELATIONS SPECIFICALLY, BETWEEN THE UNITED STATES AND BRAZIL

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

S. RES. 74

Whereas the United States and Brazil enjoy a longstanding economic partnership sustained by robust trade, investment, and energy cooperation;

Whereas investment in and by Brazil promotes economic growth, generates greater wealth and employment, strengthens the manufacturing and services sectors, and enhances research, technology, and productivity;

Whereas the United States is the largest direct investor abroad, with total world-wide investments of \$2,800,000,000,000 in 2007;

Whereas the United States has historically been the largest direct investor in Brazil, investing a total of \$41,600,000,000 in 2007;

Whereas the sound economic policy of the Government of Brazil was given an investment-grade rating by 2 of the 3 major investment rating agencies in 2008;

Whereas the United States is the largest recipient of direct investment in the world, with total foreign direct investments of \$2,100,000,000,000 in 2007;

Whereas the United States receives direct investment from Brazil, including a total of \$1,400,000,000 in 2007;

Whereas Brazil is the only country with a gross national product of more than \$1,000,000,000,000 with which the United States does not have a bilateral tax treaty;

Whereas Brazil is the 4th largest investor in United States Treasury securities, which are important to the health of the United States economy;

Whereas Brazil ranked 3rd among other countries in the number of corporations listed on the New York Stock Exchange in 2008, with 31 corporations listed;

Whereas a bilateral tax treaty between the United States and Brazil would enhance the partnerships between investors in the United States and Brazil and benefit small and medium-sized enterprises in both the United States and Brazil;

Whereas a bilateral tax treaty between Brazil and the United States would promote a greater flow of investment between Brazil and the United States by creating the certainty that comes with a commitment to reduce taxation and eliminate double taxation;

Whereas the Brazil-U.S. Business Council and the U.S.-Brazil CEO Forum have worked to advance a bilateral tax treaty between the United States and Brazil;

Whereas the Senate intends to closely monitor the progress on treaty negotiations and hold a periodic dialogue with officers of the Department of the Treasury; and

Whereas the United States and Brazil will greatly benefit from deeper political and economic ties: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States Government and the Government of Brazil should continue to develop their partnership; and

(2) the Secretary of the Treasury should pursue negotiations with officials of the Government of Brazil for a bilateral tax treaty that—

(A) is consistent with the existing tax treaty practices of the United States Government; and

(B) reflects modern, internationally recognized tax policy principles.

SENATE RESOLUTION 75—COMMEMORATING THE 150TH ANNIVERSARY OF THE FOUNDING OF THE PHILADELPHIA ZOO: AMERICA'S FIRST ZOO

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

S. RES. 75

Whereas Dr. William Camac, a legendary Philadelphia physician, led a concerned community of citizens, educators, and scientists to charter the Zoological Society of Philadelphia—America's First Zoo—on March 21, 1859, housed on a bucolic, 44-acre property in Fairmount Park along the West Bank of the Schuylkill River;

Whereas the Philadelphia Zoo has emerged over the past century as a national and global treasure and as one of Philadelphia's most cherished, enduring, and significant educational, scientific, and conservation institutions and cultural attractions;

Whereas the Philadelphia Zoo was the site for breakthrough research that led to the award of the 1976 Nobel Prize for Medicine;

Whereas since its inception, the Philadelphia Zoo, through its myriad research and curatorial activities, has consistently and successfully protected, promoted, and preserved numerous rare and endangered wild-life species around the world;

Whereas since its landmark gates opened to the general public, the Philadelphia Zoo has welcomed more than 100,000,000 visitors, including millions of school children from the greater Philadelphia community over generations; and

Whereas the Philadelphia Zoo's sesquicentennial on March 21, 2009 is an achievement of historic proportions for Philadelphia, the Commonwealth of Pennsylvania, the United States, and the world conservation community: Now, therefore, be it

Resolved, That the Senate recognizes the 150th anniversary of the founding of the Philadelphia Zoo on March 21, 2009.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting has been scheduled before Committee on Energy and Natural Resources. The business meeting will be held on Wednesday, March 18, 2009, at 9:30 a.m. immediately following the beginning of the Full Committee Hearing, in room SD-366 of the Dirksen Senate Office Building.

The purpose of the Business Meeting is to consider the nomination of David J. Hayes, to be Deputy Secretary of the Interior.

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public

that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, March 19, 2009, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the Appliance Standards Improvement Act of 2009.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by e-mail to Rosemarie_Calabro@energy.senate.gov.

For further information, please contact Allen Stayman at (202) 224-7865 or Rosemarie Calabro at (202) 224-5039.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 12, 2009 at 10 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, March 12, 2009, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Session on Thursday, March 12, 2009, in room S-216.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Thursday, March 12, 2009, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Thursday, March 12, 2009, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

sources be authorized to meet during the session of the Senate to conduct a hearing on Thursday, March 12, 2009, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, March 12, 2009, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, March 12, 2009 at 9:30 a.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Thursday, March 12, 2009, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 12, 2009. The Committee will meet in room 106 of the Dirksen Senate Office Building beginning at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 12, 2009 at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. SPECTER. Mr. President, I ask unanimous consent that Ronald Rowe, a detailee with Senator HATCH, be granted the privilege of the floor for the remainder of the day.

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

Mr. HATCH. Mr. President, I ask unanimous consent that Ronald Rowe, a Secret Service detailee in my office, be granted floor privileges for the remainder of the first session of the 111th Congress.

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

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

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

AMENDING THE OMNIBUS INDIAN ADVANCEMENT ACT

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of S. 338 and that the Senate proceed to its immediate consideration.

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

The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (S. 338) to amend the Omnibus Indian Advancement Act to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust and to provide for the conduct of certain activities on the land.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The bill (S. 338) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LYTTON RANCHERIA OF CALIFORNIA.

Section 819 of the Omnibus Indian Advancement Act (Public Law 106-568; 114 Stat. 2919) is amended—

(1) in the first sentence, by striking “Notwithstanding” and inserting the following:

“(a) ACCEPTANCE OF LAND.—Notwithstanding”;

(2) in the second sentence, by striking “The Secretary” and inserting the following:

“(b) DECLARATION.—The Secretary”; and

(3) by striking the third sentence and inserting the following:

“(c) TREATMENT OF LAND FOR PURPOSES OF CLASS II GAMING.—

“(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the Lytton Rancheria of California may conduct activities for class II gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land taken into trust under this section.

“(2) REQUIREMENT.—The Lytton Rancheria of California shall not expand the exterior physical measurements of any facility on the Lytton Rancheria in use for class II gaming activities on the date of enactment of this paragraph.

“(d) TREATMENT OF LAND FOR PURPOSES OF CLASS III GAMING.—Notwithstanding subsection (a), for purposes of class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the land taken into trust under this section shall be treated, for purposes of section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 2719), as if the land was acquired on October 9, 2003, the date on which the Secretary took the land into trust.”.

REPEAL OF THE BENNETT FREEZE

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of S. 39 and that the Senate proceed to its immediate consideration.

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

The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (S. 39) to repeal section 10(f) of Public Law 93-531, commonly known as the Bennett Freeze.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

The bill (S. 39) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 39

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF THE BENNETT FREEZE.

Section 10(f) of Public Law 93-531 (25 U.S.C. 640d-9(f)) is repealed.

COMMEMORATING 10-YEAR ANNIVERSARY OF CZECH REPUBLIC, REPUBLIC OF HUNGARY, AND REPUBLIC OF POLAND AS MEMBERS OF NATO

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 60, and that the Senate proceed to its immediate consideration.

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

The clerk will report the title of the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 60) commemorating the 10-year anniversary of the accession of the Czech Republic, the Republic of Hungary, and the Republic of Poland as members of the North Atlantic Treaty Organization.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 60) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 60

Whereas, on March 12, 1999, the Czech Republic, the Republic of Hungary, and the Re-

public of Poland formally joined the North Atlantic Treaty Organization (NATO);

Whereas, in March 2009, NATO will celebrate the 10-year anniversary of the accession of the Czech Republic, Hungary, and Poland as members of the alliance;

Whereas representatives of the governments of the Czech Republic, Hungary, and Poland will be in attendance as NATO celebrates its 60th anniversary at a summit to be held on April 4, 2009, in Germany and France;

Whereas the security of the United States and its NATO allies have been enhanced by the integration of the Czech Republic, Hungary, and Poland into the NATO alliance;

Whereas the Czech Republic, Hungary, and Poland have been integral to the NATO mission of promoting a Europe that is whole, undivided, free, and at peace;

Whereas the membership of the Czech Republic, Hungary, and Poland has strengthened the ability of NATO to perform a full range of missions throughout the world;

Whereas the Czech Republic, Hungary, and Poland continue to provide crucial support and participation in the NATO International Security Assistance Force in Afghanistan, as NATO struggles to help the people of Afghanistan create the conditions necessary for security and successful development and reconstruction;

Whereas the Czech Republic, Hungary, and Poland helped support NATO efforts to stabilize and secure the Balkans region by contributing to the NATO-led Kosovo Force;

Whereas the Czech Republic, Hungary, Poland, and all NATO members share a strong mutual commitment to defense, regional security, development, and human rights, throughout Europe and beyond; and

Whereas the Czech Republic, Hungary, and Poland have done much to help NATO meet the global challenges of the 21st century, including the threat of terrorism, the spread of weapons of mass destruction, instability caused by failed states, and threats to global energy security: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the 10th anniversary of the accession of the Czech Republic, the Republic of Hungary, and the Republic of Poland as members of the North Atlantic Treaty Organization (NATO);

(2) congratulates the people of the Czech Republic, Hungary, and Poland on their accomplishments as members of free democracies and partners in European stability and security;

(3) expresses appreciation for the continuing and close partnership between the United States Government and the Governments of the Czech Republic, Hungary, and Poland; and

(4) urges the United States Government to continue to seek new ways to deepen and expand its important relationships with the Governments of the Czech Republic, Hungary, and Poland.

COMMEMORATING THE FOUNDING OF THE PHILADELPHIA ZOO

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 75, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 75) commemorating the 150th anniversary of the founding of the Philadelphia Zoo: America's first zoo.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 75) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 75

Whereas Dr. William Camac, a legendary Philadelphia physician, led a concerned community of citizens, educators, and scientists to charter the Zoological Society of Philadelphia—America's First Zoo—on March 21, 1859, housed on a bucolic, 44-acre property in Fairmount Park along the West Bank of the Schuylkill River;

Whereas the Philadelphia Zoo has emerged over the past century as a national and global treasure and as one of Philadelphia's most cherished, enduring, and significant educational, scientific, and conservation institutions and cultural attractions;

Whereas the Philadelphia Zoo was the site for breakthrough research that led to the award of the 1976 Nobel Prize for Medicine;

Whereas since its inception, the Philadelphia Zoo, through its myriad research and curatorial activities, has consistently and successfully protected, promoted, and preserved numerous rare and endangered wildlife species around the world;

Whereas since its landmark gates opened to the general public, the Philadelphia Zoo has welcomed more than 100,000,000 visitors, including millions of school children from the greater Philadelphia community over generations; and

Whereas the Philadelphia Zoo's sesquicentennial on March 21, 2009 is an achievement of historic proportions for Philadelphia, the Commonwealth of Pennsylvania, the United States, and the world conservation community: Now, therefore, be it

Resolved, That the Senate recognizes the 150th anniversary of the founding of the Philadelphia Zoo on March 21, 2009.

GREATER WASHINGTON SOAP BOX DERBY RACES

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of H. Con. Res. 37, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 37) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

There being no objection, the Senate proceeded to consideration of the concurrent resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 37) was agreed to.

The preamble was agreed to.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to provisions of Public Law 106-79, appoints the following Senator to the Dwight D. Eisenhower Memorial Commission: The Senator from Utah, Mr. BENNETT.

The Chair, on behalf of the majority leader, pursuant to the provisions of Public Law 99-93, as amended by Public Law 99-151, appoints the following Senators as members of the United States Senate Caucus on International Narcotics Control: the Honorable CHARLES E. SCHUMER, of New York, and the Honorable SHELDON WHITEHOUSE, of Rhode Island.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that I be allowed to speak for up to 30 minutes.

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

ENTITLEMENT AND TAX CODE REFORM

Mr. VOINOVICH. Mr. President, I rise today to call attention to what I refer to as the irresponsible and reckless fiscal path we find ourselves on as a nation and to urge my colleagues to act now to take the first step toward meaningful, comprehensive tax and entitlement reform.

On Tuesday night, we gathered here to cast our votes on the Omnibus Appropriations Act of 2009. I could not vote for this bill because it ignores the fiscal realities we find ourselves in today. This omnibus bill, which includes \$408 billion in nonemergency spending, is 8 percent larger than it should be. Some agencies in the bill are set to get a 40-percent increase in funding. From my experience as a former Governor of Ohio and the mayor of the city of Cleveland, I do not believe those agencies have the capacity to spend that kind of money. This adds to the \$787 billion stimulus bill that was passed last month. It increases the already staggering \$10.9 trillion national debt and continues to expand the size of the Government at what has become an alarming rate.

As you can see from this chart, Federal spending as a percentage of GDP averaged just under 20 percent under President Bush. This year, under President Obama, it will reach almost 28 percent, and his administration projects that it will average out to over 23 percent across two terms. In other words, I came to the Senate in 1999, and this is what we were spending, totally, on Medicare, Medicaid, all the other appropriations. Then, as you see, it started to go up. We have to be honest, that is where we started to borrow money because we were not taking in enough money to pay for it, so we started to have deficits. Then, under Bush, it started to go up some more.

Here we are in 2009. You can see that the size of the Government is up to 27.7

percent. That is what we are spending on everything. We have gone from 8 percent to 27.7 percent. That is going to start to slide down. In 2012, the President says to us, don't worry, we are going to reduce the deficit spending by 50 percent. Look at this, it continues to spend out at this point, and by 2016—I have not shown it on the chart, but it just keeps going. We just cannot keep going that way. That is over half a trillion dollars a year we are borrowing to run the Government.

To complete what I call the triple whammy to our national debt, the administration adds to the stimulus and omnibus a new 10-year budget where the lowest deficit for a single year is larger than any annual deficit from the end of World War II.

In fact, President Obama's smallest deficit is larger than President Bush's largest deficit. And that is true despite proposing the largest tax increase in American history, including a new energy tax that will expose the false claim that we will not raise taxes on the middle class. This \$646 billion tax increases will affect rich, poor and middle class alike. Yet future generations will still be burdened with higher debt. So we have gone from—and I am not proud of some Republican years, what we did. As I used to say, the Democrats tax and spend; the Republicans spent and borrowed. Now we have gone to spend, borrow, and tax.

In spite of all of that, we are going to have these gigantic deficits as far as we can see in this country. Simply put, our spending is out of control. We are spending and funding more money at a time when we should be finding ways to work harder and smarter and do more with less. I know a little bit about this, because I took over Cleveland, the first city to go into default in the depression of 1979. We were in deep trouble. I took over the State of Ohio. We were \$1.5 billion in debt at that time. We had to cut the budget four times, and ultimately had to increase taxes in the margin. I know what this is about.

But nobody is talking about “working harder and smarter” or “doing more with less.” If you look at the stimulus, we spent \$787 billion, and now some congressional leaders are talking about putting together a second package. I cannot believe it. We cannot continue down this path.

It is our responsibility to make budgeting decisions based on our Nation's fiscal situation and to take into consideration the impact it is having on others but, more importantly, on our children and grandchildren. Over the past year, we have been hit by an economic avalanche that started in housing, quickly spread to the financial and credit markets, then continued onward to every corner of the economy and across the world.

We have taken steps over the past months to dig out of the avalanche. But we have not reinforced our tax and entitlement system's crumbling foundation. In other words,—I have been

talking about this for 8 years—we need to have tax reform and entitlement reform. Now all of this other stuff has hit us, but the fact of the matter is, that is still there. We need tax reform. We need entitlement reform. And that is why, despite the enormity of the legislation passed over the past month, there is still a sense of great anxiety on Main Street and my street. I still live in the house that Janet and I bought in 1972. I am with real people every day. They are very concerned about the future. They get it.

The stimulus and omnibus has caused everyone who paid attention to say: My God, we have to do something to get back on firm fiscal footing. They know that unless we fix our tax and entitlement system we might as well be flying a kamikaze plane.

When I arrived in the Senate in 1999, gross Federal debt stood at \$5.6 trillion or 16 percent of GDP. The Obama administration recently projected the national debt to more than double, to \$12.7 trillion by the end of fiscal year 2009. That would amount to a 126-percent increase compared with only a 56-percent increase in the gross domestic product during the same 10-year period.

From 2008 to 2009 alone, the Federal debt would increase 27 percent, boosting the country's debt-to-income ratio or national debt as a percentage of our gross domestic product from 74 percent last year to 89 percent this year.

The Pacman. Here it was in 1999. Federal debt. And it is up to 70. We are now up to 89 percent. I think there are still some people who understand Pacman. When I was Governor of Ohio, I used to say that Medicaid—I am sure the Presiding Officer understands that Medicaid is the Pacman that kept eating up the budgets in your State.

Under the Obama budget, though, at 2017, for the first time since 1947 when we were paying down our World War II debt, the national debt will be larger than the size of the entire American economy.

At that point, we will be too fat and out of shape to escape from our creditors around the world. That is what it is going to look like. In 2017, it is more than 100 percent of our gross domestic product. Think of that. Today, if we are candid with the American people, when you consider the TARP, the stimulus package, and the money we continuously borrow from the Social Security trust fund, we are facing a projected budget deficit of \$1.9 trillion, which is more than four times the reported 2008 deficit of \$455 billion as a share of the economy.

The 2009 deficit will become the largest recorded deficit since World War II. Last June when I spoke here on the floor of this fiscal crisis, I pointed out that our national debt was \$9.4 trillion, and the per capita debt, each American's share of the national debt was \$31,000, up from \$20,000 in 1999.

This year, that figure will reach \$41,000. Let's put that into perspective. In 2009, according to the Bureau of

Labor Statistics, the median income for an Ohio family in 2007 for one earner was \$40,000. That means each person's share of the national debt is more than many hard-working Ohioans make in an entire year.

Alarming, these figures did not even count our accumulated long-term financial obligations: Medicare, Medicaid, Social Security, which grew \$2.5 trillion last year as a result of the increases in the costs of Medicare and Social Security benefits.

The baby boomers are here. They are coming on. If we include those numbers, taxpayers are on the hook for a record \$57 trillion in Federal liabilities to cover the lifetime benefits of everyone eligible for Medicare, Social Security, and other Government programs. That is nearly \$500,000 per household.

Now, it does not take an economist to realize that of course we cannot keep going. As our former Comptroller General and head of the Government Accountability Office said, we are facing a fiscal timebomb. We must come to terms with the fact that the U.S. Government is the worst credit card abuser in the world, and it is time that we came to terms with the fiscal realities of 2009.

We cannot continue to heap debt on the backs of our children and grandchildren without a second thought. Lip service from Congress and the administration is not going to get the job done. Recently, the Office of Management and Budget Director, Peter Orszag, spoke to a group of bipartisan Senators who have breakfast regularly to talk about some of the problems.

He pointed out that as we are confronted with the economic tsunami hitting our country, we are lucky our interest rates are very low, because many investors in America and around the world are parking their money in Treasury bills.

Mr. Orszag continued on to say, we cannot expect that rate of borrowing to last, and it is imperative we take advantage of this phenomena now before foreign markets and our people demand more interest for their investment in the U.S. debt.

I could not agree more. We cannot rely on luck and foreign investors. When I met with Larry Summers, Martin Feldstein, and Larry Lindsay, they say our current fiscal path is only sustainable—listen to this—as long as the Japanese, the Chinese, and the OPEC and others have confidence that we are going to pay back our debt. And, boy, are they watching whether we are going to do anything about tax reform and entitlement reform.

Now, this has serious implications. Foreign creditors have provided more than 70 percent of the funds that the United States has borrowed since 2001—70 percent.

Today 50 percent, 51 percent of the privately owned national debt is held by foreigners. That is up from 37 percent just 6 years ago. If these foreign investors lose confidence and pull out

of U.S. Treasuries, Katey bar the door. Borrowing hundreds of billions of dollars from China and OPEC nations not only puts our economy but our national security at risk. We have to make sure other countries do not control our debt.

One of the things I pointed out—and the Presiding Officer understands this—is that we have to become more oil independent. We have a situation today where somebody else controls the supply, the cost, and they are buying our debt. If I control the supply and the cost and then I am paying for your debt, I put you out of business. That is just a fact of life. We have to wake up to the fact that we cannot rely on these other countries to take care of this debt. We cannot continue to live in the United States of denial.

In 2006, I sent a letter to President Bush urging him to take on comprehensive tax and entitlement reform. I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. SENATE,

Washington, DC, December 4, 2006.

The PRESIDENT,
The White House,
Washington, DC.

DEAR PRESIDENT BUSH: I am respectfully writing to encourage you to take the lead on pursuing fundamental tax reform as we begin the 110th Congress in January. You have an historic opportunity, through fundamental tax reform, to transform the U.S. economy in a manner that will make our nation stronger and more prosperous for generations. In so doing, you will cement your domestic policy legacy, I urge you to carry the banner of tax reform.

In 1984, President Ronald Reagan declared to the American people that the tax code was fundamentally unfair, and that he was going to reform it. President Reagan held his belief in the unjustness of the tax code deep in his heart. He knew that hundreds of targeted tax subsidies for the benefit of powerful interests forced average Americans to pay higher marginal rates and reduced economic growth. He saw tax reform not as a retreat from his 1981 tax relief agenda, but rather as a logical continuation and enhancement of that agenda. The Tax Reform Act of 1986 was the culmination of the quest he began in 1981, to create a tax code with low marginal rates that raised the necessary revenue to fund the government with the least possible interference in our free market economy.

Likewise, fundamental tax reform that makes the tax code simple, fair, and pro-growth could serve as the third and final phase of the project you began in 2001 and continued in 2003. You do not have to choose between making the 2001 and 2003 tax relief permanent and reforming the tax code. The latter idea is a complement to, not a competitor with, the former idea. We live in a 21st century global economy, but we suffer from a tax code designed for the 20th century. Small businesses—the engines of job creation—are overwhelmed by complexity. In many cases, neighborhood businesses are forced to comply with the same convoluted rules as multinational corporations. Our international tax rules were designed in an era when the United States accounted for 50 percent of global economic output, and we had no worries about other countries competing with us for jobs and capital. Now we

live in the most competitive global economy we have known. We have redesigned social programs as targeted tax breaks with complex eligibility criteria and restrictions, completely baffling ordinary families who cannot obtain the benefits of these provisions because they are too complicated to understand.

Mr. President, you and I have been advocates for tax reform for years. In 2003, I attached an amendment to the Jobs and Growth Tax Relief Reconciliation Act that would have created a blue ribbon commission to study fundamental tax reform. The amendment was adopted by voice vote, but later was removed in conference committee. At the 2004 Republican National Convention, you announced that fundamental tax reform would become a top domestic priority. I remember sitting in the front of the audience with the Ohio delegation when you made the announcement, and I leapt to my feet to applaud you. A couple of days later while campaigning in Ohio, you told the audience that when I rose to applaud you, you thought I was going to jump up on stage and hug you.

It seemed that the tax reform bandwagon finally had started to roll. In the autumn of 2004, I offered my tax reform commission amendment again, this time to the American Jobs Creation Act. The Senate again adopted my amendment. During conference negotiations, the White House contacted me and requested that I withdraw my amendment because you were preparing to take a leadership role by appointing your own tax reform panel. I enthusiastically agreed to defer to your leadership, and I withdrew my amendment. In January 2005, you announced the creation of an all-star panel, led by former Senators Connie Mack and John Breaux, and that panel spent most of the year engaging the American public to develop proposals to make our tax code simpler, fairer, and more conducive to economic growth. In November 2005, the panel issued its final report. While not perfect in anyone's mind, the panel's two plans provided a starting point for developing tax reform legislation that would represent a huge improvement over the current system. The panel's proposals belong as a key part of the national discussion on fundamental tax reform.

Yet, momentum for tax reform seems to have slowed in the more than one year since the panel submitted its report to the Treasury Department. Initially, you indicated that upon receipt of the panel's report, the Treasury Department would analyze the proposals and then provide you with its own recommendations. These recommendations would serve as the basis for legislative action. In the meantime, however, your administration and the Congress have faced other immediate priorities—from Social Security solvency to the global war on terror to relief for victims of Hurricane Katrina. As a result, we missed an opportunity to address fundamental tax reform during the 109th Congress. And now, time is running short. Your 2007 State of the Union address provides an excellent opportunity to take up a cause that will lead you to being remembered as the president who made the tax code simple, fair, and pro-growth.

I have discussed fundamental tax reform with OMB Director Rob Portman, Secretary Hank Paulson, and Chief of Staff Josh Bolten. Mr. President you have a great team that, working with you and Congress, can get the job done. I also sense responsiveness in Congress for tax reform. Congressman Frank Wolf and I have introduced the SAFE Commission Act, which would require consideration of tax reform and entitlement reform, in the House and Senate. Senator Bob Bennett has been putting together a Senate working group on tax reform (in which I am

actively participating), and other senators have expressed interest in working with us. For example, Senator Ron Wyden, who has introduced his own tax reform legislation, has shown tremendous enthusiasm for organizing a bipartisan Senate effort on tax reform.

The American people are ready for tax reform. Unlike Social Security, no one defends the current tax code. Without your leadership, however, the incoming congressional majority likely will propose their own version of "reform"—but you and I both know it will not be true reform. They will provide new middle class tax breaks and pay for them by raising marginal tax rates on high-income taxpayers and businesses. They will challenge congressional Republicans to vote against these class warfare proposals and they will challenge you to veto them. Raising marginal tax rates on an already-broken tax system will only serve to reduce U.S. competitiveness in the global economy, and ultimately will prove self-defeating. Instead, Republicans and Democrats must work together to reform the tax code in a manner that will raise sufficient revenues to fund important national priorities, while providing an environment conducive to innovation, entrepreneurship, and economic growth.

The time to act is now. Twenty years after Ronald Reagan reformed the tax code, he still is remembered fondly as the leader who set the stage for years of prosperity at the end of the 20th century. Working on a bipartisan basis, you have an opportunity to accomplish a similar achievement for the 21st century—a lasting legacy for your fellow Americans. I urge you not to pass up this once-in-a-lifetime chance, and if you take up the challenge, I will be your faithful ally.

Sincerely,

GEORGE V. VOINOVICH,
United States Senator.

Mr. VOINOVICH. Sadly, no action was taken. We missed a gigantic opportunity to make meaningful reform while times were relatively good. We are more or less lucking out now, but we cannot count on that luck to last forever. We have to tackle tax and entitlement reform to maintain credibility, to turn around our economy, and to regain our global respectability—not a year from now, not 2 years from now, but now, now, now.

Our Tax Code, for example, is imploding from the hundreds of economic and social policies Congress pursues through tax incentives and dozens of temporary tax provisions. It is a nightmare. Just ask the millions of Americans right now who are filing their tax returns. I have said this on the floor before: When we got our tax return back last year, my wife and I looked at it. My wife said: Do you understand it?

I said: No, I don't understand it.

I said: Why don't we call our accountant; maybe he will explain it.

She said: Don't you dare. He will charge us \$500.

It is out of control. For anybody who understands what is going on, it is a nightmare.

Tinkering with the Tax Code won't work. The argument I made to President Bush several times was that we know the reduction in marginal rates is going to evaporate. We know the capital gains reduction is going to evaporate in 2010. We know the reduc-

tion in taxes on dividends is going to evaporate in 2010. Why don't we take this opportunity to look at tax reform and look at those things that are going to encourage people to save and keep the economy going?

Frankly, those three things might be wonderful in that regard. But you can't have it unless you make it up with some other taxes that are the least hurtful to savings and the economy.

Since the last major tax reform in 1986, we have added over 15,000 new provisions in the Internal Revenue Code. Last year alone, we passed 500 changes in the Tax Code. It is no wonder why only 13 percent of Americans file their taxes without the help of either a tax preparer or computer software. Clearly, we have waited too long to act. This is not just a matter of saving taxpayers' time and effort, it is also about saving real money.

The Tax Foundation calculates conservatively that we all spend about \$265 billion a year to keep track of our records and pay people to pay our taxes. If we could streamline it and make it simple and understandable, if we could only cut that in half, that would be a gigantic tax reduction for the American people and not cost us one dime.

We must enact fundamental tax reform to help make the Tax Code simpler, fairer, transparent, and economically efficient.

Thankfully, there have been some encouraging signs of new developments. Earlier this month, I attended a bipartisan press conference along with Senator CONRAD, Representatives COOPER and WOLF, and former U.S. Comptroller General Walker who now heads up the Peter G. Peterson Foundation. David Walker and the rest of us urged Congress to take action to restore fiscal discipline. In other words, we all said: This has to be done. We agreed it is time to begin to enact the first pillar of meaningful comprehensive tax and entitlement reform. That is why I am disappointed that President Obama did not mention a vehicle to enact tax and entitlement reform in his address to Congress, just as I was very disappointed that the Bush administration never once mentioned reducing our national debt after 2001.

I am a Republican. He was a Republican President. Our President never, ever mentioned the national debt all the time he was President. It was like it didn't exist. Yet the debt kept going up, up, up, and up. I have been calling for the creation of a commission to facilitate tax and entitlement reform for some time. In fact, back in 2006, I introduced the Securing America's Future Economy or SAFE Commission Act, which I reintroduced in the Senate in the 109th and 110th Congresses.

Congressman JIM COOPER of Tennessee and Congressman FRANK Wolf of Virginia introduced a version in the House that enlisted 93 cosponsors from both parties. This bipartisan, bicameral group had the support from

corporate executives, religious leaders, and think tanks across the political spectrum—the conservative Heritage Foundation and the liberal Brookings Institute. All of these people realize where we are.

Building on the SAFE Commission, two of my colleagues, the Budget Committee chairman from North Dakota, Senator CONRAD, and ranking member from New Hampshire, Senator GREGG, introduced a bipartisan bill that would create a tax and entitlement reform task force very similar to the SAFE Commission called the Bipartisan Task Force for Responsible Fiscal Action. I signed on as 1 of 19 cosponsors. We will never, ever take the necessary steps toward fiscal responsibility unless we create this BRAC-like, bipartisan commission.

The commission would take on the tough issues of Social Security, health care, and tax reform, and create recommendations that would be fast-tracked through a special process and brought to the floor of both Chambers for a vote. In other words, to do it the traditional way we do things around here it will never, ever get done. If you think we would have been able to close airbases and other bases around the country by doing it through legislation without the BRAC process, you are not in the real world.

If we really want to tackle this stuff, we have to get a group together. We have to work on it and come up with a compromise. If three quarters agree, it is the thing to do. We put it through an expedited procedure. The Senate gets it; the House gets it. They have to vote up or down.

It is important that that happen because it will have legislators on it. I know if somebody asked you to spend a year and a half of your life putting something together and then said: Well, once it is done, it will go through the regular procedure, you would say: Goodbye. I don't have time for that.

But if you knew you put the time in and that if you had three quarters who agreed on it and the thing was going to get some action, then you would have some incentive to say: I will stay at the table, work on this, and we will get the job done.

The workload would be heavy, and the commission could certainly benefit by taking a look at previous work that has been done to study these issues by foundations and others. It also could start by considering some of the previous proposals that have been introduced by some of our former colleagues, Senators Mack and Breaux, cochairs of the commission created by the Bush administration to reform our Tax Code.

I worked like the dickens to say: Let's have this commission to study the Tax Code. I will never forget talking to Karl Rove.

I said: I want it to be legislated. That is the way we had it in the appropriations bill.

He said: No, we will do it with something else. We will put Breaux and

Mack in charge. I think he said at that time he was afraid that PELOSI and STENY HOYER might kill it in the beginning.

I said: If they are going to kill it in the beginning, let's find out. He said: No, we want the other direction. So Connie Mack and John Breaux worked their tails off for over a year. They came back with a very good report. It wasn't perfect, but I expected President Bush to take that and tweak it and send it over here.

I will never forget the story John Breaux told me. He went to visit with President Bush. He walked in the Oval Office and he started looking around. The President said to him: John, what are you doing?

And he said: Mr. President, I am looking for the report that we did.

On the shelf, gathering dust.

That is why I was pleased to hear President Obama mention the national debt in his address to Congress. But I was disappointed that when he mentioned the "crushing cost" we face and the reform we can no longer afford to put on hold, he only talked about health care. Although health care costs are a big part of our entitlement problem, addressing health care reform alone will not get the job done.

It is not the time for dodging and ducking. This is the time for the cold hard truth. Everyone knows we need tax and entitlement reform. I know it, the Obama administration knows it, and the American people know it. And I know for sure Peter Orszag does because a couple years ago, he was as enthusiastic about dealing with this problem as anybody in this country.

The American people elected President Obama to make the tough decisions to put this country back on the right track. As President Obama said himself so eloquently:

We must take responsibility for our future, and for posterity.

I love that. I love that part of his speech. I thought it was just great. He cares about me. He cares about my children. He cares about my grandchildren. "We must take responsibility for our future, and for posterity." Sadly, so far he is missing in action on tax and entitlement reform. In fact, in a February 27 column in the Washington Post, Michael Gerson called the President's stance on tax and entitlement reform in his joint address to Congress "timid" and "hardly courageous."

Now, in fairness to our President, he and his administration have been busy putting out fires. This President has more on his plate than maybe any President we have ever had, maybe since Franklin Delano Roosevelt. But if he ignores comprehensive tax and entitlement reform, we could see an economic holocaust.

That is why I would suggest to my fellow colleagues who have voiced similar calls for reform that we should gather our staffs, on a bipartisan and bicameral basis, to agree on the lan-

guage of a vehicle commission that can get the job done—in other words, getting Republicans and Democrats, House and Senate, to get the language of what this commission should look like. We will work on that. If the administration does not like our proposals, then they would be free to weigh in with their own ideas. But doing nothing simply is not an option. I have talked to Senator GREGG about this, Senator CONRAD. And I said it is our duty to position this Nation so we have the greatest opportunity for success for the future.

I am saying, if the President does not want to do this, let's us get together and help him. OK. Let's get together. Let's help him and then say: Here, Mr. President, here is something agreed to on a bipartisan basis. We would like to go with it. If you have a better idea on how to get it done, amen and hallelujah, but we have to get going.

Each and every one of us should be able to look into the eyes of our children and grandchildren and know in our hearts we have done all we can to make sure that at least they have the same opportunity we have had for our standard of living and quality of life.

If I had to name one of the primary contributing factors to our worsening economic situation, it would have to be the loss of faith we seem to have experienced in ourselves. In many ways, today America is mired in a crisis of confidence.

I do not share the despair many experts hold concerning the future of our country. When I first became mayor of Cleveland in 1979, the city was in default on its bonds. Unemployment for the first couple of years continued to grow to more than 18 percent. Think of that: 18 percent. Cynics at the time joked, saying: Will the last person leaving Cleveland turn out the lights.

We decided that no one was going to come to Cleveland and solve our problems for us. We had the courage to be more self-reliant and make tough decisions. Through the public-private partnerships we created, we were able to unite everyone behind common goals. We empowered the community, and it worked. In fact, at that time, Cleveland was known as the "comeback city."

I say to the Presiding Officer, I know you could identify with this. Cleveland was named an All America City three times in a 5-year period. It never happened before, and I suspect it will never happen again. It was that public-private partnership, everybody coming together. Our motto was: Together we can do it.

Similarly, when I became Governor of Ohio in 1991, we faced a \$1½ billion budget shortfall, and we were a no-growth State. We made some tough decisions. As I mentioned earlier, I had to cut the budget four times and raise taxes. But, as a result, we were able to turn the tide, create 540,000 new jobs—in fact, manufacturing grew for the first time in 25 years—and the State's

rainy-day fund grew from 14 cents to over \$1 billion. And we put \$200 million aside to take care of any Medicaid problem we would have.

Mr. President, I know we can turn things around again. We really can. But we need to stop the spending spree and start making tough decisions on this tax and entitlement reform. Why don't we work together to get America back on track? Let's work together to systematically deal with each of the problems, challenges, and opportunities we have in America, so we are filled with the same hope and optimism of Ronald Reagan. I got to know Ronald Reagan. He was quite a guy, quite a President. He always had a positive attitude, and he said:

I know that for America, there will always be a bright dawn ahead.

Mr. President, the glass is not half empty, the glass is half full. If all of us work together, we can turn this thing around.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

REVOLUTIONARY WAR AND WAR OF 1812 BATTLEFIELD PROTECTION ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 27, H.R. 146.

The PRESIDING OFFICER. The motion is debatable.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been filed pursuant

to rule XXII, the clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 27, H.R. 146, the Revolutionary War and War of 1812 Battlefield Protection Act.

Harry Reid, Patty Murray, Benjamin L. Cardin, Kay R. Hagan, Byron L. Dorgan, Richard Durbin, Carl Levin, Jeanne Shaheen, John F. Kerry, Frank R. Lautenberg, Jeff Bingaman, Roland W. Burris, Robert Menendez, Amy Klobuchar, Jim Webb, Jack Reed, Bill Nelson.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture occur at 5:30 Monday, March 16; further, that if cloture is invoked, then the postcloture time count as if cloture had been invoked at 10 a.m. on Monday, March 16; and that during any recess or adjournment period, postcloture time continue to run.

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

ORDERS FOR MONDAY, MARCH 16, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. Monday, March 16; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that the Senate proceed to period of morning business until 3 p.m., with Senators permitted

to speak therein for up to 10 minutes each; that following morning business, the Senate resume consideration of the motion to proceed to H.R. 146, the legislative vehicle for the omnibus lands bill.

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

PROGRAM

Mr. REID. Mr. President, the next rollcall vote will occur on Monday at 5:30 p.m. This vote will be on the motion to invoke cloture on the motion to proceed to H.R. 146.

ADJOURNMENT UNTIL MONDAY, MARCH 16, 2009, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until Monday, March 16, 2009, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE INTERIOR

THOMAS L. STRICKLAND, OF COLORADO, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE, VICE R. LYLE LAVERTY.

DEPARTMENT OF DEFENSE

ALEXANDER VERSHBOW, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE MARY BETH LONG, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, March 12, 2009:

DEPARTMENT OF JUSTICE

DAVID W. OGDEN, OF VIRGINIA, TO BE DEPUTY ATTORNEY GENERAL.
THOMAS JOHN PERRELLI, OF VIRGINIA, TO BE ASSOCIATE ATTORNEY GENERAL.