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Senate

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

PRAYER

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

Today I will read George Washington's ''Prayer for the United States of America,'' exactly as it appears in the chapel at Valley Forge.

Almighty God: We make our earnest prayer that Thou wilt keep the United States in Thy holy protection; that Thou wilt incline the hearts of the citizens to cultivate a spirit of subordination and obedience to the government, and entertain a brotherly affection and love for one another and for their fellow citizens of the United States at large. And finally that Thou wilt most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of mind which were the characteristics of the Divine Author of our blessed religion, and without a humble imitation of whose example in these things, we can never hope to be a happy Nation. Grant our supplication, we beseech Thee, through Jesus Christ our Lord. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 27, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

ORDER OF BUSINESS

Mr. REID. Mr. President, following leader remarks, Senator SHAHEEN will be recognized to deliver Washington's Farewell Address. This is the 150th anniversary of that tradition, and we are very pleased that Senator SHAHEEN is going to do this. No one could be more exemplary of his service than she.

SCHEDULE

Mr. REID. Mr. President, following the address, the Senate will be in morning business until 4:30 p.m. today.

At 4:30 p.m., the Senate will proceed to executive session to consider the nomination of Margo Brodie to be United States District Judge for the Eastern District of New York. At 5:30 p.m., the Senate will vote on confirmation of the Brodie nomination.

I ask unanimous consent that following the vote and resumption of legislative session, the Senate be in a period of morning business for up to 1 hour, with the time equally divided and controlled between Senators PRYOR and ALEXANDER or their designees.

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

REMEMBERING SENATOR RAGGIO

Mr. REID. Mr. President, last week Nevada lost a great statesman and I lost a friend and mentor. William Raggio was the longest serving State senator in Nevada's history. He died last week while traveling in Australia. My heart is with his wife Dale, whom I spoke with, children Leslie and Tracy and, of course, my thoughts go to Mark, the son Bill lost in 2004, six grandchildren, and they have a great-grandchild.

I hope it is some small comfort to know that all of Nevada mourns the loss of this very effective and fine Nevada citizen.

He was a second-generation Nevadan born and raised in Reno, NV. Senator Randolph Townsend said, ''Bill was part of the fabric of the city.'' That is true. He lived to serve.

In addition to his four decades of service in the State legislature, he volunteered to serve in the Armed Forces during World War II. He enlisted in the Navy at age 17, but the war ended before he graduated from officer training school.

When he finished his service, he attended the University of Nevada, and then went to law school in California. But he continued to serve in the U.S. Marine Corps as a United States Navy Reservist.

He was the district attorney of Washoe County, which is the Reno metropolitan area, for 18 years, including 3 terms before he became a State legislator. He was president of the National DAs Association.

He rooted out corruption wherever he served. There was nothing more corrupt, in his mind, and the minds of all Nevadans, than an illegal brothel. That illegal brothel went on by virtue of Joe Conforte being able to pass out money to people for a long time. Bill Raggio, as DA, picked a fight with him, and that fight is legend. Bill got the last word. Conforte spent 22 months in prison for trying to bribe Bill Raggio. And in 1965, Bill Raggio, to get the last word, had the local authorities declare that facility a nuisance and burn it

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

down. He was there watching the fire as it destroyed that place.

It wasn't until 1972 that Bill brought his integrity and dedication to the State House as a member of the Nevada State Senate. So for 38 years, there wasn't a piece of legislation that passed the Nevada legislature that didn't have his imprint on it in some way. He worked to help pass thousands of different pieces of legislation. He was an expert in the process. Nobody knew how to craft a budget better than Bill Raggio.

He was a Republican who believed government should be ''lean but not mean.'' He was never afraid to work with Democratic members, even though he was Republican leader for several terms. Here is what he said recently: I think the present leadership of the Republican Party is a little too radical and has been taken over by what I think is a radical element.

He went on to say in an interview, after he decided to retire:

The party has to reshape itself, or it won't win general elections down the road.

That is Bill Raggio, speaking as we should all speak—not as a Republican but as a Nevadan and an American. So it is no surprise to see the outpouring of grief of Democrats and Republicans at his passing.

''No one has ever loved this state more or has had a more passionate desire to make things better for the people who live here,'' said Democratic Assembly Speaker John Ocegera.

If there was a Mount Rushmore of Nevada politics, Bill Raggio's image would forever be carved there. The Nevada family has lost a great patriarch.

That was what Republican Governor Brian Sandoval said.

Mr. President, I ask unanimous consent to have printed in the RECORD four pages of statements made by Nevada-elected and appointed officials, and citizens of Nevada about Bill Raggio.

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

[From the Las Vegas Sun]

REACTION TO DEATH OF FORMER STATE SEN. BILL RAGGIO

(Associated Press)

Reaction to the death of retired state Sen. BILL RAGGIO, R Reno, Nevada's longest-serving state senator:

If there was a Mount Rushmore of Nevada politics, Bill Raggio's image would forever be carved there. The Nevada family has lost a great patriarch; may God rest his soul as we remember all that he meant to our state.—Gov. Brian Sandoval, R Nevada.

I have known Bill for decades; he has been a mentor to me. He always fought for Nevada and his invaluable contributions and service to our state will live on. . . . His important voice will be missed.—U.S. Senate Majority Leader Harry Reid, D Nevada.

Clearly, he was one of the state's greatest and most accomplished public servants. He was also a helluva good guy who possessed a wonderful sense of humor. . . . (H)e had an exceptional legal mind and was a knowledgeable, courageous and fair-minded DA who helped root out organized crime in Northern Nevada.—Former U.S. Sen. Paul Laxalt, R Nevada.

Bill was a true public servant and his sole agenda was simply to make Nevada a better place. He has left an unmatched political footprint upon our state, and the citizens will reap the rewards of this gifted and decent gentleman for many years to come.—Lt. Gov. Brian Krolicki, R Nevada.

Sen. Raggio was an icon, a consummate statesman and one of the most knowledgeable and pragmatic legislators ever to serve the people of Nevada. His absence from the Legislature with his retirement was keenly felt. His passing on Thursday ends a chapter in Nevada history.—Nevada Supreme Court Chief Justice Nancy Saitta.

The passing of Bill Raggio is a tragic loss for Nevadans. For those of us in the law enforcement community, we fondly recall and continue to tell stories about Bill standing up to perpetrators to ensure a safe community. Bill will always be remembered for his impassioned service and dedication.—Nevada state Attorney General Catherine Cortez Masto.

Bill Raggio was the type of elected official I strive to become. In an era of intense partisanship, he upheld a statesman's voice of reason.—Nevada Secretary of State Ross Miller, via Twitter.

There are no words to describe his dedication to the state of Nevada and I wish to express my deepest condolences and prayers for his wife Dale, and his family. Bill was a true statesman who dedicated his life to making Nevada a better place to live. His legacy will be remembered for generations to come.—U.S. Sen. Dean Heller, R Nevada.

He was nothing short of a giant in Nevada politics and a fierce advocate for the state he loved, especially the north. His dedicated public service has improved the lives of thousands of Nevada families and his tireless work on higher education has left a permanent mark on this state.—Rep. Shelley Berkley, D Las Vegas.

Bill Raggio was the consummate statesman and a dedicated public servant. He was a mentor of mine and it was an honor to work under him in the state senate while he was Majority Leader. He will truly be missed.—U.S. Rep. Joe Heck, R Henderson.

This is the end of an era in Nevada. Bill was an icon of legislative public service and it was a privilege to serve with him in the state senate. My condolences go out to his wife Dale and his two daughters.—U.S. Rep. Mark Amodei, R Carson City.

Last year, I was honored to induct Senator Raggio into the Senate Hall of Fame for his unwavering commitment to our state. From his service as a District Attorney to becoming one of the longest serving legislators in Nevada history, Senator Raggio always put the people of Nevada first. . . . Nevada has truly lost one of its finest statesmen.—Nevada Senate Majority Leader Steven Horsford, D Las Vegas.

Senator Raggio epitomized the term ''public servant.'' . . . He was a tireless advocate for higher education, believing that it was the gateway to a better life for any Nevadan. With so many accomplishments and such universal respect, it's impossible to do justice and honor to the life of such a man.—Nevada Senate Republican Caucus.

Saddened by the passing of Senator Bill Raggio. A true statesman. My thoughts & prayers are with his family.—Nevada Sen. Ruben Kihuen, D Las Vegas, via Twitter.

Feels odd to tweet about Bill Raggio but odd not to. He was my friend and a mentor. A great loss 4 Nev but, oh what a life he lived!—Nevada Assemblywoman Debbie Smith, D Reno, via Twitter.

For those of us in higher education, indeed the whole education community, we pause to thank this man who came from humble immigrant roots and rose to great power, in part by public education. He never forgot the contribution of education to his life. We have lost a member of our family today—indeed, our patriarch and champion.—Board of Regents, Nevada System of Higher Education.

Raggio was a champion for our Airport Authority and he had the vision to create a transportation entity that plays a vital role in the economy of our region. He was also a wonderful mentor to me and I will miss his sage advice and wise counsel. The legacy of his forward thinking will be felt in our community for years to come.—Krys Bart, president and CEO of the Reno-Tahoe Airport Authority.

He championed our state's heritage and he made our values a priority. He ensured that protecting our environment was a non-partisan position in Carson City as he worked across the aisle to support conservation funding and wildlife. Regardless of your politics, Bill Raggio was a great leader and he will be missed.—Nevada Conservation League.

Those who have followed NPRI's work over the years know that we have both agreed and disagreed with Mr. Raggio's views on various policy issues. But there was never any doubt as to his love for Nevada and his commitment to making it a better place to live. For that, he will always have our respect and our admiration.—Andy Matthews, president of Nevada Policy Research Institute.

He was every bit as good and as genuine and as committed to public service as what's described. That's the real person. It's a huge loss.—Nevada Sen. Greg Brower, R Reno.

No one has ever loved this state more or had a more passionate desire to make things better for the people who live here. His ability to bring people together to get things done was legendary. . . . At times, he may have been an adversary on a particular issue, but he was always a true leader, a teacher and a friend.—Nevada Speaker of the Assembly John Oceguera, D Las Vegas.

He was one of the greatest friends and a true mentor to me. Our great state is better because of his leadership and service. He will be sorely missed.—Reno Mayor Bob Cashell.

The thing that was great about Senator Raggio and the time that I spent with him in the Legislature was his ability to bring the two sides together and get things done. He was a master at doing that.—Reno City Manager Andrew Clinger.

He understood that politics is really filled with compromise. The public still owns this process and they send people of all stripes, different backgrounds, different sections of the state. He knew in order to move things forward, you had to compromise.—Former Nevada Sen. Randolph Townsend, R Reno.

Today Nevada Republicans across the state mourn the loss of a great leader and the loss

of an even greater friend. While it is a sad day for all Nevadans, it is only appropriate to remember the legacy and leadership he left behind for us to follow. A loss of a true icon in Nevada politics will not be forgotten. . . . We will miss you.—Nevada Republican Party Chairman James Smack.

Shocked to hear of Sen Raggio's passing—last time we spoke, he ranted about legislators needing to put aside politics & work together.—Nevada Sen. Sheila Leslie, D Reno, via Twitter.

Rest in peace Senator Raggio. You will be missed, but never forgotten.—Nevada Sen. Michael Roberson, R Henderson, via Twitter.

But Raggio also saw his Republican Party transform around him. In 2003, when a group of Assembly Republicans refused to vote for a tax plan, Raggio didn't hesitate to excavate a pejorative from earlier in his storied career: He called them ''John Birchers.'' By 2008, he was battling ex-Assemblywoman Sharron Angle in a primary fight for the district he'd held comfortably since 1972.

When Raggio exercised his legendary independence—and a good deal of personal pique—and endorsed Democrat Harry Reid over Angle in the 2010 U.S. Senate race, his party finally left him. He was ousted from his leadership position by Fallon Republican Mike McGinness, and he tendered his resignation from the Legislature for good.

''I think the present leadership of the Republican Party is a little too radical and has been taken over by what I think is a radical element,'' Raggio said in an interview after he quit, using a true conservative's worst pejorative. ''The party has to reshape itself or it won't win general elections down the road.''

Mark his words for November.

Back in January 2011, Raggio told me in an interview that the state would go on without him. ''Nobody is irreplaceable. You will find that out,'' he said.

I hope Raggio will forgive me one last time if I simply don't agree.

Mr. REID. He believed in doing what was right for Nevada, even when it wasn't right for his political party. I admired him and respected him. I respected him even when he and I disagreed, and that happened. But we agreed far more than we disagreed.

I can remember the first time I met him. The person I worked for had worked as a deputy district attorney for Bill Raggio. He came to visit me in our law office, and he was always very funny, very articulate, and somebody I admired and, as I indicated, was my mentor. But I can remember him being in that office as if it were 10 minutes ago.

Upon his retirement last year, Bill told a local reporter, ''Nobody is irreplaceable. You will see.'' It seems, once again, though, Bill and I disagreed. No one can replace Bill Raggio. The mark he left on Nevada politics could never be erased, but his powerful political voice and his true personal friendship will be missed.

Senator Raggio was an effective legislator and leader in part because of his willingness to cooperate with those with whom he disagreed. It would serve this Chamber well to emulate his bipartisan approach.

WORKING TOGETHER

We have a great deal to accomplish this work period. We need to consider postal reform legislation. It is mandatory that we do that. We have a pressing cyber-security piece of legislation that the Pentagon says is the most important thing we can do for our country. We have to clear a backlog of judicial nominees that threatens the effectiveness of our court system. But first, we must complete one of the most important tasks facing this Congress: strengthening our economy by rebuilding our Nation's crumbling infrastructure.

Today we will resume progress on the Transportation bill that will put 2 million Americans back to work rebuilding roads, bridges, trains, and their tracks.

The House is also considering transportation legislation. I was glad to see that House Republicans have moved away from that extreme proposal they were considering a few weeks ago. They are going to now try to pass something similar to our bipartisan legislation. This is bipartisan legislation.

Too much rests on our success to let this jobs measure be bogged down by partisanship. President Dwight Eisenhower, a Republican, was the original champion of national infrastructure investment a half century ago. He once said:

Only strength can cooperate. Weakness can only beg.

He was right that it takes strength to work together. But working together also makes us strong. I look forward to working together with my colleagues on both sides as we complete transportation legislation that will make our economy strong.

We have 5 weeks during this work period. We have a lot to do. I hope we can work together to get it done.

RESERVATION OF LEADER TIME

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

READING OF WASHINGTON'S FAREWELL ADDRESS

The ACTING PRESIDENT pro tempore. Pursuant to the order of the Senate of January 24, 1901, as amended by the order of February 14, 2012, the Senator from New Hampshire, Mrs. SHAHEEN, will now read Washington's Farewell Address.

Mrs. SHAHEEN, at the rostrum, read the Farewell Address, as follows:

TO THE PEOPLE OF THE UNITED STATES

Friends and Fellow-Citizens: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself, and every day the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence with which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me

to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquility at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils and joint efforts—of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The South in the same intercourse, benefitting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications by land and water will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence likewise they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern—Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen in the negotiation by the executive—and in the unanimous ratification by the Senate—of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay by the adoption of a Constitution of government better calculated than your former for an intimate Union and for the efficacious management of your common concerns. This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the

public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinion; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and the duty of a wise people to discourage and restrain it.

It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foments occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest instead of warming it should consume.

It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true that virtue or morality is a necessary spring of popular government. The rule indeed extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded and that in place of them just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity and adopts through passion what

reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld. And it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country without odium, sometimes even with popularity, gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak towards a great and powerful nation dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest guided by justice shall counsel.

Why forgo the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rival-ship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy)—I repeat it therefore, let those engagements be observed in their genuine sense. But in my opinion it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed—in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them—conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another—that it must pay with a portion of its independence for whatever it may accept under that character—that by such acceptance it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take—and was bound in duty and interest to take—a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverence, and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions and to progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON,
United States,
19th September 1796.

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

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will be in a period of morning business until 4:30 p.m. with Senators permitted to speak for up to 10 minutes each.

ENERGY PRICES

Ms. MURKOWSKI. Mr. President, I rise today to speak about what people all across the country are talking about; that is, the high price of energy, what people are paying at the pump. I just returned from a week in Alaska. It is fair to say that in a State such as ours, that is as rich as we are with energy wealth, we are being killed by energy prices.

So I wanted to comment on some of the statements the President made over the weekend and Friday when he spoke to the country about energy. I have to tell you, I was pleased to hear the President say he is joining us in an ''all-of-the-above approach'' to energy. I think that is good news. It is certainly something I have been saying ever since I arrived in the Senate.

It is about domestic production, it is about efficiencies and conservation, and it is about renewables. So that is good. We heard the President say we need to be doing more with oil and gas. You are not going to find any disagreement with me. Wind and solar, nuclear, biofuels, efficiency, this is all good, but the problem we are seeing is the words coming from President Obama are not matching his actions when it comes to what we can be doing with our own domestic production.

I will speak specifically to oil and gas. The actions coming out of the administration, whether through this budget or through some of the other proposals pushing for higher taxes, higher royalties on the industry, when we think about what goes on with the oil and gas leases in the gulf, we have certainly seen the impact flow down there.

In Alaska, we have been pushing, pushing aggressively for 4 years now to get the OCS leases advanced through exploration with Shell, not only 4 years in the process but billions of dollars into a process. We are getting closer, but we are not there yet. With the National Petroleum Reserve Alaska, an area that has been designated by the Congress to explore for production activity, it took almost 2 years to get a bridge across the CD 5, an area where we have an opportunity to continue our exploration—but 2 years to get a simple permit for a bridge.

We all know ANWR has been locked up for decades now. There is incredibly wealthy potential there. Look at the decision on the Keystone XL Pipeline coming out of this administration. When it comes to other areas that are supposedly in ''all of the above,'' nuclear—as much as we might have hoped that this was enjoying a renaissance, we have seen the decision on the shutdown of Yucca Mountain from this administration, the issues as they relate to access to uranium in certain parts of the country.

The rhetoric is not necessarily matching what we are seeing coming out of the administration. This is what is so disturbing to a person like me who comes from an area where we have so much to give, so much to offer.

The President, in his words, said, ''There are no quick fixes to this problem.'' I agree. I absolutely agree. That is why instead of focusing on what could be perceived as a quick fix, such as releasing oil from the Strategic Petroleum Reserve, we need to be focusing on the long-term solution. I keep going back to 1995 when the House and the Senate passed ANWR. It was vetoed by the President shortly thereafter.

Prices at the pump back then were $1.07 at the pump. The average price today is $3.65. Think about where we would be if that action had not been vetoed; if the Alaska pipeline, which is now less than half filled, were at full capacity with oil coming out of ANWR.

Just yesterday a colleague of ours from New York sent a letter to Secretary Clinton asking her to pressure Saudi Arabia to pump more oil. In his letter to the Secretary, he said,

> I urge the State Department to work with the Government of Saudi Arabia to increase its oil production, as they are currently producing well under their capacity.

Well, our pipeline is certainly well under capacity at 600,000 barrels a day. When we were pushing it through at full tilt, we were over 2 million barrels a day. That is exactly what the Senator from New York has asked Saudi Arabia to do. We could be doing it from Alaska. We could be doing it from this country with our people gaining access to our resources, and we are not doing that.

The President said the Republican plan is just to drill, drill, drill. He said: We hear this every year. Well, why do we hear this every year? We hear it because it is part of the solution. It is not the whole solution, but it is part of the solution, in addition to conservation, efficiency, renewables, and other areas of our domestic production. But drilling is part of the solution. It should not just be part of the rhetoric.

The President said, and I would agree:

> The American people are not stupid on this. They know that we are not just going to be able to snap our fingers and have oil coming out of ANWR or having oil coming out of the OCS in the Chukchi or the Beaufort.

They know it takes a while. They know in some cases it might take decades to come. So why would we not start now? If we had started in 1995, think about where we would have been.

He said, ''There are no short-term silver bullets.'' Once again, I agree. But there is a long silver bullet in Alaska, and that is our Trans-Alaska Pipeline that has been moving oil for 30 years now for this country. That silver bullet could be filled, and it would be helping this country just as we are asking for help from Saudi Arabia.

The statement that I think most upset me this weekend was the statement that the President made when he said: Some politicians see this—being higher oil prices—as a political opportunity. He repeated a quote that ''Republicans are licking their chops,'' and stated, ''Only in politics do people root for bad news.''

Well, the people of my State are not rooting for bad news when it comes to higher energy prices. I will tell you, I am a little offended by the President's statement. I would invite him to come to Alaska, spend a week with me, go to where I was last Saturday in Fairbanks where people are paying $4.29 for their home heating oil. My sister pays over $1,000 a month for home heating fuel to fill her tanks. She lives within 20 minutes of the Trans-Alaska Pipeline. You can see it. You can drive by it, this line that is half full, and it is not, again, because we are running out of resources. It is because we have been locked out of ANWR, we have been delayed on NPRA, and we are still waiting on OCS. There are certainly plenty of leases out there. But it is getting the permits out of this administration that has been holding us back from doing more, from doing more to help the people of Alaska and to help the people of this country.

Last month I was out in Bethel in southwest Alaska. There was a native elder who came to a little gathering we had. He is from Eek, AK. He was telling me that he pays $7.46 for home heating fuel in the village of Eek. That is how they stay warm. When I was there in January, the average temperature for that month was about 20 degrees below zero. He said he has to buy his fuel 10 gallons at a time because that is all he can afford. Then when he does not have any more money, he goes out looking for fire wood for he and his wife. This gentleman, as I said, is an elder, probably 70 years old. But that is how he is living. High energy prices for him are not an opportunity.

Go up to Nome. All eyes of the Nation were on Nome several weeks back when the Coast Guard cutter was escorting the Russian fuel tanker, the Renda, to get to Nome to provide fuel for the community of Nome and the surrounding villages because the winter ice had come in and the winter barge had not been able to make it in with the fuel.

When I was in Nome that afternoon, the price for gas at the pump was $5.43; the price for diesel was $5.99.

But it was projected that if they weren't able to fill their tanks, they would see the prices go up to over $9 a gallon. Think of what that does to your ability to live. Thankfully, the Coast Guard and the fine men and women there were able to see that the community and the villages were taken care of.

I was in Yakutat on Wednesday, a small community that is not accessible by road, as most of our communities aren't. There in Yakutat, they are paying 54 cents a kilowatt hour for energy. Most of their power is diesel-generated

power—54 cents. That is for the businesses that get a subsidy from the State of Alaska for 30 cents a kilowatt hour. The small grocery store we visited paid $10,000 for its energy prices in January alone—$10,000 a month for a little grocery store. They are paying $5.19 a gallon right now, but it is going up with the next fuel barge that comes in.

Alaskans in villages who rely on diesel for their power can pay between 40 and 45 percent of their income for their energy costs. Compare that to the rest of the country, where you are looking at between 3 and 6 percent of your income going toward energy. We are paying almost 50 percent in some of our villages.

Mr. President, I don't view high oil prices as a political opportunity and neither do my constituents. What we view as an opportunity is the resource our State holds—a resource that we continue to be denied access to that opportunity. We learned late last week that the USGS has come back with an estimate that the shale oil in Alaska would come close to 2 billion barrels of oil. ANWR's estimate is about 10.6 billion barrels. In the OCS, we anticipate over 26 billion barrels of oil. We have the resources. We have the ability to access the resources and to do so in an environmentally safe way. This needs to be part of an all-of-the-above solution, in addition to everything we do with renewables and our efficiencies and conservation. We must be doing more domestically. Alaska holds the opportunity.

Again, I agree with the President that there is no short-term fix, but if we don't get started today, there is not going to be a tomorrow for communities such as Yakutat and Eek and Bethel and Fairbanks. We have to get started today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, first let me commend my colleague from Alaska who is seeing this battle of the high price of gasoline firsthand in a State that could contribute greatly to the country's solution to the problem if the President and administration would but let it. I was led on a trip by her father several years ago to the northern part of Alaska, where there are huge untapped reserves that literally, if they had been allowed to be sent to the lower 48 at that time, could have significantly ameliorated the problem we have today. I appreciate her comments. We will talk more about that.

EARNED SUCCESS

Mr. KYL. Mr. President, President Obama has ignited a national debate about the meaning of fairness and American values. In his campaign narrative, ''fairness'' means greater redistribution of income by the Federal Government, and expanding government control over the economy represents what he calls a ''renewal of American values.'' He argues that income inequality is the ''defining issue of our time''—his words—and that it prevents many Americans from enjoying their right to pursue happiness.

While the President cloaks his rhetoric in the language of liberty—and often misconstrues quotations from Presidents Lincoln and Reagan in the process—his interpretations of key American concepts and values are shallow, materialistic, and distortive of the true American dream.

We don't need more government interventionist and redistributionist policies, which reduce freedom, in order to achieve greater measures of fairness and to pursue happiness. Having the government arbitrarily decide how much money should be taken from person A and given to person B is not fair in any sense of the word, nor does it make Americans happier. Indeed, even though America has become a much wealthier country during the last few decades and average income is higher, studies show that happiness levels have remained unchanged. In 1972, for example, 30 percent of Americans described themselves as happy. In 2004, 31 percent of Americans described themselves that way. That is because, contrary to what President Obama suggests, the key determinant of lasting happiness and satisfaction is not income; rather, it is what American Enterprise Institute president Arthur Brooks calls ''earned success.'' People are happiest when they have earned their income, whatever the level. When the government tries to take all of the trouble out of life by taking care of our every need, it makes earned success that much harder to achieve.

In his 2010 book ''The Battle,'' Brooks describes the connection between earned success and happiness:

> Earned success gives people a sense of meaning about their lives. And meaning also is key to human flourishing. It reassures us that what we do in life is of significance and value, for ourselves and those around us. To truly flourish, we need to know that the ways in which we occupy our waking hours are not based on mere pursuit of pleasure or money or any other superficial goal. We need to know that our endeavors have a deeper purpose.

Earned success is attained not simply through one's vocation but also through raising children, donating time to charitable or religious causes, and cultivating strong relationships with friends and family. That is why successful parents and more religious people tend to be very happy.

The earned success that comes from doing a job also explains why self-made millionaires and billionaires continue to work hard after they have earned their fortunes. These people are driven by the satisfaction that comes from creating, innovating, and solving problems. In many cases, they are making products or providing services that improve our quality of life. They are not content merely to rest on their laurels and enjoy their wealth; they want to continue experiencing the pride and satisfaction that comes from earned success.

The importance of earned success also explains why people who win the lottery usually wind up depressed when they discover that the excitement of being rich and buying things wears off fast. The same is true of recipients of other sources of unearned income. Studies show that welfare programs don't make people happier. We need them to help some people to subsist, but they don't yield true happiness or satisfaction because the money is not earned.

If earned success is the path to happiness, public policies should be geared toward promoting opportunity and freedom for everyone. No economic system does more to promote earned success and freedom than free market capitalism. As social scientist Charles Murray writes in his new book, ''Coming Apart'':

> All the good things in life . . . require freedom in the only way that freedom is meaningful: freedom to act in all arenas of life, coupled with responsibility for the consequences for those actions.

In a true free market system, everyone is guaranteed equal rights and opportunities under the law, all individuals and institutions play by the same rules, and the government acts primarily as a neutral umpire, not a redistributor of income or a venture capitalist. Property rights are upheld, contracts are enforced, and hard work is rewarded. As Brooks points out, free enterprise is the only economic system that addresses the root causes of poverty by enlarging the economic pie rather than allowing government officials and bureaucrats to decide how to slice the existing one.

The President's concept of fairness is different from what most believe. I recently read an anecdote that helps illustrate the fundamental disagreement about the difference between ''fair'' and ''earned.'' Two siblings are fighting about who gets the last cookie. The brother says he should get it because his sister has already had two and that is not fair. The sister responds that she helped make the cookies, so she earned it. The brother believes it is fair to equalize rewards, regardless of effort. The sister beliefs in meritocratic fairness—that forced equality is unfair. Those of us who believe in the ultimate fairness of the free market subscribe to the sister's view of meritocratic fairness. She earned it.

Free market capitalism is the most fair system in the world—and the most moral. It is premised on voluntary transactions that make both sides happy by meeting their needs. Unfortunately, the past few years have shown us what unfair economic policies look like.

When the government picks winners and losers in the marketplace, it is being unfair. When it rewards certain

companies or industries for ideological reasons while effectively punishing and demonizing others, it is being unfair. That is crony capitalism. When it shapes a corporate bailout to favor organized labor over secured debtholders, as the Obama administration did in the Chrysler bailout, it is being unfair. When it plays venture capitalist and gives a taxpayer-funded $545 million loan guarantee to a doomed company such as Solyndra, it is being unfair. When it makes the Tax Code even more complex and even more tilted in favor of special interests, it is being unfair. When it adopts financial regulations that institutionalize ''too big to fail,'' putting taxpayers on the hook, it is being unfair. I could go on, but you get the point. Does anyone really think America's economic system is ''fairer'' today than in January 2009?

Is it fair that, after the first 3 years of the Obama administration, the poor are poorer, the poverty rate is rising, the middle class is losing income, and 5.5 million fewer Americans have jobs to do than in 2007? Is it fair that the three counties with the highest median family income happen to be located in the Washington, DC, area? Finally, is it fair that the wealthiest 1 percent of Americans are constantly being attacked by the President even though they now pay nearly 40 percent of all Federal income taxes and the richest 10 percent pay two-thirds of all Federal taxes? These are some of the questions Stephen Moore recently posed in the Wall Street Journal.

If the President wants to continue claiming that his policies are fostering economic ''fairness'' and ignoring the virtues of the free enterprise system, then let the debate begin.

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

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

TRIBUTE TO WILLIAM H. GRAY, III

Mr. CASEY. Mr. President, I rise this afternoon to honor William H. Gray, III.

As I have every year since my election to the Senate, starting back in January 2007, I have come to the floor at this time of the year in commemoration of Black History Month.

This year we are privileged to honor a man whose outstanding accomplishments are of vital importance to African Americans as well as to all of America. For his entire life Bill Gray has been a minister and a shepherd for his congregation, his constituents, historically Black colleges and universities, and to all Americans in need of a stronger voice. I have known Bill Gray for a quarter of a century, and I know his life's work is a testament to a single principle, one that has infused all of his work at the Bright Hill Baptist Church in Philadelphia, as a Member and leader in Congress, and with the United Negro College Fund.

Bill believes in the principle of a ''whole ministry,'' that the church must tend to all the needs of its entire congregation. Bill grew up learning that the ministry was not just something one did on Sunday morning but, rather, the action one took in the streets on issues ranging from housing to economic justice to excellence in education. Bill has called his position as pastor of the Bright Hope Baptist Church the most important job he has ever had, one that cultivated the skills and priorities that have shaped his life's work.

Today, I am proud to share some of the achievements that have resulted from Bill Gray's dedication to a ''whole ministry.''

Bill grew up in a family of educators and ministers who taught him the value of both professions to empower others. He was born in the State of Louisiana to parents who were both educators. His father was president of two historically Black colleges: Florida Normal and Industrial College and Florida Agricultural and Mechanical School. His mother was both a high school teacher and served as dean of Southern University in Baton Rouge, LA.

When Bill was 8 years old, his grandfather passed away and the family moved from Louisiana back to Philadelphia, PA. There in Philadelphia, Bill's father assumed his own father's position as pastor of the Bright Hope Baptist Church in north Philadelphia, and Bill cemented his roots in that community. He has spoken of the powerful impact of those years, moving from a region where Jim Crow laws reigned to a large northern city where his family had strong ties to other clergy and community leaders. Because of de facto segregation in housing at the time, north Philadelphia was a neighborhood with African Americans from all walks of life, including many role models for the young Bill Gray.

Hobson Reynolds across the street was the leader of the Elks. Cecil B. Moore, a future member of the city council and head of the NAACP of Philadelphia, lived two doors down from Bill's family at the time. Other neighbors included the renowned architect Frederick Messiah and Sadie Alexander, the first woman of any race to obtain a Ph.D. in economics in the United States of America.

Of course, Dr. Martin Luther King, Jr. was a frequent visitor to Bill Gray's home at that time, as were Dr. King's parents who were close family friends of Bill Gray's family. Both the elder and younger Kings as well as other ministers influenced Bill's understanding of the ''whole ministry'' and encouraged his education and career as a minister.

Bill graduated from Simon Gratz High School and went on to Franklin and Marshall College. When Bill considered leaving Franklin and Marshall before graduation to join civil rights protests in the South, Dr. King encouraged him to stay in school and to hone the skills necessary to continue the struggle later in life. This idea of education as a key to African-American advancement would guide Bill for the rest of his life.

Bill graduated from Franklin and Marshall, and in 1966 he obtained a master's degree in divinity at Drew Theological Seminary and in 1970 a master's degree in theology from Princeton Theological Seminary. While at Drew, Bill's talents were recognized by the prestigious Union Baptist Church in Montclair, NJ, and he was later chosen to be a pastor there as well. The King family presided over the installation ceremony.

In his first parish, Bill Gray worked to serve the ''whole community,'' advocating aggressively for the needs of his congregation and the community's most vulnerable members. As the city of Montclair undertook urban renewal, he helped to form a development corporation to ensure that relocation resulted in safe, decent housing for his parishioners and their neighbors. This issue of housing hit Bill Gray personally when he tried to rent an apartment while studying at Princeton and was told the unit was unavailable. He sensed immediately that it was because of his race, and he found a friend who was White who volunteered to go look at the apartment, at which point the landlord said it was open.

Bill filed a lawsuit and for the first time sought damages for the psychological impact of discrimination. While the monetary award was small, his victory in the suit set a precedent that those who discriminated based on race could be held liable for monetary damages.

In 1971 Bill married Andrea Dash, with whom he has raised three sons, William IV, Justin, and Andrew. In 1972 Bill's father died unexpectedly and tragically, and the congregation of Bright Hope Baptist Church called on Bill to return home as the new pastor. Bill was reluctant to go back as the preacher's son, but two church elections finally convinced him to return. He became the third generation of his family to serve as pastor of Bright Hope. Under his leadership, the congregation quickly grew to over 4,000 souls.

Bill also taught as a professor at Jersey City State College from 1968 to 1969, St. Peter's College in Jersey City from 1970 to 1974, Montclair State College from 1970 to 1972, and Rutgers University in 1971. He also continued his important advocacy on fair access to housing, and he cofounded the Philadelphia mortgage plan to help low-income individuals obtain homes.

This dedication to helping his community and concern about their welfare led him back to the political

world. In 1976 Bill ran an underdog campaign to challenge Congressman Robert N.C. Nix, a long-time congressional incumbent. Despite a close defeat in 1976, Bill launched another campaign in 1978 and successfully earned nomination and election to Congress.

The U.S. House of Representatives provided another pulpit from which Bill could pursue his ''whole ministry,'' and he did not squander the opportunity. He said:

If you can pastor a black Baptist Church, maneuvering in Congress is easy. It's nothing compared to the choir, the usher board, the deacon board. You run a volunteer organization and you run it on persuasion.

Despite his lack of previous formal political experience, after winning the 1978 primary election Bill started working to persuade other Members of Congress from his party to support him in committee elections. Through dogged determination, thoughtful strategy, and a clear explanation of his goals, Bill earned himself the freshman seat on the policy and steering committee which sets committee assignments for the party and influences policy. This established him as a rising star and a friend to many other incoming Members of Congress whom he helped land desirable committee spots.

Bill obtained seats on the following committees: the District of Columbia Committee, the Budget Committee, the Foreign Affairs Committee, and later a seat on the Appropriations Committee, the Joint Committee on Deficit Reduction, and the House Administration Committee. Leaders of the Congressional Black Caucus elected Bill Gray as its secretary, and in his second term he served as the vice chairman of the caucus.

In Congress, he acquired a reputation as a thoughtful, honest, and effective leader in a diverse party, often building surprising alliances as he maintained his commitment to budgets that provided for the neediest Americans.

Bill rose quickly through the ranks of leadership during his 12 years in Congress. In 1985 he assumed the chairmanship of the Budget Committee just 6 years after the time he was elected. Just a few years later, in 1988, he was elected to chair his party's House caucus, and then in 1999 he became the House majority whip, the third ranking leadership in the House of Representatives.

While serving in Congress, Bill remained an active minister, tightly connected with his district in Philadelphia through his actions on the issues for which he fought. I just happened to be a constituent of Bill's in 1982 and 1983 when I was serving in the Jesuit Volunteer Corps in north Philadelphia, and I know at that time he returned to Bright Hope Baptist Church twice a month to preach, and in Congress he supported the programs upon which his constituents and his congregation relied.

In a time of concern about fiscal discipline, Bill believed that compassionate spending was also critical and said:

A balanced budget is good for the country, poor and the affluent alike. I seek a budget that doesn't sacrifice programs for the poor and minorities, one that is fair and equitable.

He produced budgets in line with his priorities, challenging opponents to produce spending cuts that did not hit the most vulnerable. On the Foreign Affairs Committee, Bill championed aid for Africa and sponsored a bill to provide aid to African villages as well as appropriations to ensure minority-owned business participation in African aid programs. Bill took a strong and early stand against the Ethiopian Government and its role in making the famine worse. He was also a prominent critic of the South African apartheid regime.

In 1991 Bill Gray made a bold transition to minister in a new way on a topic of paramount importance to him, his family, and others. Of course, that topic was higher education.

He said at the time, and I am quoting:

Woodrow Wilson used to say, ''My constituency is the next generation,'' and, you know, that's why I left Congress, because my constituency, really, is the next generation.

He accepted the position as president and CEO of the United Negro College Fund, the so-called UNCF, a philanthropic organization that helps more than 60,000 minority students each year to obtain a higher education. The United Negro College Fund not only manages 400 scholarship and internship programs which benefit 10,000 students but also provides operating funds for 38 historically Black colleges and universities. Tuition at these colleges averages 30 percent less than tuition at similar universities.

Bill Gray has said he wanted to support historically Black colleges and universities during a period when Black students were choosing to attend a wider range of colleges. During Bill's 12 years as president and CEO of the United Negro College Fund, his success in supporting these institutions was unprecedented—and that is an understatement. Bill sought innovative ways to attract new investment and increase existing funding. By the time he left the United Negro College Fund 12 years later, Bill and his team had raised more than $1.54 billion. To put this in context, UNCF had raised a total of $3.3 billion in its 67-year history.

He found new ways to solicit donations, increase the amount of in-kind contributions, and solicited from previously untapped foundations and individuals.

In 1999, Bill Gray secured a $1 billion grant from the Bill and Melinda Gates Foundation to advance minority students' access to higher education in the science, math, engineering, and education fields. This grant created the Gates Millennium Scholarship Program and marked the largest philanthropic donation in the history of higher education in the United States of America. Bill's success at the United Negro College Fund put higher education within reach and ensured brighter futures for thousands of students across America.

We know, and those who know him know, that Bill Gray has never rested and he is never satisfied with one job at a time. While leading the United Negro College Fund, he was asked by President Clinton in 1994 to lead the efforts to restore democracy in Haiti. His work there earned him the Medal of Honor from the President of Haiti.

After leaving the Fund in the year 2004, Bill started Gray Global Strategies, Inc., and has served as director on multiple corporate boards including Dell, JPMorgan Chase, and Pfizer. He has also served as vice chairman for the Pew Commission on Children in Foster Care and has served on the United States Holocaust Memorial Council. He is currently the chairman of Gray Global Strategies, a worldwide business consulting and government affairs strategies firm.

Bill Gray has said that he has ''always been taught by my folk, parents, grandparents, that service is a sort of the rent you pay for the space you occupy. And so, what I've tried to do is direct my life towards service based on faith and commitment and social justice.''

Well said by a great leader, Bill Gray.

In the Senate today we express our gratitude for the excellent work of Rev. Bill Gray, Congressman Bill Gray, and you could add a few other titles as well. We express that gratitude for the excellent work of his ''whole ministry,'' a commitment that has touched literally millions of men, women, and children across the world. His vision and achievements have reached far beyond the walls of his church and the Capitol where we stand today. We honor him on behalf of the people of the Bright Hope Baptist Church, the U.S. Congress, historically Black colleges and universities, and many more people around the world. We commend Bill Gray today. I congratulate him. We look forward to seeing him with us today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF MARGO KITSY BRODIE TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK

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 assistant editor of the Daily Digest read the nomination of Margo Kitsy Brodie, of New York, to be United States District Judge for the Eastern District of New York.

Mr. LEAHY. Mr. President, am I correct that the order is such that the vote will be at 5:30?

The PRESIDING OFFICER. The order is actually for 60 minutes of debate.

Mr. LEAHY. Mr. President, I ask unanimous consent that the vote be at 5:30.

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

Mr. LEAHY. Mr. President, certainly if the ranking member comes to the floor and wishes to change that, I would not object.

Earlier this month the Senate finally ended a four-month and two-day filibuster of the confirmation of Judge Adalberto Jordan and he is now the first Cuban-American to serve on the Eleventh Circuit. We also finally ended the five-month filibuster of the nomination of Jesse Furman, a former counselor to Attorney General Mukasey, and he is now a confirmed Federal trial judge in the Southern District of New York.

The Majority Leader should not have had to file cloture petitions for the Senate to vote on these outstanding judicial nominations. Senate Republicans have filibustered nine of President Obama's judicial nominations despite the fact that he has reached out to both Republican and Democratic home state Senators and nominated qualified, ideologically moderate men and women to fill vacancies on our Federal courts.

Before I turn to the nomination of Margo Brodie, another nomination that should have been confirmed last year after being reported by the Senate Judiciary Committee unanimously in October, I want to spend a moment reflecting on Senate Republicans' treatment of Jesse Furman. Judge Furman was a Federal prosecutor who also served as a top legal advisor to Attorney General Michael Mukasey during the George W. Bush administration. He was involved with the prosecutions of the Times Square bomber, the infamous Russian spies, and a Pakistani scientist with ties to Al Qaeda whose actions were responsible for the 1998 bombings of the U.S. embassies in Kenya and Tanzania. He has impeccable credentials including having clerked for Justice David Souter on the United States Supreme Court. Based on his superior qualifications and bipartisan support, the Senate Judiciary Committee reported his nomination last September unanimously, without a single Republican Senator dissenting.

His nomination, like so many others, was then subjected to obstruction and delay. From the start of his term, Republican Senators have applied a double standard to President Obama's nominees. Senate Republicans have chosen to depart dramatically from the long tradition of deference to home state Senators on district court nominees. Instead, an unprecedented number of President Obama's highly-qualified district court nominees have been targeted for opposition and obstruction. That approach is a serious break from the Senate's practice of advice and consent. Since 1945, the Judiciary Committee has reported more than 2,100 district court nominees to the Senate. Of these 2,100 nominees, only six have been reported by party-line votes—only six total in the last 65 years. Five of those six party-line votes have been by Republican Senators against President Obama's highly-qualified district court nominees. In fact, only 22 of those 2,100 district court nominees were reported by any kind of split roll call vote at all, and eight of those, more than a third, have been by Republican Senators choosing to oppose President Obama's nominees. President Obama's nominees are being treated differently than those of any President, Democratic or Republican, before him.

Despite his qualifications and bipartisan supporters, Jesse Furman's nomination was stalled for more than five months by Senate Republicans. When the Majority Leader was able to break through and schedule debate and a vote, I saw something else I have not seen until recently. Republican Senators who had supported the nomination after studying it for months when it was before the Judiciary Committee for a hearing and vote, flipped and changed their votes.

In total, 34 Republican Senators voted against this highly-qualified nominee. I am at a loss as to why. It appears that Senators decided to ignore Jesse Furman's record and be swayed by mischaracterizations of a brief he had written in a religious freedom case or by something he wrote as an 18-year old freshman in college. I urge Senators, as I have for years, not to listen to the extreme special interests but to make their own judgments. I suspect that in this case it was the last-minute campaign by narrow special interests groups that accounted for the number of negative votes.

Today the Senate will vote on the confirmation of another highly-qualified, consensus nominee to the Federal bench. Margo Brodie has practiced law for 20 years including working as a Federal prosecutor in Brooklyn for the last 12. She has risen from the ranks of Assistant U.S. Attorney to Deputy Chief of General Crimes to Deputy Chief of the Criminal Division. Ms. Brodie has successfully prosecuted numerous cases on matters ranging from violent crimes and drug offenses to white collar crimes. She has also led public corruption cases, successfully prosecuting criminals who embezzled funds and tried to bribe government agencies in her home state of New York.

Ms. Brodie has the support of both her home state Senators and was reported by the Senate Judiciary Committee on October 6, 2011, without a single dissent. She has demonstrated her commitment to the rule of law, her legal abilities and knowledge of the law. It is past time for the Senate to confirm this outstanding African-American woman to the Federal bench.

Margo Brodie is one of 20 judicial nominations approved by the Senate Judiciary Committee still awaiting a final vote. Fifteen of these nominations have been pending since last year and should have been confirmed before the end of last year. Eighteen of these nominees received strong bipartisan support from the Senate Judiciary Committee.

These nominees should be confirmed without further delay. Now in the fourth year of President Obama's first term, the number of judicial vacancies remains at 85. That is nearly double what they were at this point in President Bush's administration. One hundred and thirty million Americans live in circuits or districts with a judicial vacancy that could be filled if Senate Republicans would vote on judicial nominees that have already been voted on by the Senate Judiciary Committee and are stalled awaiting final Senate consideration.

The Senate is more than 40 confirmations behind the pace we set confirming President Bush's judicial nominees in 2001 through 2004. For the second year in a row, the Senate Republican leadership ignored long-established precedent and refused to allow votes before the December recess on the nearly 20 consensus judicial nominees who had been favorably reported by the Judiciary Committee.

Ultimately, it is the American people who pay the price for Senate Republican's unnecessary and harmful delay in confirming judges to our Federal courts. It is unacceptable for hard-working Americans who are seeking their day in court to find seats on one in 10 of those courts vacant. When an injured plaintiff sues to help cover the cost of medical expenses, that plaintiff should not have to wait for years before a judge hears his or her case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute.

I, again, urge Senate Republicans to stop the destructive delays that have plagued our nominations process. I urge them to stop the slow-walking of highly-qualified, consensus nominees. The American people deserve no less.

Mr. GRASSLEY. Mr. President, today we turn to the nomination of Margo Brodie to be U.S. District judge for the Eastern District of New York. This will be the 69th judicial nominee of President Obama which the Senate has confirmed during this Congress. Overall, more than 70 percent of President Obama's judicial nominees have been confirmed.

We continue, on the Senate floor and in the Judiciary Committee, to work together to reduce the number of judicial vacancies. We have held 21 nominations hearings during this Congress, with 80 judicial nominees appearing at those hearings. All in all, over 85 percent of President Obama's judicial nominees have received a hearing. We will hear from additional judicial nominees later this week.

So even as we continue to hear concerns about the judicial vacancy rate and claims of obstructionism, I would note we are making progress as we continue to confirm judicial nominees. But let me emphasize again that for more than half of the vacancies, including those designated as ''judicial emergencies,'' the President has failed to submit a nomination. So critics need to look at the beginning of the process when commenting on vacancies.

I would like to say a little about our nominee today. Ms. Brodie earned a BA from St. Francis College in 1988, and her JD from the University of Pennsylvania School of Law in 1991. She began her legal career as an assistant corporation counsel for the City of New York in 1991. In this role, she defended city agencies and officials in the performance of their duty to manage municipal affairs.

In 1994, Ms. Brodie became an associate with Carter, Ledyard & Milburn, representing clients in various types of civil litigation.

Since 1999, Ms. Brodie has served as an assistant U.S. attorney with the Eastern District Court of New York. From May 2005 to March 2006, she served as a legal advisor to the Independent Corrupt Practices and Other Related Offices Commission, ICPC, in Nigeria. From 2006 to 2009, she supervised new AUSAs in the General Crimes Section in roles as deputy chief and chief. In October 2009, she became the counselor to the Criminal Division of the U.S. Attorney's Office. In her current position as deputy chief of the Criminal Division, she supervises over 100 Criminal Division AUSAs in the areas of public corruption, civil rights, terrorism, organized crime, gang violence, narcotics trafficking, and business and securities fraud. She also advises the office on legal policy and management issues.

Ms. Brodie has received a majority: ''Qualified;'' minority: ''Well Qualified'' rating from the American Bar Association's Standing Committee on the Federal Judiciary.

Mr. SCHUMER. Mr. President. I rise today in strong support of the historic confirmation of Margo K. Brodie to the United States District Court for the Eastern District of New York.

Frankly, at this point, all of our nominees deserve special attention. With one out of 10 seats on the Federal bench still vacant, and with 14 nominees with strong bi-partisan support pending since last year, we should be focused today on confirming more than one nominee. However, Margo Brodie's nomination is of singular importance to my fellow New Yorkers, and to this country.

First—to put it simply her presence is desperately needed on one of the busiest benches in the country, one that handles some of our most important cases.

Second, Margo Brodie will be, by all accounts, the first Caribbean-born nominee in our Nation's history to be confirmed to an Article III court.

As I've said many times, I look for three qualities in judicial candidates: excellence, moderation, and diversity. When excellence and moderation are both present in a candidate—as they are with Ms. Brodie—diversity is a bonus: a bonus that benefits the bench, the community, and Americans everywhere who might otherwise think that this kind of public service, or even a law degree, was beyond their reach. In fact, I think that a candidate like Ms. Brodie is especially well-qualified for a lifetime appointment to the court.

She has chosen to make her home in this country, and in the neighborhoods served by this court in the Eastern District of New York—and she has already graced her community with outstanding and dedicated service. In 1996, Ms. Brodie became a citizen of the United States in the very court house where she would serve as a judge. I can't think of a more fitting candidate to serve the people in Brooklyn, Queens, Long Island, and all the communities in between than someone who pledged her allegiance to this country just footsteps from where she will uphold the rule of law in her chosen country.

Ms. Brodie's story is a classic immigrant's story—one that is born from our country's finest and deepest traditions. It's a story that speaks to our acceptance of people from all over the world who want to come to the United States to work hard, prosper, and become a part of our social fabric.

Ms. Brodie was born in St. John, Antigua. She and her brother Euan were raised by a single mother, with the help of her mother's parents and 14 siblings. After graduating from high school at the age of 16, she attended St. Francis College in Brooklyn, where she worked full time and graduated magna cum laude.

She went on to the University of Pennsylvania Law School. After graduating from law school, Ms. Brodie worked for the New York City Law Department for three years, where she learned how to litigate cases. She then spent five years at Carter, Ledyard & Milburn, founded in 1854 and known for alums that include Franklin D. Roosevelt.

Ms. Brodie returned to public service in 1999 by joining the United States Attorney's Office in the Eastern District of New York, one of the preeminent U.S. Attorney's offices in the Nation.

She rose to become Deputy Chief and then Chief of the General Crimes Unit, where she trained more than half of the current AUSA's in the Eastern District. Since 2010, she has been the deputy chief of the Criminal Division, supervising all 100-plus criminal AUSAs in cases involving public corruption, civil rights, business and securities fraud, terrorism, organized crime, narcotics, and many other areas.

Ms. Brodie has also lent her considerable talents to training prosecutors and law enforcement officers on the rule of law in many developing countries. She spent 10 months in Nigeria as a legal advisor on behalf of the DOJ's overseas training program, and has conducted and assisted in human trafficking training for prosecutors in the Bahamas, Jordan, Swaziland, and Tanzania.

In a short while, Ms. Brodie will be confirmed as a Federal judge—an honor she deserves and a position that she has more than earned. I am proud to have supported her nomination, and to vote for her today.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Margo Kitsy Brodie, of New York, to be United States District Judge for the Eastern District of New York.

The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Michigan (Ms. STABENOW), are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), the Senator from Arizona (Mr. MCCAIN), the Senator from Ohio (Mr. PORTMAN), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 86, nays 2, as follows:

[Rollcall Vote No. 23 Ex.]

YEAS—86

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

NAYS—2

DeMint	Lee

NOT VOTING—12

Coburn	Kirk	McCaskill
Harkin	Landrieu	Portman
Inhofe	Lautenberg	Stabenow
Inouye	McCain	Vitter

The nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period of morning business up to 60 minutes, equally divided and controlled by Senators PRYOR and ALEXANDER.

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent that Senator PRYOR and I and designated Senators be allowed to speak in a colloquy.

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

MAKING THE SENATE WORK

Mr. ALEXANDER. Madam President, some of the Senators on the Republican side have other appointments to make, so I am going to defer my remarks until the end of the colloquy.

What I will do is first state why we are here; second, go to Senator ISAKSON, then we will go to Senator PRYOR, and then back to Senator COLLINS, if we may.

Madam President, our leaders—the Democratic leader, the majority leader and the Republican leader—sometimes get criticized. They have hard jobs, and we recognize that. We also recognize that they can't do their jobs unless we do our jobs well. So tonight what some of us thought we would do, on the Democratic side and the Republican side, is apply a management principle that is called ''catching people doing things right.''

We believe the majority leader and the minority leader, Senator INOUYE, the chairman of the Appropriations Committee, and Senator COCHRAN, the ranking member, are doing things exactly right when they say it is their intention to try to move all 12 of our appropriations bills through the Appropriations Committee and get them to the floor so we can deal with them before the next fiscal year starts. We are here not just to compliment them but to pledge to them our support in helping them achieve that goal.

There are many important reasons we should do that, but basically it is our constitutional responsibility to appropriate money. It is a time when we need to save every penny we can. This is our best opportunity for oversight, and it is also good management, and it allows the Senate to do what the Senate ought to do, which is consider legislation, have a hearing, ask questions, cut out what ought to be cut out, add what ought to be added, vote on it, bring it to the floor, amend it, debate on it, and pass it or defeat it. That is what we should be doing. Only twice since 2000 has this Senate actually considered every single one of the 12 appropriations bills. Only twice, in 2001 and 2005. So it has been 7 years since we considered every single one of the appropriation bills, which is our most basic responsibility: appropriate and oversight.

That is why we are here tonight. Our leaders have said this is what their intention is. We are here to say: You are right. Congratulations. We compliment you, and we are here to help you succeed. Because it is very difficult for our leaders to succeed if they don't have any followers making it possible for them to achieve their goals.

I would defer to Senator ISAKSON and then to Senator PRYOR.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I thank Senator ALEXANDER for giving me a moment on the floor.

It is ironic that when I received the call last week asking if I would participate in this colloquy, I was traveling my State doing townhall meetings. I was near Ooltewah, TN, on Thursday night, north of Dalton, GA, and Murray County. We had a townhall meeting, and this fellow in the back of the room raised his hand when it came time for questions.

He said: Mr. ISAKSON, I have got a question for you. I said: What is that? He said: Last night, my wife and I amended our budget that we established in December for this year because some things have not gone so well, and we had to recast how we are spending our money so we wouldn't go any further in debt than we already are. Why can't you all do the same thing? ''You all,'' talking about us.

A few days earlier in Dublin, GA, a great, prosperous town in south Georgia, a similar question was asked by a Chamber of Commerce director who couldn't understand why the Federal Government and the Congress of the United States could not wrap their arms around fiscal responsibility, have a budget, and have appropriations acts that come to the floor, are debated, are amended, and the spending of the United States of America's government is spent like the households of the United States of America have to spend their money.

So I commend Senator ALEXANDER and Senator PRYOR for bringing this to the floor, and I want to commend our leaders for making affirmative statements about the desire to bring the 12 appropriations bills to the floor of the Senate, debate them, let us amend them, and let us bring them together.

If you think about it, in the last 3 years we have had a situation where we either had continuing resolutions or omnibus appropriations. During a difficult period of time where we have had deficits of $1.3 trillion to $1.5 trillion, we haven't taken the time to debate how we are spending our money, where we are spending our money, and doing it in the context of what we call on the floor regular order. In fact, it is not hard to understand why only 11 percent of the American people view the Congress as favorable, because they can't understand our inability to do what they have to do themselves. The IRS doesn't take excuses on April 15 if you are not ready. You have got to be ready. If you are a business and you file as an LLC or a sub S corporation, on the 15th of January, the 15th of April, the 15th of June, and the 15th of September, you file a quarterly tax return; and if you don't, you are held accountable.

We are now going into our fourth year, and it looks as though for the first time in the last 3 years we are going to have debate on the floor of how we spend the American people's money. I commend Senator ALEXANDER and Senator PRYOR, and I thank our leadership for making the statement of the desire to do so. I have already seen Senator INOUYE and I have already seen Senator COCHRAN working diligently in the basic appropriations subcommittees to see to it that those bills come to the floor. I think it is time we do our business just as the American people do their business, and I commend Senator ALEXANDER and Senator PRYOR for calling for this colloquy tonight.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, since we have other Senators on the floor, what I would like to do is withhold my comments until a few of our other colleagues have a chance to speak, if that would be permissible to Senator ALEXANDER?

Mr. ALEXANDER. Madam President, I appreciate the courtesy of the Senator from Arkansas. The Senator from Maine is here. She has another appointment, and I await hearing what she has to say.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, first let me thank the Senator from Arkansas and the Senator from Tennessee for their usual courtesies but also for organizing this colloquy on the Senate floor this evening. I am very pleased to join my colleagues as we talk about the goal of taking up the fiscal year 2013 appropriations bills in what we in the Senate call the regular order.

What does that mean? As the Presiding Officer is well aware, that means we would bring up each of the individual bills, they would be open to full and fair debate, they would be amended, they would be voted on, and we would avoid having some colossal bill at the end of the year that combines all the appropriations bills. Those bills are often thousands of pages in length. A lot of times some of the provisions have not had the opportunity to be thoroughly vetted. They really are not very transparent. They contribute to the public's concern about the way we do business here in Washington.

I too join in commending the majority leader, the Republican leader, the chairman of the Appropriations Committee, and the vice chairman of the Appropriations Committee for their commitment to try to work together in a bipartisan fashion so each and every one of the appropriations bills can be brought before the full Senate so that we can work our will on each of these bills. I suggest that it is important to the Senate as an institution that we achieve this goal. It is also important for the American people to see that we can carry out our constitutional responsibility. Most of all, it is important for restoring trust in government that we work together in an open and bipartisan manner to establish priorities, to make the tough spending decisions that will be required, and to complete on time the work the Constitution requires of us.

I believe it is important to remember that these bills make important investments in research, economic development, infrastructure, our national defense, education, and health care, and that these bills not only create jobs now when they are needed most but also establish the foundations for future growth.

Just as important to our economic future is the need to rein in Federal spending. Our work must continue toward the goal of getting our national debt under control.

The best way for us to achieve these goals is for each and every one of the appropriations bills to come before the full Senate and for us to work our will on those bills. That is the way the Senate should operate. It is the way we must operate in order to restore the faith of the American people in this institution.

Let me conclude my remarks by thanking Senator ALEXANDER and Senator PRYOR for initiating this colloquy tonight. This is the way we can come together, and America will be better for it.

Mr. ALEXANDER. Madam President, I see the Senator from Virginia, Mr. WARNER, has arrived. He, with Senator PRYOR, has been very active in the last several months in working across party lines to try to make the Senate function more effectively. I would leave it to Senator PRYOR as to what comes next.

Mr. PRYOR. If it is agreeable with the Senator from Tennessee, I will ask the Senator from Virginia to say a few words. We understand he has a pressing engagement. I don't think there is anything more pressing than when it is your wife's birthday, so he would like to say a few words, if that is agreeable to the Senator from Tennessee.

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

Mr. WARNER. Madam President, I thank the Senator from Arkansas and my good friend from Tennessee for initiating this effort. Again, as a relatively new Senator—in fact, I jumped the line. I apologize. As the Presiding Officer would support, it is only in the interest of family values; if I were not getting to my wife's birthday in about 30 minutes, I would be able to give more extended remarks.

As a Senator who has only had the opportunity to serve in this body for 3 years, I hear my more senior colleagues talk about the old days or the days when the Senate took up in an orderly fashion the business of the people and debated it in vigorous fashion but came to conclusion on issues that confronted the country. We have done some of that in the years when I came in with the Presiding Officer. There were issues of major importance that we have debated. But too often in recent times, we have not had the favor of those kinds of debates.

While we can disagree about many of the grave issues of the day, as a former businessperson, I know there is nothing more important than to give predictability to the enterprise we call the Federal Government. The way we do that is by passing spending bills—the appropriations bills—where hard choices are made about which programs to fund, which programs not to fund.

Like my friend the Senator from Tennessee and both Senators from Arkansas and the Presiding Officer, I have enormous concerns about our debt and deficit. We are going to have to make hard choices. But if we are going to make those choices, we need a full and vigorous debate, a debate where amendments are offered, where procedural tactics are not used to slow that debate, and where the will of the Senate is enacted.

I understand that the majority leader and the Republican leader have reached some accommodation to try to start a new way of business, and the first step of that business should be having us, in a fair and orderly process, debate appropriations bills, make those hard choices, and move on.

I again thank my colleagues for their courtesy but particularly thank the Senator from Tennessee and the senior Senator from Arkansas for bringing us together on the floor to lend our voices. This might even be like a volunteer fire department where Members of the Senate can rush down on an issue of importance. I heard the call that there were Senators down here talking on this important issue, and I am glad to add my voice to it.

I yield the floor.

Mr. ALEXANDER. I congratulate the Senator from Virginia, who has worked in many different ways to try to get a result here. People say: I see your goal is to try to be more bipartisan. My goal is not to be more bipartisan, my goal is to get a result. I learned in the public schools of Maryville, TN, how to count, and if you need 60 votes to succeed and we have only 47 over here and only 53 over there, we have to find some things we agree on if we are ever going to get a result. We can start with these appropriations bills, which are our basic work.

Not only is the senior Senator from Arkansas here today, having been a part of these discussions to try to help the Senate be a more effective institution, so is the other Senator from Arkansas. I look forward to hearing his remarks. I thank him for his leadership.

Mr. BOOZMAN. Madam President, I am also here tonight to compliment my Senate colleagues, Senators INOUYE and COCHRAN, and the members of the Appropriations Committee as well as Majority Leader REID and Republican Leader MCCONNELL as they commit to do their best to pass all 13 appropriations bills. I also thank the senior Senator from Tennessee and my senior Senator from Arkansas for making this possible.

I do think it is very important. Each one of us in this Chamber owes it to the American people to work together to help our country today and build a path for success in the future. Our Founding Fathers laid the foundation that allows the Senate to function effectively and efficiently, but it requires working together. The American people are tired of the finger-pointing that has stalled much of the work they sent us here to do, but today I am hopeful that we are seeing the light at the end of the tunnel which starts with trying to enact all 13 appropriations bills through a regular process this year.

I again applaud Majority Leader REID, Republican Leader MCCONNELL, Senators INOUYE and COCHRAN, and also the members of the Appropriations Committee for agreeing to do their very best to move the appropriations bills forward.

Determining how we spend our hard-earned taxpayer dollars is the basic responsibility for Congress. We know tough choices will have to be made on the appropriations bills, but moving forward is the right decision. This is an important step to reducing government spending and helping to balance our budget while investing in programs upon which Americans have come to rely. Moving forward on these bills returns the Senate to its proper function and provides a framework of spending so the American people can see and understand where their hard-earned money is going, as the Senator from Georgia alluded to earlier.

In recent days Members of Congress have worked together to find solutions to the troubles Americans are facing. This level of cooperation was evident in headlines. One newspaper reported that ''Washington is talking again.'' This should not be the exception. This needs to be the rule.

I am hopeful that the agreement on moving forward with the appropriations bills through our regular process sets a new trend that will become a standard. I can see from the people who have spoken before me tonight and those who are waiting to talk that there is widespread bipartisan support for these efforts to continue.

Our leaders' efforts show the proper way for the Senate to function, and I encourage all of my colleagues to come together, not only to help move forward on these bills, but also, as we work through regular order of the Senate, that will help us get our economy and our country back on track.

I again thank our senior Senator from Tennessee and my senior Senator from Arkansas.

Mr. ALEXANDER. Madam President, before we go to the senior Senator from Arkansas, I wish to thank Senator BOOZMAN for his comments and his attitude. I am not a bit surprised that, since he arrived here, he has been a very constructive force in the Senate, interested in results. He was a member of the University of Arkansas football team back in the early 1970s, and he knows what a team is. He knows that if the quarter back calls a play and everybody runs in a different direction, nobody scores.

It is good to have him here. He is an excellent Member of the Senate. I thank him for his participation tonight and yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BOOZMAN. The only thing I would say is that Senator PRYOR reminds me that I was a Razorback two stadiums ago.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I likewise wish to thank Senator BOOZMAN. He keeps calling me the senior Senator. We are partners. He does great work for the State of Arkansas, and I appreciate his leadership. Although he has been here a short time, his presence has definitely been felt in the Senate already, and I look forward to working with him as long as we are both here. I really appreciate him being here tonight because the hour is late in Washington. It is after 6:30 now, and I appreciate him carving out some time.

Article I, section 9 of the U.S. Constitution simply states that ''no money shall be drawn from the Treasury, but in consequence of appropriations made by law.'' Like a lot of things in the Constitution, it is a fairly simple statement, but it is loaded with importance. We can all talk about this clause as a power given to Congress in the Constitution, and I think that is true, but I also classify it as a responsibility.

As a congress, it is our responsibility to write annual appropriations laws to fund the government's commitments to its citizens. It is our responsibility to do that. The principle of an appropriation is a basic rule of governing, and I think a lot of people would agree that we have lost sight of many of the basics around here. I believe the basics are important, and I would like to get back to them, which includes the Senate—and hopefully the House—passing the annual appropriations bills through what we call the regular order.

This is where I wish to thank the two leaders, Senator MCCONNELL and Senator REID, because they have a commitment. They have committed to each other—with the chairman and the ranking member of the Appropriations Committee—that we will try to get back to regular order and do things the way we should be doing them around here and should have been doing them around here all along.

Regular order is something we talk about in this Chamber, but it is something many Members of the Senate, unfortunately, have never experienced. Last year the Senate Appropriations Committee dutifully passed all 12 individual appropriations bills. Yet, when they came to the floor, gridlock struck and the Senate was not able to pass these one by one as we should have. In fact, the last time we passed them one by one was in the year 2006, and even in that year the Congress did not get them done on time.

What the leaders are talking about now is getting them moving through the appropriations subcommittee and the full committee and bringing them to the floor. As we say in regular order, let the Senate debate, amend, and vote on these as we go. Hopefully we will get all of these done on time and in the normal order, as we should. The last time Congress completed all of the appropriations bills one by one and on time was in fiscal year 1995. So we have not done a very good job, and this is one of the things that I think really frustrate the American people. It is beyond time that we get serious about this responsibility.

Here again I wish to thank Senators REID and MCCONNELL for their leadership. I think we see our leaders acting like leaders and trying to get things moving for the fiscal year 2013 appropriations bills, but I must say we all recognize this is easier said than done. We all know that. I want them to know they have many, many of their colleagues who support them in this goal of getting all of the appropriations bills done as we should.

We have two very respected and accomplished Senate leaders here on the floor, but we also have two very accomplished and respected Senators who run the Appropriations Committee. We could all talk a long time tonight about the chairman and ranking member, and I am confident that if as a Chamber we stand behind them and stand behind the two leaders, we can break this cycle of inaction here in the Senate.

The good news for this year is that we have already enacted into law our top-line spending number—in technical terms, people call that a 302 A allocation—so we know how much money we can spend on discretionary programs under the law. We passed that law last year. Even though we didn't pass a budget resolution, we did pass the Budget Control Act, and that total for spending is $1.047 trillion, and that is $686 billion for security building and $361 billion for nonsecurity. This was supported by 74 Members in this Chamber, 269 Members down the hall in the House, and it was signed into law by the President. It is now the law of the land, so we now have our top-line spending numbers in law, and hopefully that will help us jump-start the fiscal 2013 spending appropriations process regardless of what happens to the budget resolution, which, by the way, totally supports getting a budget resolution passed. Nonetheless, we have this already in law for this year.

I would like to end by saying that I believe we can pass all 12 appropriations bills this year, and I think we can do it in a way that gives us ample opportunity for input, debate, and a chance to amend. Whether or not we will pass all 12 spending bills on time this year will depend on whether Members of Congress will have the will to get it done. I think the American people want us to get it done. They want to see us work together.

Madam President, if I could ask a question of the Senator from Tennessee through the Chair, I would like to get his reflections, because Senator ALEXANDER has been around this place for a long time, going back to Senator Howard Baker, who was one of the legends in the Senate, and Senator ALEXANDER was able to work with him and for him and see the Senate as it ran differently back in those days.

Madam President, I would like to ask through the Chair why Senator ALEXANDER thinks it is so important that we get our appropriation bills back on track.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I thank the Senator from Arkansas for his leadership. I will answer his question to the best of my ability.

I suppose some people may be watching and say what we are talking about is a lot of ''inside baseball.'' Well, it would be like telling a bunch of people that talking about singing at the Grand Ole Opry is ''inside baseball.'' This is what we do.

I went out to see Johnny Cash at the House of Cash when I was Governor of Tennessee many years ago, and I didn't know quite what to say to him, and so I said: Johnny, how many nights do you appear on the road?

With that big-old deep voice of his, he said: Oh, about 200.

I said: My goodness. Why do you do that?

He looked at me and said: That is what I do.

Well, this is what we do or at least what we are supposed to do. I mean, we are elected by the people from Arkansas, Tennessee, North Carolina, and all over this country expecting us to get results. They sent us up here to put the country first, put our States next, and try to lead us in the right direction. We have our partisan differences, but in the end one of the things we are supposed to do is to appropriate dollars. It says in the Constitution, section 9, article I, that ''no money shall be drawn from the Treasury, but in consequence of appropriations made by law.'' That is us. So this is what we do.

In addition to that, we are supposed to oversee the spending of that money. This is not the whole budget, this is only about 38 percent of it, but it is over $1 trillion. And at a time when we are borrowing 40 cents of every dollar we spend, maybe the people of this country have a right to expect that we take up each one of these 12 appropriations bills, that we have our hearings on them, and that we oversee the spending. If we want to add to nuclear modernization, we vote on that, and if we want to cut Solyndra, we vote on that, but we do our job of appropriations, and we do our job of oversight.

Now, Senator PRYOR, the senior Senator from Arkansas, asked me what my reflection was upon this Senate. I have seen it for a long time. I came here in January of 1967 as a very young man with a newly elected Republican Senator from Tennessee, Howard Baker, and I watched him for a long time. There are many lessons in having watched the Senate for a long time, but one of the lessons is that the leaders cannot lead without any followers. This is a body that operates by unanimous consent. If one of us wants to grease the tracks, the train runs off the tracks. That is the way it works. So the leaders are not going to be able to complete what their stated intention is, which is to take these 12 appropriations bills, bring them through the committees by late April, early May—the House is doing the same thing, we understand—and then bring them to the floor so that we have a chance to consider them, to expose them to the light of day, amend them, vote on them, and pass them or reject them. That is what we do, as Johnny Cash said about his 200 nights on the road, and we should be doing it.

The idea that we have not taken these 12 appropriations bills and brought them to the floor but 2 times since the year 2000 is a bad commentary on this body. It means it doesn't function the way it should function. I do think it functioned better in the 1970s and 1980s. When Senator Byrd and Senator Baker were the Democratic and Republican leaders, they would get unanimous consent agreements to bring bills to the floor. The minority would allow that, and the majority would allow a lot of amendments until people got tired of voting. But they could not have done that just by themselves. Senator Byrd and Senator Baker were very good leaders, but they could not have gotten that done if the Senators themselves didn't make it possible for the leaders to succeed.

So I am delighted to see this discussion. I see the Senator from North Carolina is here, and I would be interested in her comments. My feeling is that there are a large number of Republicans—and I believe a large number of Democrats—who prefer to see the Senate work together to get results. I mean, we worked pretty hard to get here, and the people of Tennessee, Arkansas, and North Carolina expect us to get results, so here is a chance for us to do that. I believe our leaders are saying: OK, let's get this done. And we are saying: Senator REID, Senator MCCONNELL, Senator INOUYE, Senator COCHRAN, we are going to help. We know it will not always be peaches and cream. There will be problems, but, as Senator WARNER talked about a volunteer fire department, maybe when the bell rings and we all show up, we will make the Senate more effective and we will be more effective.

Let me stop my remarks for a moment and yield to the Senator from North Carolina, who has been a regular participant in the discussions we have had about how we can make the Senate be a more effective institution.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I am pleased to join this colloquy and to hear the Senator from Tennessee and the senior Senator from Arkansas work together on this issue. I think it is something of prime importance. Just as Senator ISAKSON went across Georgia this past week, I was in many cities and communities in North Carolina, and people are concerned, as he said, with such a low approval rating of the Congress. They are asking us: Why can't you work together? And, as the Senator from Tennessee said, when we have 47 Members in one party and 53 Members in the other party and today we need 60 votes in order to get something done, we are going to have to work together in this Chamber. That also means the Senate and the House are going to have to come together and have conferences that actually work so we can get legislation passed—in the case we are talking about right now, getting the 12 appropriations bills passed.

When I was in the North Carolina Senate, I was one of the cochairs of the Budget Committee. We know how to do this. We know how to get things done. Obviously this is a much bigger piece of the pie up here, but it is important to the people throughout our country that we work together to get these bills passed. So I am very pleased to hear this debate and colloquy and the commitment we have standing here and talking about and pledging to work together.

I am pleased that Senator INOUYE, the chairman of this committee, and the ranking member, Senator COCHRAN, are putting this together and bringing this forward. I applaud both the Senator from Tennessee and the Senator from Arkansas for holding this colloquy and bringing this out so the American people can hear what we are talking about and the commitment to move forward.

I thank the Chair. We are here to make this place work, to make our country work better every day. We are going to have our differences of opinion. The way the Senate is structured, we should bring the bill to the floor and offer amendments. Let's have a vote. Let's have our differences of opinion. When we don't do that, we are not doing our job.

I see the Senator from South Carolina has arrived. I wish to say this to him: For the last 45 minutes, we have had a stream of Democratic and Republican Senators who have come to the floor and who have congratulated the majority leader, the Republican leader, and the chairman and the ranking member of the Appropriations Committee, for saying we should take all 12 appropriations bills this year, bring them through committee properly, have all of our hearings, do our oversight, bring them to the floor, and then let's pass them.

More than that, we have said we know our leaders can't be leaders if they don't have any followers, and it is part of our job to create an environment in which they can succeed. So we have come to the floor to say that, to pledge we are going to do that. It is not just those who come tonight. We represent a preponderance of Senators on our side of the aisle and, I am told, a preponderance of the Democrats as well.

I would say to the Senator from South Carolina that the Senator from Virginia, Mr. WARNER, was here a little earlier and he said the exercise tonight reminded him of a volunteer fire department. I believe I first heard those words from the Senator from South Carolina. The Senator from South

Carolina has seen the House of Representatives and he has seen the Senate and he has seen the condition of our country. I wish to yield to him in this colloquy for his thoughts on what we are doing here tonight.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from South Carolina.

Mr. GRAHAM. Madam President, my first thought is that the American people are not very impressed with what we are doing up here. We have a congressional approval rating of about 10 to 15 percent. I think it would help all of us if we could go back home and say: This coming week we are going to be talking about the Department of Education budget; we are going to be talking about Veterans Affairs; we are going to be talking about Energy and Water.

We want to be able to tell our mayors and people—county council, city council, our constituents—we are going to be debating how much money we will allocate for different parts of the government, even knowing we are broke. I think that would resonate, I say to the Senator from Tennessee.

This whole idea of a volunteer fire department, when we think about it—particularly in the South, and I am sure it is true everywhere—volunteer fire departments have citizens who have a lot of things to do but feel as though if they work together to protect each others' homes from devastation by fire, that would be a good thing. They are all volunteers. They don't get any money. They lower everybody's insurance premiums by having a volunteer fire department. I think a lot of Members of the Senate feel very frustrated, as does the average person on the street. We want to do better. So we are volunteering our services here to the body so that if we will do things that make sense to the American people, count us in to kind of push the ball up the hill.

The good news, I say to my colleague, is our leaderships have committed to this. Without ''followship,'' it doesn't matter what they say. This is going to take discipline in this body. I expect those on the other side of the aisle to take votes they won't like, and I expect those on this side of the aisle to take votes we won't like. But we have to have some discipline about it. We want the bills to get done in an orderly fashion, and we want the Senate to be a Senate.

This comes about because Senator WARNER spent a lot of time getting us all together. This volunteer fire department idea we have, the Senator from Tennessee and Senator WARNER have made this happen. We had several dinners among the people here tonight to try to find a way to get the Senate back to doing business. I am convinced that if we could bring one appropriations bill to the floor, have an honest debate about how much we should spend on that part of the government, have amendments relevant and not relevant but in an orderly fashion, that would be momentum to get the Senate back to being the Senate. That would help us all and it would help the country.

I want to tell Senator REID and Senator MCCONNELL: Don't let this moment pass. We have your back and we want to conduct the Senate in a way that is more traditional than is going on today.

I came here to do things. I think everybody who has spoken here tonight is telling the public and telling each other: Enough is enough. This is a lousy way—to appropriate a couple three trillion dollars at the end of the year in a big bill nobody reads. If you think that is a broken system, we agree. We don't like the idea of passing a bill in the last week of the fiscal year—3,000, 4,000 pages, whatever it is—and nobody knows what is in it, but that is the only way we can run the government if we didn't go back to the normal course of business. So for those who want better government, this will give us better government. If you want to do something constructive, this gives us an opportunity. For those who want to set priorities, this allows you to do it.

To the leaders of the Senate: If you will follow through with this, it will pay enormous dividends for the body. And to Senators ALEXANDER, PRYOR, and others who have been in the volunteer fire department, I think this is a good moment for the Senate and I am proud to be associated with it, and if it happens, it will be because of what they have done.

Mr. ALEXANDER. Madam President, before we go back to the Senator from Arkansas, I have a question I wish to ask the Senator from South Carolina. First, I am not sure he was here when I referred to the Grand Ole Opry. I haven't been doing that because it is in Nashville. But it has occurred to me over the last several months that there is a lot about what we do that is like the Grand Ole Opry. I know a lot of performers of the Opry, members of the Opry. They sing and pick in every little bar in the South for 20 years until finally, by skill and by accident, they get an invitation to join the Grand Ole Opry. What would they think if they joined the Grand Ole Opry and then they weren't allowed to sing?

That is kind of the way we are in the Senate. We are lucky to be here. We are political accidents in a sense. But we worked hard to be here—almost all of us on both sides. So the idea of coming here, working hard to be here, being elected by the people who sent us, and then not being allowed to amend or vote or debate is unacceptable. That is what we want to do with these 12 bills.

The Senator from South Carolina reminded me of a specific example of that—the deep ports in the United States. If we are going to export American-made goods and create more jobs in our country, we are going to have to have deep ports. We have a real problem in the way we finance that in the Federal Government, and we would be a stronger country if we could discuss that in the Appropriations Committee. If we don't fix it there, we should bring it to the floor and have amendments and have a debate and let people see what is going on.

Would the Senator agree that would be a perfect example of what we should be doing?

Mr. GRAHAM. I think the Senator from Tennessee picked the best example I can think of simply because the Charleston harbor deepening is probably the No. 1 issue for the State of South Carolina.

The Panama Canal is going to be widened and the cargo ships that are going to be on the oceans of the world in the next few years are three times the size of the cargo ships that exist today. Shipping as we know it is going to change. What does that mean? It means harbors such as Savannah and Charleston—just name a harbor on the east coast—are going to have to be deeper to accept these ships.

What does it mean for shipping? Ships that would normally deposit their goods in California can now access the east coast. So east coast ports, based on common sense and merit, have to be deepened. If we brought the Energy and Water appropriations bill through the committee and to the floor, it would make us all think about that. Because when I hear the President say we want to double exports in the next 5 years, count me in. It would be thousands of jobs—millions of jobs—created in America. How do we get those products to the customers overseas if our ports are not modernized to adjust to the change in shipping? Then it is a statement that will not bear fruit. Go to Shanghai, go to Hong Kong and other ports, go to Mideast ports, and we are 20 years behind.

This is a good example of how, if we took the Energy and Water appropriations bill, among ourselves we could create a national vision to deepen ports to adjust to shipping changes. If we keep continuing to appropriate in the last week of the session in a bill that nobody reads, not only will our fellow citizens think poorly of us, we won't have a vision. So this is a good example of why if we took every appropriations bill, put it through committee and brought it to the floor, we could come up with ways to make smart decisions.

I guess what we are talking about is that spending $2 trillion or $3 trillion in a week where only four of five people know what is in the bill is not smart. We all did come here to have our say, and I have a thousand ideas about ports.

So, my friend in Arkansas, if the port of Charleston is deepened and other east coast ports are deepened and the cargo containers are three times the volume we have today, what does that mean for the Mississippi River? It means it has to be widened and deepened. Because the cargo we unload on

the east coast has to get to the interior of the country. I want to have a vision for interior ports, because one thing could affect the other. And the only way the Senate can make smart decisions is to break the government into 12 parts, as we have been doing for a long time, and get back to doing business in a more traditional fashion.

This is a classic example: If we brought the Energy and Water appropriations bill to the floor, people other than me would have a say about what to do, given the change in shipping. And if we don't do it in the normal course of business—if we keep doing this in the last week of the session—we are going to be left behind as a Nation.

This is a great example of why we should do appropriations bills in the normal course of business. If we can pull this off in 2012, it will not be a lost year; it will be where we can do some good for the public.

So I thank you very much. I yield the floor.

Mr. PRYOR. Madam President, I have one thing to say in closing while my two colleagues are still on the floor: Today, Senator SHAHEEN read Washington's Farewell Address which we have been doing in the Senate since 1888. One of the reasons we do that is because President Washington calls to us through history to do our best.

We talk about this issue in South Carolina—deepening the port of Charleston. Certainly President Washington knew about the port of Charleston. It was a huge asset for this fledgling Nation of ours. He had no idea about a Panama Canal. He had no idea about goods coming over from China. He certainly had no idea about goods coming in from the west coast because at that point he was hoping we would get to Appalachia. He had no idea what was going to happen here. But he calls to us from history to do our job and accept the challenges that come our way.

The appropriations bills shouldn't be a challenge. That is nuts-and-bolts good government.

This week in Arkansas we had five townhall meetings and they were great. I got lots of good questions; a few pointed questions. My colleagues know how it goes because they have participated in those as well. It was great. It is democracy in action. When people can show up in a community and ask their Senator questions, that means the system is working. It is working back home, but we need to get it to work up here. That is what I heard over and over this week in Arkansas, is the expectations for this Congress are very low for this year. We talk about a 10-percent approval rating. I am sometimes surprised it is that high.

Mr. GRAHAM. Madam President, if the Senator will yield, here is the good news: It wouldn't take much to exceed expectations. But I want to say to the west coast Senators that their ports need to be modernized too. They need transportation hubs around their ports. The whole infrastructure regarding export opportunities in this country has deteriorated because of a lack of vision.

Wal-Mart is a pretty good model of how business works. They get thousands of millions of products a day out to stores all over the country. They do it in a business fashion: FedEx—Federal Express—UPS. The Federal Government is stuck in the 1950s and we need to change that. I think the appropriations process is the right vehicle to do it.

Mr. PRYOR. That does go back to the appropriations process, because obviously those things require money, they take investment in our future. But the truth is if we are stymied in our appropriations process, there are a lot of good things that we can't get done. But when they go through, we can take care of the challenges that present themselves around the country. We have a lot of need in this country. I am certainly a promoter of investing in infrastructure, and the ports are very important to our Nation.

With that, I yield to the Senator from Tennessee.

Mr. ALEXANDER. Madam President, I wish to thank the Senator from South Carolina for his leadership in helping to make the Senate work and for his good example and for his giving us a specific example—the deep ports—as to why it is important that we set out to do what we are elected to do, which is to say, the Port of Charleston and the Port of Savannah have to be deepwater ports if we want to keep our jobs. That needs to be said in the Senate. It needs to be said in the subcommittee and in the full committee, and it needs to be said on the floor.

It is encouraging to me when Senators such as the Senator from North Carolina and Arkansas and Virginia from that side of the aisle, and the Senator from South Carolina and the Senator from Maine and the junior Senator from Arkansas and the Senator from Georgia on this side of the aisle—I think we would all say firmly that while we are only several Senators, the words we speak are the same feelings that a large number of Senators on both sides of the aisle feel.

We want to get results. We want to do our jobs. We want to create an environment in which our leaders can succeed. We know that if we want to, we can do that. And we should do it because it is our constitutional responsibility, because oversight is our responsibility, because it is lazy management if we allow it to go to the end of the year and end up with a great big pile of bills in an omnibus or a continuing resolution, which is worse.

We need to go over spending item by item. I am on six subcommittees. All three of us are on the Appropriations Committee. We will probably have 30 hearings in the next 2 or 3 months. We will have a good opportunity to go through $1 trillion of discretionary spending and try to spend it wisely and to save money wherever we can.

One last thing: When these spending bills come to the floor and we debate them and approve them, we can show the American people that discretionary spending is not the biggest problem we have with spending in this country. Discretionary spending is 38 percent of the budget, and according to the Congressional Budget Office it is scheduled to go up over the next 10 years at the rate of inflation. The rest of the budget, which is largely our entitlement programs, is scheduled to grow up to four times the rate of inflation. If it does that, we will be a bankrupt country after about 10 or 12 years. So there is every reason in the world for us to bring these bills to the floor.

My concluding sentence is this: We congratulate the Democratic and Republican leaders and the chairman and ranking member of the Appropriations Committee. We believe our job is to bring all 12 bills through committee and to the floor and pass them before the fiscal year starts. We, on both sides of the aisle—those of us who have spoken and many others who feel the same way—pledge our support to help our leaders achieve that result.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank Senator ALEXANDER from Tennessee for his leadership on this issue. He is the one who wanted to come here and praise the two leaders for their leadership. Again, they are demonstrating leadership by reaching this agreement and trying to change recent practice around here. They want to set a new standard for getting it done as we are supposed to get it done.

So I thank my friend and colleague from Tennessee for all of his hard work, and this is just the tip of the iceberg. He is working on many ways to try to make this institution run better and to make the American people proud of the Senate. So I thank the Senator for that.

TRIBUTE TO THOMAS CULBERTSON

Mr. PORTMAN. Mr. President, I rise to recognize Thomas Culbertson of Fremont, OH, for many years of outstanding leadership and service to The Rutherford B. Hayes Presidential Center. A former college librarian and stockbroker, Mr. Culbertson began his service to the center in 1988 as a manuscripts curator and rose to the position of executive director in 2004.

Mr. Culbertson was instrumental in developing two workshop series for educators. The first series, ''History Links: A Partnership to Teach American History,'' helped 300 area schoolteachers implement State standards for social studies that focused on American history. The second series included three workshops for more than 200 community college faculty that focused on America's Gilded Age. Mr. Culbertson also led the effort to gain

accreditation for the Hayes Museum from the American Association of Museums in 2002.

Of utmost importance to Mr. Culbertson's legacy is the $1.2 million restoration of the first floor of the Hayes home to how it looked when our 19th President and his wife, Lucy, lived there. With the help of the late U.S. Representative Paul Gillmor, the Hayes Center was awarded a $400,000 Save America's Treasures grant through the U.S. Department of Interior. In addition, the center received $500,000 in State capital funding, and Mr. Culbertson helped raise $300,000 in donations to pay for the restoration. The project included replicating wallpaper, carpets, and other features that had been altered over the years. The home renovation will be completed in July 2012.

For his commitment to public service and the many contributions he has made to the Hayes Presidential Center, I would like to recognize and thank Mr. Culbertson for his years of service and wish him well in his retirement.

ADDITIONAL STATEMENTS

TRIBUTE TO WILLIE O'REE

● Mr. KERRY. Mr. President, Willie O'Ree made history on the night of January 18, 1958, but for too long the significance of what he accomplished that night went largely unacknowledged. Every American should know Willie O'Ree for his rightful place in history: he is the Jackie Robinson of hockey—the first player of African heritage to play in the National Hockey League.

Unlike Jackie Robinson's widely heralded debut with the Brooklyn Dodgers 11 years earlier, Willie O'Ree's appearance on the ice for the Boston Bruins 54 years ago got little notice in the press. The New York Times simply reported: ''The Boston Bruins, with a Negro, Billy O'Ree, in the line-up for the first time in National Hockey League history, scored once in every period tonight to beat the first-place Montreal Canadiens for the first time in eight games, 3 0.'' Sports Illustrated had even less to say in its Scoreboard column: ''Boston made history by bringing up Quebec's Billy O'Ree, first Negro to play in NHL.''

But it was a milestone for hockey—and a dream come true for the 22-year-old Willie O'Ree, who had spent his boyhood in New Brunswick, Canada—the youngest of 13 children—idolizing such NHL legends as Gordie Howe and Maurice Richard. He liked baseball, too, landing a tryout with the Milwaukee Braves minor league team in Waycross, GA, in 1956. He even got to meet Jackie Robinson on a trip his baseball team made to New York in 1949.

Willie was as good at shortstop as he was at second base. He was good at the plate, too. And with his speed, he stole a lot of bases. But to him, baseball was just a way to stay in shape for hockey. To him, ''there was just something about hockey,'' he always said. He started skating when he was 2 years old and began playing organized hockey when he was 5.

He explains his love of hockey in words all of us who share his passion for the game can appreciate. ''When I put a pair of skates on and a hockey stick in my hand and started maneuvering the puck,' he says, ''I just became obsessed with it. I had that burning desire within me.''

That burning desire—that deep ambition—drove Willie O'Ree through almost two minor league seasons with the Quebec Aces before being called up by the Boston Bruins for that historic game in Montreal against the Canadiens in 1958. But after that memorable night, he would play only one more game with Boston before being sent back to the minors for the rest of the season.

But in 1960, Willie O'Ree was back with the Bruins for 43 games, including one memorable game at the Boston Garden in which he scored the winning goal in a 3 2 victory over Montreal. It came in the third period. Willie broke away from his check, got a perfect pass from Leo Boivin, stick handled past two Canadiens players, then from 10 feet out fired a shot past goaltender Charlie Hodge. More than 13,000 Bruins fans jumped to their feet and gave Willie a 2-minute standing ovation.

That year, Willie had a total of four goals and 10 assists with the Bruins, but that was the end of his NHL career. He spent the next six seasons in the Western Hockey League, then nine more seasons in the Pacific Hockey League until he retired in 1979 at the age of 44. Most seasons were productive despite the fact that at 19 he had suffered an injury that left him blind in his right eye. Doctors said he would never play hockey again. They were wrong. With aggressiveness, fearlessness and speed, he scored nearly 500 goals in his 21 years playing professional hockey.

His own impairment was no obstacle to Willie O'Ree. Neither was the blind bigotry of those who filled his mailbox with anonymous death threats, those who screamed racial epithets at him from the stands, those who even tossed black cats out on the ice, even those players who took countless cheap shots at him, in a time when players did not wear helmets or face shields. Willie responded the same way as Jackie Robinson had in 1947 when he broke the color barrier in baseball—with quiet strength and calm dignity. ''I just want to be a hockey player,'' he said, ''and if they couldn't accept that fact, that was their problem, not mine.''

It wasn't until 1974 that another black player, Washington's Mike Marson, made it to the NHL. It is undeniable that Willie O'Ree—his talent and his character—opened the NHL to other minorities. But Willie's groundbreaking days are far from over. For the last 14 years, he has served as the NHL's Director of Youth Development and ambassador for NHL Diversity, part of the NHL Foundation supporting hockey programs for boys and girls throughout North America. He is constantly on the go, running clinics and speaking at schools all across the continent, teaching not only hockey but also how to live life off the ice. He continues to spread the word that ''hockey is for everyone.''

We have recognized and celebrated ambassadors from all over the world. We should also honor Willie O'Ree who is the ultimate ambassador not just for hockey, but for dignity and respect and even courage in the world of sports. The world weathers so many storms and so much uncertainty, but at the center of each we find people of character who revive our hope and give us strength. Willie O'Ree is such a man, and we are all blessed to have his strength as an example.●

RECOGNIZING NATIONAL HISTORY DAY

● Mrs. MURRAY. Mr. President, I would like to take this opportunity to recognize National History Day, a yearlong academic program focused on improving the teaching and learning of history for 6th to 12th grade students, for receiving a 2011 National Humanities Medal. The National Humanities medals honor achievements in history, literature, education, and cultural policy. For the first time ever, a K 12 education program has received this prestigious award. National History Day was recognized as ''a program that inspires in American students a passion for history.''

Each year more than half a million students, encouraged by thousands of teachers nationwide, participate in the yearlong National History Day program. Students choose historical topics related to a theme and conduct extensive primary and secondary research through libraries, archives, museums, oral history interviews, and historic sites. After analyzing and interpreting their sources and drawing conclusions about the significance of their topics in history, students present their work in original papers, Web sites, exhibits, performances, and documentaries. These products are entered into competitions in the spring, at local, State, and national levels where they are evaluated by professional historians and educators. The program culminates in a national competition each June. National History Day programs operate in all 50 States, the District of Columbia, and the U.S. territories, engaging students with its unique approach to the hands-on learning of history.

In addition to discovering the exciting world of the past, National History Day also helps students develop the attributes that are critical to make them college and career ready. This includes:

critical thinking and problem-solving skills, research and reading skills, oral and written communication and presentation skills, self-esteem and confidence, and a sense of responsibility for and involvement in the democratic process. With schools spending more resources and time focusing on English language arts and mathematics education, it is important that programs like National History Day are recognized and supported to ensure students receive a quality history and civics education.

The impact of National History Day is also supported by data. A recent comprehensive study by Rockman et al found that students who participate in National History Day develop a range of college and career-ready skills, and outperform their peers on State standardized tests across all subjects—including science and mathematics.

National History Day is much more than a day, it is an evidence-based history education program that gives our young people skills to succeed in school and post secondary careers as well as a valuable understanding of how the world they live in has been shaped by people and events of the past. National History Day is a unique program that has benefited over 15 million students since 1982. I congratulate them on winning the 2011 National Humanities Medal and wish them many more years of continued success.●

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of January 5, 2011, the Secretary of the Senate, on February 21, 2012, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore had signed the following enrolled bill:

H.R. 3630. An act to provide incentives for the creation of jobs, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. REID).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1173. An act to repeal the CLASS program.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC 5055. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled ''Disclosure to Investor in System-wide and Consolidated Bank Debt Obligations of the Farm Credit System'' (RIN3052 AC77) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC 5056. A communication from the Acting Chief of the Planning and Regulatory Affairs Branch, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nutritional Standards in the National School Lunch and School Breakfast Programs'' (RIN0584 AD59) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC 5057. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dairy Product Mandatory Reporting'' ((Docket No. AMS DA 10 0089; DA 11 01) (RIN0581 AD12)) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC 5058. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) and Class 3 (Native) Spearmint Oil for the 2011 2012 Marketing Year'' (Docket No. AMS FV 10 0094; FV11 985 1A FIR) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC 5059. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Organic Program (NOP); Amendments to the National List of Allowed and Prohibited Substances (Crops and Processing)'' ((Docket No. AMS NOP 10 0079; NOP 09 02FR) (RIN0581 AD06)) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC 5060. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Revision of Cotton Futures Classification Procedures'' ((Docket No. AMS CN 10 0073; CN 10 005) (RIN0581 AD16)) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC 5061. A communication from the Under Secretary of Defense (Intelligence), transmitting, pursuant to law, the report of a request for an extension of the delivery date of an annual report on the current and future military strategy of Iran; to the Committee on Armed Services.

EC 5062. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran as declared in Executive Order 12957; to the Committee on Banking, Housing, and Urban Affairs.

EC 5063. A communication from the Associate General Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Removal of the Indian HOME Investment Partnerships Program Regulation'' (RIN2577 AC87) received in the Office of the President of the Senate on February 16, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5064. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67) (Docket No. FEMA 2011 0002)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5065. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67) (Docket No. FEMA 2011 0002)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5066. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67) (Docket No. FEMA 2011 0002)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5067. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket No. FEMA 2012 0003)) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5068. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket No. FEMA 2012 0003)) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5069. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the continuation of the national emergency that was declared with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft; to the Committee on Banking, Housing, and Urban Affairs.

EC 5070. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the continuation of the national emergency with respect to Libya declared in Executive Order 13566; to the Committee on Banking, Housing, and Urban Affairs.

EC 5071. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Existing Validated End-User Authorizations for Applied Materials (China), Inc., Boeing Tianjin Composites Co. Ltd., CSMC Technologies Corporation, Lam Research Corporation, and Semiconductor Manufacturing International Corporation in the People's Republic of China, and for GE India Industrial Pvt. Ltd. in India'' (RIN0694 AF26) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5072. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Updated Statements of Legal Authority To Reflect

Continuation of Emergency Declared in Executive Orders 12947 and 13244'' (RIN0694 AF30) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5073. A communication from the Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Investment Advisers Performance Compensation'' (RIN3235 AK71) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Banking, Housing, and Urban Affairs.

EC 5074. A communication from the Deputy General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Interpretation of Protection System Reliability Standard'' ((RIN1902 AE21) (Docket No. RM10 5 000)) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Energy and Natural Resources.

EC 5075. A communication from the Acting Assistant Secretary, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Special Regulations, Areas of the National Park System, Cape Cod National Seashore'' (RIN1024 AD88) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Energy and Natural Resources.

EC 5076. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''International Nuclear and Radiological Event Scale (INES) Participation'' (NRC Management Directive 5.12) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Energy and Natural Resources.

EC 5077. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Duty-Free Treatment of Certain Visual and Auditory Materials'' (RIN1515 AD75) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Finance.

EC 5078. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Determination of Housing Cost Amounts Eligible for Exclusion or Deduction for 2012'' (Notice 2012 19) received in the Office of the President of the Senate on February 15, 2012; to the Committee on Finance .

EC 5079. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Work Opportunity Tax Credit—Vow to Hire Heroes Act'' (Notice 2012 13) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

EC 5080. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act'' (RIN0938 AQ74) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

EC 5081. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Summary of Benefits and Coverage and Uniform Glossary—Templates, Instructions, and Related Materials; and Guidance for Compliance'' (CMS 9982 FN) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

EC 5082. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Summary of Benefits and Coverage and Uniform Glossary'' (RIN1545 BJ94, RIN1210 AB52, and RIN0938 AQ73) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 179. A bill to expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes (Rept. No. 112 149).

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

S. 646. A bill to reauthorize Federal natural hazards reduction programs, and for other purposes (Rept. No. 112 150).

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

S. 962. A bill to reauthorize the Northwest Straits Marine Conservation Initiative Act to promote the protection of the resources of the Northwest Straits, and for other purposes (Rept. No. 112 151).

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 2132. An original bill to amend the Internal Revenue Code of 1986 to provide for the extension of highway-related taxes and trust fund expenditures, to provide revenues for highway programs, and for other purposes (Rept. No. 112 152).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CASEY:

S. 2131. A bill to reauthorize the Rivers of Steel National Heritage Area, the Lackawanna Valley National Heritage Area, and the Delaware and Lehigh National Heritage Corridor; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2132. An original bill to amend the Internal Revenue Code of 1986 to provide for the extension of highway-related taxes and trust fund expenditures, to provide revenues for highway programs, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. HARKIN:

S. 2133. A bill to reauthorize the America's Agricultural Heritage Partnership in the State of Iowa; to the Committee on Energy and Natural Resources.

By Mr. BLUMENTHAL:

S. 2134. A bill to amend title 10, United States Code, to provide for certain requirements relating to the retirement, adoption, care, and recognition of military working dogs, and for other purposes; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 17

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of S. 17, a bill to repeal the job-killing tax on medical devices to ensure continued access to life-saving medical devices for patients and maintain the standing of United States as the world leader in medical device innovation.

S. 64

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 64, a bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

S. 296

At the request of Ms. KLOBUCHAR, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 424

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 424, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 491

At the request of Mr. PRYOR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

S. 807

At the request of Mr. ENZI, the names of the Senator from Kansas (Mr. MORAN) and the Senator from North Dakota (Mr. HOEVEN) were added as cosponsors of S. 807, a bill to authorize the Department of Labor's voluntary protection program and to expand the program to include more small businesses.

S. 1004

At the request of Mr. HARKIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1004, a bill to support Promise Neighborhoods.

S. 1167

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1167, a bill to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes.

S. 1299

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

S. 1421

At the request of Mr. PORTMAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1421, a bill to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes.

S. 1425

At the request of Mr. DEMINT, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1425, a bill to amend the National Labor Relations Act to ensure fairness in election procedures with respect to collective bargaining representatives.

S. 1577

At the request of Mr. BAUCUS, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to increase and make permanent the alternative simplified research credit, and for other purposes.

S. 1591

At the request of Mrs. GILLIBRAND, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Utah (Mr. LEE) were added as cosponsors of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1665

At the request of Mr. BEGICH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1665, a bill to authorize appropriations for the Coast Guard for fiscal years 2012 and 2013, and for other purposes.

S. 1884

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Florida (Mr. NELSON), the Senator from Delaware (Mr. CARPER) and the Senator from West Virginia (Mr. MANCHIN) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1930

At the request of Mr. TOOMEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1930, a bill to prohibit earmarks.

S. 1967

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1967, a bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare Program.

S. 1981

At the request of Mr. HELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1981, a bill to provide that Members of Congress may not receive pay after October 1 of any fiscal year in which Congress has not approved a concurrent resolution on the budget and passed the regular appropriations bills.

S. 1990

At the request of Mr. LIEBERMAN, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Kansas (Mr. MORAN) were added as cosponsors of S. 1990, a bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

S. 2005

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 2005, a bill to authorize the Secretary of State to issue up to 10,500 E 3 visas per year to Irish nationals.

S. 2046

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 2046, a bill to amend the Immigration and Nationality Act to modify the requirements of the visa waiver program and for other purposes.

S. 2084

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2084, a bill to require the Secretary of Transportation to establish accelerated licensing procedures to assist veterans to acquire commercial driver's licenses, and for other purposes.

S. 2127

At the request of Mr. CASEY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 2127, a bill to protect State and local witnesses from tampering and retaliation, and for other purposes.

S. RES. 380

At the request of Mr. GRAHAM, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from West Virginia (Mr. MANCHIN) were added as cosponsors of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

AMENDMENT NO. 919

At the request of Mr. ROBERTS, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Indiana (Mr. LUGAR), the Senator from Mississippi (Mr. COCHRAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Nebraska (Mr. JOHANNS), the Senator from North Dakota (Mr. HOEVEN) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of amendment No. 919 intended to be proposed to H.R. 872, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Water Pollution Control Act to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

AMENDMENT NO. 1599

At the request of Mr. MERKLEY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 1599 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1601

At the request of Mr. MERKLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 1601 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1606

At the request of Mr. MERKLEY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 1606 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1647

At the request of Mr. BROWN of Ohio, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 1647 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1652

At the request of Mr. HARKIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 1652 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1660

At the request of Ms. COLLINS, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 1660 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1736. Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1737. Mr. COBURN (for himself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1738. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1739. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1740. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1741. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1736. Mr. PORTMAN (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

Subtitle—State Transportation Flexibility

SEC. ___01. SHORT TITLE.

This subtitle may be cited as the ''State Transportation Flexibility Act''.

SEC. ___02. DIRECT FEDERAL-AID HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1115(a)), is amended by adding at the end the following:

''§ 168. Direct Federal-aid highway program

''(a) ELECTION BY STATE NOT TO PARTICIPATE.—Notwithstanding any other provision of law, a State may elect not to participate in any Federal program relating to highways, including a Federal highway program under the SAFETEA LU (Public Law 109 59; 119 Stat. 1144), this title, or title 49.

''(b) DIRECT FEDERAL-AID HIGHWAY PROGRAM.—

''(1) IN GENERAL.—Beginning in fiscal year 2011, the Secretary shall carry out a direct Federal-aid highway program in accordance with the requirements of this section under which the legislature of a State may elect, not fewer than 90 days before the beginning of a fiscal year—

''(A) to waive the right of the State to receive amounts apportioned or allocated to the State under the Federal-aid highway program for the fiscal year to which the election relates; and

''(B) to receive an amount for that fiscal year that is determined in accordance with subsection (e) for that fiscal year.

''(2) EFFECT.—On making an election under paragraph (1), a State—

''(A) assumes all Federal obligations relating to each program that is the subject of the election; and

''(B) shall fulfill those obligations using the amounts transferred to the State under subsection (e).

''(c) STATE RESPONSIBILITY.—

''(1) IN GENERAL.—The Governor of a State making an election under subsection (b) shall—

''(A) agree to maintain the Interstate System in accordance with the current Interstate System program;

''(B) submit a plan to the Secretary describing—

''(i) the purposes, projects, and uses to which amounts received under the program will be put; and

''(ii) which programmatic requirements of this title the State elects to continue;

''(C) agree to obligate or expend amounts received under the direct Federal-aid highway program exclusively for projects that would be eligible for funding under section 133(b) if the State was not participating in the program; and

''(D) agree to report annually to the Secretary on the use of amounts received under the direct Federal-aid highway program and to make the report available to the public in an easily accessible format.

''(2) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (1), the expenditure or obligation of funds received by a State under the direct Federal-aid highway program shall not be subject to any Federal regulation under this title (except for this section), title 49, or any other Federal law.

''(3) ELECTION IRREVOCABLE.—An election under subsection (b) shall be irrevocable during the applicable fiscal year.

''(d) EFFECT ON PREEXISTING COMMITMENTS.—The making of an election under subsection (b) shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

''(1) a project or program funded under this title (other than under this section); or

''(2) any project or program funded under this title in any fiscal year for which an election under subsection (b) is not in effect.

''(e) TRANSFERS.—

''(1) IN GENERAL.—The amount to be transferred to a State under the direct Federal-aid highway program for a fiscal year shall be the portion of the taxes appropriated to the Highway Trust Fund under section 9503 of the Internal Revenue Code of 1986, other than for the Mass Transit Account, for that fiscal year that is attributable to highway users in that State during that fiscal year, reduced by a pro rata share withheld by the Secretary to fund contract authority for programs of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration.

''(2) TRANSFERS UNDER PROGRAM.—

''(A) IN GENERAL.—Transfers under the program—

''(i) shall be made at the same time as deposits to the Highway Trust Fund are made by the Secretary of the Treasury; and

''(ii) shall be made on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

''(B) LIMITATION.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to which the adjustment relates. If the adjustment required under subparagraph (A)(ii) exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under subparagraph (A)(ii).

''(f) APPLICATION WITH OTHER AUTHORITY.—Any contract authority under this chapter (and any obligation limitation) authorized for a State for a fiscal year for which an election by that State is in effect under subsection (b)—

''(1) shall be rescinded or canceled; and

''(2) shall not be reallocated or distributed to any other State under the Federal-aid highway program.

''(g) MAINTENANCE OF EFFORT.—

''(1) IN GENERAL.—Not later than 30 days after the date on which an amount is distributed to a State or State agency under the State Highway Flexibility Act or an amendment made by that Act, the Governor of the State shall certify to the Secretary that the State will maintain the effort of the State with regard to State funding for the types of projects that are funded by the amounts.

''(2) AMOUNTS.—As part of the certification, the Governor shall submit to the Secretary a statement identifying the amount of funds the State plans to expend from State sources during the covered period, for the types of projects that are funded by the amounts.

''(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e)(1).''.

(b) CONFORMING AMENDMENT.—The analysis for title 23, United States Code (as amended by section 1115(b)), is amended by inserting after the item relating to section 149 the following:

''168. Direct Federal-aid highway program''.

SEC. ___03. ALTERNATIVE FUNDING OF PUBLIC TRANSPORTATION PROGRAMS.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code (as amended by section 20030), is amended by adding at the end the following:

''§ 5341. Alternative funding of public transportation programs

''(a) DEFINITIONS.—In this section—

''(1) ALTERNATIVE FUNDING PROGRAM.—The term 'alternative funding program' means the program established under subsection (c).

''(2) COVERED PROGRAMS.—The term 'covered programs' means the programs authorized under—

''(A) sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340; and

''(B) section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note).

''(b) ELECTION BY STATE NOT TO PARTICIPATE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a State may elect not to participate in all Federal programs relating to public transportation funded under the Mass Transit Account of the Highway Trust Fund, including the Federal public transportation programs under the SAFETEA LU (Public Law 109 59; 119 Stat. 1144), title 23, or this title.

''(2) EFFECT.—On making an election under paragraph (1), a State—

''(A) assumes all Federal obligations relating to each program that is the subject of the election; and

''(B) shall fulfill those obligations using the amounts transferred to the State under subsection (e).

''(c) PUBLIC TRANSPORTATION PROGRAM.—

''(1) PROGRAM ESTABLISHED.—Beginning in fiscal year 2011, the Secretary shall carry out an alternative funding program under which the legislature of a State may elect, not fewer than 90 days before the beginning of a fiscal year—

''(A) to waive the right of the State to receive amounts apportioned or allocated to the State under the covered programs for the fiscal year to which the election relates; and

''(B) to receive an amount for that fiscal year that is determined in accordance with subsection (e).

''(2) PROGRAM REQUIREMENTS.—

''(A) IN GENERAL.—The Governor of a State that participates in the alternative funding program shall—

''(i) submit a plan to the Secretary describing—

''(I) the purposes, projects, and uses to which amounts received under the alternative funding program will be put; and

''(II) which programmatic requirements of this title the State elects to continue;

''(ii) agree to obligate or expend amounts received under the alternative funding program exclusively for projects that would be eligible for funding under the covered programs if the State was not participating in the alternative funding program; and

''(iii) submit to the Secretary an annual report on the use of amounts received under the alternative funding program, and to make the report available to the public in an easily accessible format.

''(B) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in subparagraph (A), the expenditure or obligation of funds received by a State under the alternative funding program shall not be subject to the provisions of this title (except for this section), title 23, or any other Federal law.

''(3) ELECTION IRREVOCABLE.—An election under paragraph (1) shall be irrevocable during the applicable fiscal year.

''(d) EFFECT ON PREEXISTING COMMITMENTS.—Participation in the alternative funding program shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

''(1) a project or program funded under this title (other than under this section); or

''(2) any project or program funded under this title in any fiscal year for which the State elects not to participate in the alternative funding program.

''(e) TRANSFERS.—

''(1) IN GENERAL.—The amount to be transferred to a State under the alternative funding program for a fiscal year shall be the portion of the taxes transferred to the Mass Transit Account of the Highway Trust Fund under section 9503(e) of the Internal Revenue Code of 1986, for that fiscal year, that is attributable to highway users in that State during that fiscal year.

''(2) TRANSFERS.—

''(A) IN GENERAL.—Transfers under the program—

''(i) shall be made at the same time as transfers to the Mass Transit Account of the Highway Trust Fund are made by the Secretary of the Treasury; and

''(ii) shall be made on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, and proper adjustments shall be made in amounts subsequently transferred, to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

''(B) LIMITATION.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to which the adjustment relates. If the adjustment required under subparagraph (A)(ii) exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under subparagraph (A)(ii).

''(f) CONTRACT AUTHORITY.—There shall be rescinded or canceled any contract authority under this chapter (and any obligation limitation) authorized for a State for a fiscal year for which the State elects to participate in the alternative funding program.

''(g) MAINTENANCE OF EFFORT.—

''(1) IN GENERAL.—Not later than 30 days after the date on which an amount is distributed to a State or State agency under the State Highway Flexibility Act or an amendment made by that Act, the Governor of the State shall certify to the Secretary that the State will maintain the effort of the State with regard to State funding for the types of projects that are funded by the amounts.

''(2) AMOUNTS.—The certification under paragraph (1) shall include a statement identifying the amount of funds the State plans to expend from State sources for projects funded under the alternative funding program, during the fiscal year for which the State elects to participate in the alternative funding program.

''(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e).''.

(b) CONFORMING AMENDMENT.—The analysis for title 49, United States Code (as amended by section 20031(k)), is amended by adding after the item relating to section 5340 the following:

''5341. Alternative funding of public transportation programs''.

SA 1737. Mr. COBURN (for himself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PREVENTING DUPLICATIVE AND OVERLAPPING GOVERNMENT PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the ''Preventing Duplicative and Overlapping Government Programs Act''.

(b) REPORTED LEGISLATION.—Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended—

(1) in subparagraph (c), by striking ''and (b)'' and inserting ''(b), and (c)'';

(2) by redesignating subparagraph (c) and subparagraph (d); and

(3) by inserting after subparagraph (b) the following:

''(c) The report accompanying each bill or joint resolution of a public character reported by any committee (including the Committee on Appropriations and the Committee on the Budget) shall contain—

''(1) an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or duplicative Federal program or programs, office or offices, or initiative or initiatives; and

''(2) an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.''.

(c) SENATE.—Rule XVII of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

''6. (a) It shall not be in order in the Senate to proceed to any bill or joint resolution unless the committee of jurisdiction has prepared and posted on the committee website an overlapping and duplicative programs analysis and explanation for the bill or joint resolution as described in subparagraph (b) prior to proceeding.

''(b) The analysis and explanation required by this subparagraph shall contain—

''(1) an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or duplicative Federal program or programs, office or offices, or initiative or initiatives; and

''(2) an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.

''(c) This paragraph may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate upon their certification that such waiver is necessary as a result of—

''(1) a significant disruption to Senate facilities or to the availability of the Internet; or

''(2) an emergency as determined by the leaders.''.

SA 1738. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CONSOLIDATING UNNECESSARY DUPLICATIVE AND OVERLAPPING GOVERNMENT PROGRAMS.

Notwithstanding any other provision of law and not later than 150 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of the relevant department and agencies to—

(1) use available administrative authority to eliminate, consolidate, or streamline Government programs and agencies with duplicative and overlapping missions identified in the—

(A) March 2011 Government Accountability Office report to Congress entitled ''Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 11 318SP); and

(B) February 2012 Government Accountability Office report to Congress entitled ''2012 Annual Report: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 12 342SP);

(2) identify and report to Congress any legislative changes required to further eliminate, consolidate, or streamline Government programs and agencies with duplicative and overlapping missions identified in the—

(A) March 2011 Government Accountability Office report to Congress entitled ''Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 11 318SP); and

(B) February 2012 Government Accountability Office report to Congress entitled ''2012 Annual Report: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 12 342SP);

(3) determine the total cost savings that shall result to each agency, office, and department from the actions described in paragraph (1); and

(4) rescind from the appropriate accounts and apply the savings towards deficit reduction the amount greater of—

(A) $10,000,000,000; or

(B) the total amount of cost savings estimated by paragraph (3).

SA 1739. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike lines 15 through 17, and insert the following:

''(A) in which a substantial portion of each line operates in a separated right-of-way that is semi-dedicated for public transportation use during peak periods;

SA 1740. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, line 24, insert ''and other high occupancy vehicles'' before the semicolon at the end.

SA 1741. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION ____—CUT LOOPHOLES

SECTION ____001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the ''Cut Unjustified Tax Loopholes Act'' or ''CUT Loopholes Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this division is as follows:

DIVISION ____—CUT LOOPHOLES

Sec. ____001. Short title; etc.

TITLE I—ENDING OFFSHORE TAX ABUSES

Subtitle A—Deterring the Use of Tax Havens for Tax Evasion

Sec. ____101. Authorizing special measures against foreign jurisdictions, financial institutions, and others that impede United States tax enforcement.

Sec. ____102. Strengthening the Foreign Account Tax Compliance Act (FATCA).

Sec. ____103. Treatment of foreign corporations managed and controlled in the United States as domestic corporations.

Sec. ____104. Reporting United States beneficial owners of foreign owned financial accounts.

Sec. ____105. Swap payments made from the United States to persons offshore.

Sec. ____106. Tax on income of controlled foreign corporation deposited in financial account located in the United States.

Subtitle B—Other Measures to Combat Tax Haven and Tax Shelter Abuses

Sec. ____111. Country-by-country reporting.

Sec. ____112. Penalty for failing to disclose offshore holdings.

Sec. ____113. Deadline for anti-money laundering rule for private funds and venture capital funds.

Sec. ____114. Anti-money laundering requirements for formation agents.

Sec. ____115. Strengthening John Doe summons proceedings.

Sec. ____116. Improving enforcement of foreign financial account reporting.

Subtitle C—Combating Tax Shelter Promoters

Sec. ____121. Penalty for promoting abusive tax shelters.

Sec. ____122. Penalty for aiding and abetting the understatement of tax liability.

Sec. ____123. Prohibited fee arrangement.

Sec. ____124. Preventing tax shelter activities by financial institutions.

Sec. ____125. Information sharing for enforcement purposes.

Sec. ____126. Disclosure of information to Congress.

Sec. ____127. Tax opinion standards for tax practitioners.

Subtitle D—Reformation of U.S. International Tax System

Sec. ____131. Allocation of expenses and taxes on basis of repatriation of foreign income.

Sec. ____132. Excess income from transfers of intangibles to low-taxed affiliates treated as subpart F income.

Sec. ____133. Limitations on income shifting through intangible property transfers.

Sec. ____134. Limitation on earnings stripping by expatriated entities.

TITLE II—ENDING EXCESSIVE CORPORATE TAX DEDUCTIONS FOR STOCK OPTIONS

Sec. ____201. Consistent treatment of stock options by corporations.

Sec. ____202. Application of executive pay deduction limit.

TITLE I—ENDING OFFSHORE TAX ABUSES

Subtitle A—Deterring the Use of Tax Havens for Tax Evasion

SEC. ____101. AUTHORIZING SPECIAL MEASURES AGAINST FOREIGN JURISDICTIONS, FINANCIAL INSTITUTIONS, AND OTHERS THAT IMPEDE UNITED STATES TAX ENFORCEMENT.

(a) IN GENERAL.—Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following new heading:

''§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement'';

(2) in subsection (a), by striking all before paragraph (1) and inserting the following:

''(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—'';

(3) in subsection (c), by striking all before paragraph (1) and inserting the following:

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—'';

(4) in subsection (a)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue Service, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following new paragraph:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

''(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

''(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.'';

(8) in subsection (c)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

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

SEC. ___102. STRENGTHENING THE FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA).

(a) REPORTING ACTIVITIES WITH RESPECT TO PASSIVE FOREIGN INVESTMENT COMPANIES.—Section 1298(f) is amended by inserting '', or who directly or indirectly forms, transfers assets to, is a beneficiary of, has a beneficial interest in, or receives money or property or the use thereof from,'' after ''shareholder of''.

(b) WITHHOLDABLE PAYMENTS TO FOREIGN FINANCIAL INSTITUTIONS.—Section 1471(d) is amended—

(1) by inserting ''or transaction'' after ''any depository'' in paragraph (2)(A), and

(2) by striking ''or any interest'' and all that follows in paragraph (5)(C) and inserting ''derivatives, or any interest (including a futures or forward contract, swap, or option) in such securities, partnership interests, commodities, or derivatives.''.

(c) WITHHOLDABLE PAYMENTS TO OTHER FOREIGN FINANCIAL INSTITUTIONS.—Section 1472 is amended—

(1) by inserting ''as a result of any customer identification, anti-money laundering, anti-corruption, or similar obligation to identify account holders,'' after ''reason to know,'' in subsection (b)(2), and

(2) by inserting ''as posing a low risk of tax evasion'' after ''this subsection'' in subsection (c)(1)(G).

(d) DEFINITIONS.—Clauses (i) and (ii) of section 1473(2)(A) are each amended by inserting ''or as a beneficial owner'' after ''indirectly''.

(e) SPECIAL RULES.—Section 1474(c) is amended—

(1) by inserting '', except that information provided under sections 1471(c) or 1472(b) may be disclosed to any Federal law enforcement agency, upon request or upon the initiation of the Secretary, to investigate or address a possible violation of United States law'' after ''shall apply'' in paragraph (1), and

(2) by inserting '', or has had an agreement terminated under such section,'' after ''section 1471(b)'' in paragraph (2).

(f) INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.—Section 6038D(a) is amended by inserting ''ownership or beneficial ownership'' after ''holds any''.

(g) ESTABLISHING PRESUMPTIONS FOR ENTITIES AND TRANSACTIONS INVOLVING NON-FATCA INSTITUTIONS.—

(1) PRESUMPTIONS FOR TAX PURPOSES.—

(A) IN GENERAL.—Chapter 76 is amended by inserting after section 7491 the following new subchapter:

''Subchapter F—Presumptions for Certain Legal Proceedings

''Sec. 7492. Presumptions pertaining to entities and transactions involving non-FATCA institutions.

''SEC. 7492. PRESUMPTIONS PERTAINING TO ENTITIES AND TRANSACTIONS INVOLVING NON-FATCA INSTITUTIONS.

''(a) CONTROL.—For purposes of any United States civil judicial or administrative proceeding to determine or collect tax, there shall be a rebuttable presumption that a United States person (other than an entity with shares regularly traded on an established securities market) who, directly or indirectly, formed, transferred assets to, was a beneficiary of, had a beneficial interest in, or received money or property or the use thereof from an entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), that holds an account, or in any other manner has assets, in a non-FATCA institution, exercised control over such entity. The presumption of control created by this subsection shall not be applied to prevent the Secretary from determining or arguing the absence of control.

''(b) TRANSFERS OF INCOME.—For purposes of any United States civil judicial or administrative proceeding to determine or collect tax, there shall be a rebuttable presumption that any amount or thing of value received by a United States person (other than an entity with shares regularly traded on an established securities market) directly or indirectly from an account or from an entity (other than an entity with shares regularly traded on an established securities market) that holds an account, or in any other manner has assets, in a non-FATCA institution, constitutes income of such person taxable in the year of receipt; and any amount or thing of value paid or transferred by or on behalf of a United States person (other than an entity with shares regularly traded on an established securities market) directly or indirectly to an account, or entity (other than an entity with shares regularly traded on an established securities market) that holds an account, or in any other manner has assets, in a non-FATCA institution, represents previously unreported income of such person taxable in the year of the transfer.

''(c) REBUTTING THE PRESUMPTIONS.—The presumptions established in this section may be rebutted only by clear and convincing evidence, including detailed documentary, testimonial, and transactional evidence, establishing that—

''(1) in subsection (a), such taxpayer exercised no control, directly or indirectly, over account or entity at the time in question, and

''(2) in subsection (b), such amounts or things of value did not represent income related to such United States person.

Any court having jurisdiction of a civil proceeding in which control of such an offshore account or offshore entity or the income character of such receipts or amounts transferred is an issue shall prohibit the introduction by the taxpayer of any foreign based document that is not authenticated in open court by a person with knowledge of such document, or any other evidence supplied by a person outside the jurisdiction of a United States court, unless such person appears before the court.''.

(B) The table of subchapters for chapter 76 is amended by inserting after the item relating to subchapter E the following new item:

''SUBCHAPTER F—PRESUMPTIONS FOR CERTAIN LEGAL PROCEEDINGS''.

(2) DEFINITION OF NON-FATCA INSTITUTION.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(51) NON-FATCA INSTITUTION.—The term 'non-FATCA institution' means any financial institution that does not meet the reporting requirements of section 1471(b).''.

(3) PRESUMPTIONS FOR SECURITIES LAW PURPOSES.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(j) PRESUMPTIONS PERTAINING TO CONTROL AND BENEFICIAL OWNERSHIP.—

''(1) CONTROL.—For purposes of any civil judicial or administrative proceeding under this title, there shall be a rebuttable presumption that a United States person (other than an entity with shares regularly traded on an established securities market) who, directly or indirectly, formed, transferred assets to, was a beneficiary of, had a beneficial interest in, or received money or property or the use thereof from an entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), that holds an account, or in any other manner has assets, in a non-FATCA institution (as defined in section 7701(a)(51) of the Internal Revenue Code of 1986), exercised control over such entity. The presumption of control created by this paragraph shall not be applied to prevent the Commission from determining or arguing the absence of control.

''(2) BENEFICIAL OWNERSHIP.—For purposes of any civil judicial or administrative proceeding under this title, there shall be a rebuttable presumption that securities that are nominally owned by an entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), and that are held in a non-FATCA institution (as so defined), are beneficially owned by any United States person (other than an entity with shares regularly traded on an established securities market) who directly or indirectly exercised control over such entity. The presumption of beneficial ownership created by this paragraph shall not be applied to prevent the Commission from determining or arguing the absence of beneficial ownership.''.

(4) PRESUMPTION FOR REPORTING PURPOSES RELATING TO FOREIGN FINANCIAL ACCOUNTS.—Section 5314 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(d) REBUTTABLE PRESUMPTION.—For purposes of this section, there shall be a rebuttable presumption that any account with a non-FATCA institution (as defined in section 7701(a)(51) of the Internal Revenue Code of 1986) contains funds in an amount that is at least sufficient to require a report prescribed by regulations under this section.''.

(5) REGULATORY AUTHORITY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury and the Chairman of the Securities and Exchange Commission shall each adopt regulations or other guidance necessary to implement the amendments made by this subsection. The Secretary and the Chairman may by regulation or guidance provide that the presumption of control shall not extend to particular classes of transactions, such as corporate reorganizations or transactions below a specified dollar threshold, if either determines that applying such amendments to such transactions is not necessary to carry out the purposes of such amendments.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act, whether or not regulations are issued under subsection (g)(5).

SEC. ___103. TREATMENT OF FOREIGN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (p) as subsection

(q) and by inserting after subsection (o) the following new subsection:

''(p) CERTAIN CORPORATIONS MANAGED AND CONTROLLED IN THE UNITED STATES TREATED AS DOMESTIC FOR INCOME TAX.—

''(1) IN GENERAL.—Notwithstanding subsection (a)(4), in the case of a corporation described in paragraph (2) if—

''(A) the corporation would not otherwise be treated as a domestic corporation for purposes of this title, but

''(B) the management and control of the corporation occurs, directly or indirectly, primarily within the United States,

then, solely for purposes of chapter 1 (and any other provision of this title relating to chapter 1), the corporation shall be treated as a domestic corporation.

''(2) CORPORATION DESCRIBED.—

''(A) IN GENERAL.—A corporation is described in this paragraph if—

''(i) the stock of such corporation is regularly traded on an established securities market, or

''(ii) the aggregate gross assets of such corporation (or any predecessor thereof), including assets under management for investors, whether held directly or indirectly, at any time during the taxable year or any preceding taxable year is $50,000,000 or more.

''(B) GENERAL EXCEPTION.—A corporation shall not be treated as described in this paragraph if—

''(i) such corporation was treated as a corporation described in this paragraph in a preceding taxable year,

''(ii) such corporation—

''(I) is not regularly traded on an established securities market, and

''(II) has, and is reasonably expected to continue to have, aggregate gross assets (including assets under management for investors, whether held directly or indirectly) of less than $50,000,000, and

''(iii) the Secretary grants a waiver to such corporation under this subparagraph.

''(C) EXCEPTION FROM GROSS ASSETS TEST.—Subparagraph (A)(ii) shall not apply to a corporation which is a controlled foreign corporation (as defined in section 957) and which is a member of an affiliated group (as defined section 1504, but determined without regard to section 1504(b)(3)) the common parent of which—

''(i) is a domestic corporation (determined without regard to this subsection), and

''(ii) has substantial assets (other than cash and cash equivalents and other than stock of foreign subsidiaries) held for use in the active conduct of a trade or business in the United States.

''(3) MANAGEMENT AND CONTROL.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations for purposes of determining cases in which the management and control of a corporation is to be treated as occurring primarily within the United States.

''(B) EXECUTIVE OFFICERS AND SENIOR MANAGEMENT.—Such regulations shall provide that—

''(i) the management and control of a corporation shall be treated as occurring primarily within the United States if substantially all of the executive officers and senior management of the corporation who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the corporation are located primarily within the United States, and

''(ii) individuals who are not executive officers and senior management of the corporation (including individuals who are officers or employees of other corporations in the same chain of corporations as the corporation) shall be treated as executive officers and senior management if such individuals exercise the day-to-day responsibilities of the corporation described in clause (i).

''(C) CORPORATIONS PRIMARILY HOLDING INVESTMENT ASSETS.—Such regulations shall also provide that the management and control of a corporation shall be treated as occurring primarily within the United States if—

''(i) the assets of such corporation (directly or indirectly) consist primarily of assets being managed on behalf of investors, and

''(ii) decisions about how to invest the assets are made in the United States.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date which is 2 years after the date of the enactment of this Act, whether or not regulations are issued under section 7701(p)(3) of the Internal Revenue Code of 1986, as added by this section.

SEC. ___104. REPORTING UNITED STATES BENEFICIAL OWNERS OF FOREIGN OWNED FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045B the following new sections:

''SEC. 6045C. RETURNS REGARDING UNITED STATES BENEFICIAL OWNERS OF FINANCIAL ACCOUNTS LOCATED IN THE UNITED STATES AND HELD IN THE NAME OF A FOREIGN ENTITY.

''(a) REQUIREMENT OF RETURN.—If—

''(1) any withholding agent under sections 1441 and 1442 has the control, receipt, custody, disposal, or payment of any amount constituting gross income from sources within the United States of any foreign entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), and

''(2) such withholding agent determines for purposes of titles 14, 18, or 31 of the United States Code that a United States person has any beneficial interest in the foreign entity or in the account in such entity's name (hereafter in this section referred to as 'United States beneficial owner'),

then the withholding agent shall make a return according to the forms or regulations prescribed by the Secretary.

''(b) REQUIRED INFORMATION.—For purposes of subsection (a) the information required to be included on the return shall include—

''(1) the name, address, and, if known, the taxpayer identification number of the United States beneficial owner,

''(2) the known facts pertaining to the relationship of such United States beneficial owner to the foreign entity and the account,

''(3) the gross amount of income from sources within the United States (including gross proceeds from brokerage transactions), and

''(4) such other information as the Secretary may by forms or regulations provide.

''(c) STATEMENTS TO BE FURNISHED TO BENEFICIAL OWNERS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE REPORTED.—A withholding agent required to make a return under subsection (a) shall furnish to each United States beneficial owner whose name is required to be set forth in such return a statement showing—

''(1) the name, address, and telephone number of the information contact of the person required to make such return, and

''(2) the information required to be shown on such return with respect to such United States beneficial owner.

The written statement required under the preceding sentence shall be furnished to the United States beneficial owner on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. In the event the person filing such return does not have a current address for the United States beneficial owner, such written statement may be mailed to the address of the foreign entity.

''SEC. 6045D. RETURNS BY FINANCIAL INSTITUTIONS REGARDING ESTABLISHMENT OF ACCOUNTS IN NON-FATCA INSTITUTIONS.

''(a) REQUIREMENT OF RETURN.—Any financial institution directly or indirectly opening a bank, brokerage, or other financial account for or on behalf of an offshore entity, including a trust, corporation, limited liability company, partnership, or foundation (other than an entity with shares regularly traded on an established securities market), in a non-FATCA institution (as defined in section 7701(a)(51)) at the direction of, on behalf of, or for the benefit of a United States person shall make a return according to the forms or regulations prescribed by the Secretary.

''(b) REQUIRED INFORMATION.—For purposes of subsection (a) the information required to be included on the return shall include—

''(1) the name, address, and taxpayer identification number of such United States person,

''(2) the name and address of the financial institution at which a financial account is opened, the type of account, the account number, the name under which the account was opened, and the amount of the initial deposit,

''(3) if the account is held in the name of an entity, the name and address of such entity, the type of entity, and the name and address of any company formation agent or other professional employed to form or acquire the entity, and

''(4) such other information as the Secretary may by forms or regulations provide.

''(c) STATEMENTS TO BE FURNISHED TO UNITED STATES PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE REPORTED.—A financial institution required to make a return under subsection (a) shall furnish to each United States person whose name is required to be set forth in such return a statement showing—

''(1) the name, address, and telephone number of the information contact of the person required to make such return, and

''(2) the information required to be shown on such return with respect to such United States person.

The written statement required under the preceding sentence shall be furnished to such United States person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(d) EXEMPTION.—The Secretary may by regulations exempt any class of United States persons or any class of accounts or entities from the requirements of this section if the Secretary determines that applying this section to such persons, accounts, or entities is not necessary to carry out the purposes of this section.''.

(b) PENALTIES.—

(1) RETURNS.—Section 6724(d)(1)(B) is amended by striking ''or'' at the end of clause (xxiv), by striking ''and'' at the end of clause (xxv), and by adding after clause (xxv) the following new clauses:

''(xxvi) section 6045C(a) (relating to returns regarding United States beneficial owners of financial accounts located in the United States and held in the name of a foreign entity), or

''(xxvii) section 6045D(a) (relating to returns by financial institutions regarding establishment of accounts at non-FATCA institutions), and''.

(2) PAYEE STATEMENTS.—Section 6724(d)(2) is amended by striking ''or'' at the end of subparagraph (GG), by striking the period at the end of subparagraph (HH), and by inserting after subparagraph (HH) the following new subparagraphs:

''(II) section 6045C(c) (relating to returns regarding United States beneficial owners of financial accounts located in the United States and held in the name of a foreign entity),

''(JJ) section 6045D(c) (relating to returns by financial institutions regarding establishment of accounts at non-FATCA institutions).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6045B the following new items:

''Sec. 6045C. Returns regarding United States beneficial owners of financial accounts located in the United States and held in the name of a foreign entity.

''Sec. 6045D. Returns by financial institutions regarding establishment of accounts at non-FATCA institutions.''.

(d) ADDITIONAL PENALTIES.—

(1) ADDITIONAL PENALTIES ON BANKS.—Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by inserting ''or any of the provisions of section 6045D of the Internal Revenue Code of 1986,'' after ''any regulation issued pursuant to,''.

(2) ADDITIONAL PENALTIES ON SECURITIES FIRMS.—Section 21(d)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(A)) is amended by inserting ''any of the provisions of section 6045D of the Internal Revenue Code of 1986,'' after ''the rules or regulations thereunder,''.

(e) REGULATORY AUTHORITY AND EFFECTIVE DATE.—

(1) REGULATORY AUTHORITY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall adopt regulations, forms, or other guidance necessary to implement this section.

(2) EFFECTIVE DATE.—Section 6045C of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (d)(1) shall take effect with respect to amounts paid into foreign owned accounts located in the United States after December 31 of the year of the date of the enactment of this Act. Section 6045D of such Code (as so added) and the amendment made by subsection (d)(2) shall take effect with respect to accounts opened after December 31 of the year of the date of the enactment of this Act.

SEC. ___105. SWAP PAYMENTS MADE FROM THE UNITED STATES TO PERSONS OFFSHORE.

(a) TAX ON SWAP PAYMENTS RECEIVED BY FOREIGN PERSONS.—Section 871(a)(1) is amended—

(1) by inserting ''swap payments (as identified in section 1256(b)(2)(B)),'' after ''annuities,'' in subparagraph (A), and

(2) by adding at the end the following new sentence: ''In the case of swap payments, the source of a swap payment is determined by reference to the location of the payor.''.

(b) TAX ON SWAP PAYMENTS RECEIVED BY FOREIGN CORPORATIONS.—Section 881(a) is amended—

(1) by inserting ''swap payments (as identified in section 1256(b)(2)(B)),'' after ''annuities,'' in paragraph (1), and

(2) by adding at the end the following new sentence: ''In the case of swap payments, the source of a swap payment is determined by reference to the location of the payor.''.

SEC. ___106. TAX ON INCOME OF CONTROLLED FOREIGN CORPORATION DEPOSITED IN FINANCIAL ACCOUNT LOCATED IN THE UNITED STATES.

Section 952(a) is amended by adding at the end the following new sentence: ''Notwithstanding section 956(c)(2)(A), any property (as defined in section 317(a)) of such controlled foreign corporation that is deposited and maintained, directly or indirectly, for or on behalf of such corporation in a financial account located in the United States, including in a correspondent account of a financial institution, is a constructive distribution with respect to the stock which such United States shareholder owns.''.

Subtitle B—Other Measures to Combat Tax Haven and Tax Shelter Abuses

SEC. ___111. COUNTRY-BY-COUNTRY REPORTING.

(a) IN GENERAL.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

''(r) DISCLOSURE OF FINANCIAL PERFORMANCE ON A COUNTRY-BY-COUNTRY BASIS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'issuer group' shall mean the issuer, each subsidiary of the issuer, and each entity under the control of the issuer;

''(B) the term 'country of operation' shall mean each country in which a member of the issuer group is incorporated or organized, or maintains employees or conducts business activities; and

''(C) the term 'world-wide allocation of group members' shall mean each member of the issuer group listed according to their country of operation.

''(2) COUNTRY-BY-COUNTRY REPORTING.—The Commission shall issue rules that require each issuer to include in an annual report filed by the issuer with the Commission information indicative of financial performance on a country-by-country basis during the covered period, including—

''(A) a list of each country of operation;

''(B) the world-wide allocation of group members;

''(C) the financial performance of each member of the issuer group in each country of operation, without exception, including, and set forth according to—

''(i) total number of employees physically working in the country of operation;

''(ii) total sales by the member of the issuer group to third parties;

''(iii) total sales by the member of the issuer group to other members of the issuer group and total sales to each such member;

''(iv) total purchases by the member of the issuer group from third parties;

''(v) total purchases by the member of the issuer group from other members of the issuer group and total purchases from each such member;

''(vi) total financing payments made by the member of the issuer group to third parties;

''(vii) total financing payments made by the member of the issuer group to other members of the issuer group and total financing payments made to each such member;

''(viii) pre-tax gross revenues of the member of the issuer group;

''(ix) pre-tax net revenues of the member of the issuer group; and

''(x) such other financial information as the Commission may determine is indicative of the financial performance of the issuer;

''(D) the tax paid by each member of the issuer group in each country of operation, without exception, including, and set forth according to—

''(i) total Federal, regional, local, and other tax assessed against each member of the issuer group with respect to each country of operation during the covered period;

''(ii) after taking into account any tax deductions, tax credits, tax forgiveness, or other tax benefits or waivers, total amount of tax paid from the treasury of the member of the issuer group to the government of each country of operation during the covered period; and

''(iii) such other financial information as the Commission may determine is necessary or appropriate to inform the public of the tax obligations of and payments by each member of the issuer group; and

''(E) such other financial information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.''.

(b) RULEMAKING.—

(1) DEADLINES.—Not later than 180 days after the date of the enactment of this Act, the Commission shall issue a proposed rule to carry out this section and, not later than 270 days after the date of the enactment of this Act, shall issue a final rule to carry out this section.

(2) CONSULTATION.—In issuing the rules under this section, the Commission shall consult with the Secretary of the Treasury and the Commissioner of Internal Revenue and, to the extent practicable and in furtherance of its obligation to protect investors, shall issue rules that support Federal efforts to reduce offshore tax evasion and abuses.

(3) INTERACTIVE DATA FORMAT.—The rules issued under this section shall require that the information provided by issuers in their annual reports be submitted in an interactive data format as provided in section 13(q)(2)(D) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(q)(2)(D)), and to the extent practicable, the Commission shall make available online, to the public, a compilation of such information.

(4) AGGREGATE DATA.—The rules may allow issuers to provide the financial information required under section 13(r) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(r)), as added by this section, aggregated at the level of each country of operation instead of with respect to each member of the issuer group individually, provided that the Commission retains the authority, at its discretion, to require further disaggregation.

(5) EFFECTIVE DATE.—Each issuer shall be required to comply with the requirements of section 13(r) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(r)), as added by this section, not later than the date on which the issuer must file with the Commission its first annual report that is due not later than 1 year after the date on which the Commission issues a final rule under this section.

SEC. ___112. PENALTY FOR FAILING TO DISCLOSE OFFSHORE HOLDINGS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended by adding at the end the following:

''(iv) FOURTH TIER.—Notwithstanding clauses (i), (ii), and (iii), the amount of the penalty for each such violation shall not exceed $1,000,000 for any person if the violation described in subparagraph (A) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation that is directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.''.

(b) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the amount of

penalty for each such violation shall not exceed $1,000,000 for any person, if the violation described in paragraph (1) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation, directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a 9(d)(2)) is amended by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the amount of penalty for each such violation shall not exceed $1,000,000 for any person, if the violation described in paragraph (1) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation, directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b 3(i)(2)) is amended by adding at the end the following:

''(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), the amount of penalty for each such violation shall not exceed $1,000,000 for any person, if the violation described in paragraph (1) involved a knowing failure to disclose any holding or transaction involving equity or debt instruments of an issuer and known by such person to involve a foreign entity, including any trust, corporation, limited liability company, partnership, or foundation, directly or indirectly controlled by such person, and which would have been otherwise subject to disclosure by such person under this title.''.

SEC. ___113. DEADLINE FOR ANTI-MONEY LAUNDERING RULE FOR PRIVATE FUNDS AND VENTURE CAPITAL FUNDS.

(a) IN GENERAL.—

(1) PROPOSED RULE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission, shall publish a proposed rule in the Federal Register requiring any private fund (as defined in paragraph (29) of section 202(a) of the Investment Advisors Act of 1940 (15 U.S.C. 80b 2(a)) or venture capital fund (within the meaning of subsection (l) of section 203 of such Act (15 U.S.C. 80b 3) to establish anti-money laundering programs and submit suspicious activity reports under subsections (g) and (h) of section 5318 of title 31, United States Code.

(2) FINAL RULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall publish a final rule in the Federal Register on the matter described in paragraph (1).

(b) CONTENTS.—The final rule published under this section shall require, at a minimum, that to safeguard against terrorist financing and money laundering, any such private fund or venture capital fund shall—

(1) use risk-based due diligence policies, procedures, and controls that are reasonably designed to ascertain the identity of any foreign person (including the nominal and beneficial owner or beneficiary of a foreign corporation, partnership, trust, or other foreign entity) planning to supply or supplying funds to be invested with the advice or assistance of such private fund or venture capital fund; and

(2) be subject to section 5318(k)(2) of title 31, United States Code.

SEC. ___114. ANTI-MONEY LAUNDERING REQUIREMENTS FOR FORMATION AGENTS.

(a) ANTI-MONEY LAUNDERING OBLIGATIONS FOR FORMATION AGENTS.—Section 5312(a)(2) of title 31, United States Code, is amended, by—

(1) in subparagraph (Y), by striking ''or'' at the end;

(2) by redesignating subparagraph (Z) as subparagraph (AA); and

(3) by inserting after subparagraph (Y) the following:

''(Z) persons engaged in the business of forming new corporations, limited liability companies, partnerships, trusts, or other legal entities; or''.

(b) DEADLINE FOR ANTI-MONEY LAUNDERING RULE FOR FORMATION AGENTS.—

(1) PROPOSED RULE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Attorney General of the United States, the Secretary of Homeland Security, and the Commissioner of Internal Revenue, shall publish a proposed rule in the Federal Register requiring persons described in section 5312(a)(2)(Z) of title 31, United States Code, as added by this section, to establish anti-money laundering programs under subsections (g) and (h) of section 5318 of that title.

(2) FINAL RULE.—Not later than 270 days after such date of enactment, the Secretary of the Treasury shall publish a final rule in the Federal Register on the matter described in paragraph (1).

(3) EXCLUSIONS.—Any rule promulgated under this subsection shall exclude from the category of persons engaged in the business of forming new corporations or other entities—

(A) any government agency; and

(B) any attorney or law firm that uses a paid formation agent operating within the United States to form such corporations or other entities.

SEC. ___115. STRENGTHENING JOHN DOE SUMMONS PROCEEDINGS.

(a) IN GENERAL.—Subsection (f) of section 7609 is amended to read as follows:

''(f) ADDITIONAL REQUIREMENT IN THE CASE OF A JOHN DOE SUMMONS.—

''(1) GENERAL RULE.—Any summons described in subsection (c)(1) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

''(A) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

''(B) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

''(C) the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any summons which specifies that it is limited to information regarding a United States correspondent account (as defined in section 5318A(e)(1)(B) of title 31, United States Code) or a United States payable-through account (as defined in section 5318A(e)(1)(C) of such title) of a financial institution that is held at a non-FATCA institution (as defined in section 7701(a)(51)).

''(3) PRESUMPTION IN CASES INVOLVING NON-FATCA INSTITUTIONS.—For purposes of this section, in any case in which the particular person or ascertainable group or class of persons have financial accounts in or transactions related to a non-FATCA institution (as defined in section 7701(a)(51)), there shall be a presumption that there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with provisions of internal revenue law.

''(4) PROJECT JOHN DOE SUMMONSES.—

''(A) IN GENERAL.—Notwithstanding the requirements of paragraph (1), the Secretary may issue a summons described in paragraph (1) if the summons—

''(i) relates to a project which is approved under subparagraph (B),

''(ii) is issued to a person who is a member of the group or class established under subparagraph (B)(i), and

''(iii) is issued within 3 years of the date on which such project was approved under subparagraph (B).

''(B) APPROVAL OF PROJECTS.—A project may only be approved under this subparagraph after a court proceeding in which the Secretary establishes that—

''(i) any summons issues with respect to the project will be issued to a member of an ascertainable group or class of persons, and

''(ii) any summons issued with respect to such project will meet the requirements of paragraph (1).

''(C) EXTENSION.—Upon application of the Secretary, the court may extend the time for issuing such summonses under subparagraph (A)(i) for additional 3-year periods, but only if the court continues to exercise oversight of such project under subparagraph (D).

''(D) ONGOING COURT OVERSIGHT.—During any period in which the Secretary is authorized to issue summonses in relation to a project approved under subparagraph (B) (including during any extension under subparagraph (C)), the Secretary shall report annually to the court on the use of such authority, provide copies of all summonses with such report, and comply with the court's direction with respect to the issuance of any John Doe summons under such project.''.

(b) JURISDICTION OF COURT.—

(1) IN GENERAL.—Paragraph (1) of section 7609(h) is amended by inserting after the first sentence the following new sentence: ''Any United States district court in which a member of the group or class to which a summons may be issued resides or is found shall have jurisdiction to hear and determine the approval of a project under subsection (f)(2)(B).''.

(2) CONFORMING AMENDMENT.—The first sentence of section 7609(h)(1) is amended by striking ''(f)'' and inserting ''(f)(1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. ___116. IMPROVING ENFORCEMENT OF FOREIGN FINANCIAL ACCOUNT REPORTING.

(a) CLARIFYING THE CONNECTION OF FOREIGN FINANCIAL ACCOUNT REPORTING TO TAX ADMINISTRATION.—Paragraph (4) of section 6103(b) is amended by adding at the end the following new sentence:

''For purposes of subparagraph (A)(i), section 5314 of title 31, United States Code, and sections 5321 and 5322 of such title (as such sections pertain to such section 5314), shall be considered related statutes.''.

(b) SIMPLIFYING THE CALCULATION OF FOREIGN FINANCIAL ACCOUNT REPORTING PENALTIES.—Section 5321(a)(5)(D)(ii) of title 31, United States Code, is amended by striking ''the balance in the account at the time of

the violation'' and inserting ''the highest balance in the account during the reporting period to which the violation relates''.

(c) CLARIFYING THE USE OF SUSPICIOUS ACTIVITY REPORTS UNDER THE BANK SECRECY ACT FOR CIVIL TAX LAW ENFORCEMENT.—Section 5319 of title 31, United States Code, is amended by inserting ''the civil and criminal enforcement divisions of the Internal Revenue Service,'' after ''including''.

Subtitle C—Combating Tax Shelter Promoters

SEC. ___121. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. ___122. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. ___123. PROHIBITED FEE ARRANGEMENT.

(a) IN GENERAL.—Section 6701, as amended by this Act, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively,

(2) by striking ''subsection (a).'' in paragraphs (2) and (3) of subsection (g) (as redesignated by paragraph (1)) and inserting ''subsection (a) or (f).'', and

(3) by inserting after subsection (e) the following new subsection:

''(f) PROHIBITED FEE ARRANGEMENT.—

''(1) IN GENERAL.—Any person who makes an agreement for, charges, or collects a fee which is for services provided in connection with the internal revenue laws, and the amount of which is calculated according to, or is dependent upon, a projected or actual amount of—

''(A) tax savings or benefits, or

''(B) losses which can be used to offset other taxable income,

shall pay a penalty with respect to each such fee activity in the amount determined under subsection (b).

''(2) RULES.—The Secretary may issue rules to carry out the purposes of this subsection and may provide exceptions for fee arrangements that are in the public interest.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fee agreements, charges, and collections made after the date of the enactment of this Act.

SEC. ___124. PREVENTING TAX SHELTER ACTIVITIES BY FINANCIAL INSTITUTIONS.

(a) EXAMINATIONS.—

(1) DEVELOPMENT OF EXAMINATION TECHNIQUES.—Each of the Federal banking agencies and the Commission shall, in consultation with the Internal Revenue Service, develop examination techniques to detect potential violations of section 6700 or 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(2) IMPLEMENTATION.—Each of the Federal banking agencies and the Commission shall implement the examination techniques developed under paragraph (1) with respect to each of the depository institutions, brokers, dealers, or investment advisers subject to their enforcement authority. Such examination shall, to the extent possible, be combined with any examination by such agency otherwise required or authorized by Federal law.

(b) REPORT TO INTERNAL REVENUE SERVICE.—In any case in which an examination conducted under this section with respect to a financial institution or other entity reveals a potential violation, such agency shall promptly notify the Internal Revenue Service of such potential violation for investigation and enforcement by the Internal Revenue Service, in accordance with applicable provisions of law.

(c) REPORT TO CONGRESS.—The Federal banking agencies and the Commission shall submit a joint written report to Congress in 2013 on their progress in preventing violations of sections 6700 and 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms ''broker'', ''dealer'', and ''investment adviser'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term ''Commission'' means the Securities and Exchange Commission;

(3) the term ''depository institution'' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(4) the term ''Federal banking agencies'' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(5) the term ''Secretary'' means the Secretary of the Treasury.

SEC. ___125. INFORMATION SHARING FOR ENFORCEMENT PURPOSES.

(a) PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—Section 6103(h) is amended by adding at the end the following new paragraph:

''(7) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATED TO PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—

''(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission, an appropriate Federal banking agency as defined under section 1813(q) of title 12, United States Code, or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requestor to evaluate, determine, penalize, or deter conduct by a financial institution, issuer, or public accounting firm, or associated person, in connection with a potential or actual violation of section 6700 (promotion of abusive tax shelters), 6701 (aiding and abetting understatement of tax liability), or activities related to promoting or facilitating inappropriate tax avoidance or tax evasion. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding. In the discretion of the Secretary, such disclosure may take the form of the participation of Internal Revenue Service employees in a joint investigation, examination, or proceeding with the Securities Exchange Commission, Federal banking agency, or Public Company Accounting Oversight Board.

''(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

''(i) the nature of the investigation, examination, or proceeding,

''(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

''(iii) the name or names of the financial institution, issuer, or public accounting firm to which such return information relates,

''(iv) the taxable period or periods to which such return information relates, and

''(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.

''(C) FINANCIAL INSTITUTION.—For the purposes of this paragraph, the term 'financial institution' means a depository institution, foreign bank, insured institution, industrial loan company, broker, dealer, investment company, investment advisor, or other entity subject to regulation or oversight by the United States Securities and Exchange Commission or an appropriate Federal banking agency.''.

(b) FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—Section 6103(i) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—

''(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requester to evaluate the accuracy of a financial statement or report, or to determine whether to require a restatement, penalize, or deter conduct by an issuer, investment company, or public accounting firm, or associated person, in connection with a potential or actual violation of auditing standards or prohibitions against false or misleading statements or omissions in financial statements or reports. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

''(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

''(i) the nature of the investigation, examination, or proceeding,

''(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

''(iii) the name or names of the issuer, investment company, or public accounting firm to which such return information relates,

''(iv) the taxable period or periods to which such return information relates, and

''(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

SEC. ___126. DISCLOSURE OF INFORMATION TO CONGRESS.

(a) DISCLOSURE BY TAX RETURN PREPARER.—

(1) IN GENERAL.—Subparagraph (B) of section 7216(b)(1) is amended to read as follows:

''(B) pursuant to any 1 of the following documents, if clearly identified:

''(i) The order of any Federal, State, or local court of record.

''(ii) A subpoena issued by a Federal or State grand jury.

''(iii) An administrative order, summons, or subpoena which is issued in the performance of its duties by—

''(I) any Federal agency, including Congress or any committee or subcommittee thereof, or

''(II) any State agency, body, or commission charged under the laws of the State or a political subdivision of the State with the licensing, registration, or regulation of tax return preparers.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to disclosures made after the date of the enactment of this Act pursuant to any document in effect on or after such date.

(b) DISCLOSURE BY SECRETARY.—Paragraph (2) of section 6104(a) is amended to read as follows:

''(2) INSPECTION BY CONGRESS.—

''(A) IN GENERAL.—Upon receipt of a written request from a committee or subcommittee of Congress, copies of documents related to a determination by the Secretary to grant, deny, revoke, or restore an organization's exemption from taxation under section 501 shall be provided to such committee or subcommittee, including any application, notice of status, or supporting information provided by such organization to the Internal Revenue Service; any letter, analysis, or other document produced by or for the Internal Revenue Service evaluating, determining, explaining, or relating to the tax exempt status of such organization (other than returns, unless such returns are available to the public under this section or section 6103 or 6110); and any communication between the Internal Revenue Service and any other party relating to the tax exempt status of such organization.

''(B) ADDITIONAL INFORMATION.—Section 6103(f) shall apply with respect to—

''(i) the application for exemption of any organization described in subsection (c) or (d) of section 501 which is exempt from taxation under section 501(a) for any taxable year and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

''(ii) any other papers which are in the possession of the Secretary and which relate to such application,

as if such papers constituted returns.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

SEC. ___127. TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

Section 330(d) of title 31, United States Code, is amended to read as follows:

''(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any listed transaction or any entity, plan, arrangement, or other transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

''(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

''(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

''(3) Avoidance of conflicts of interest which would impair auditor independence.

''(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

''(5) Reliance on reasonable factual representations by the taxpayer and other parties.

''(6) Appropriateness of the fees charged by the practitioner for the written advice.

''(7) Preventing practitioners and firms from aiding or abetting the understatement of tax liability by clients.

''(8) Banning the promotion of potentially abusive or illegal tax shelters.''.

Subtitle D—Reformation of U.S. International Tax System

SEC. ___131. ALLOCATION OF EXPENSES AND TAXES ON BASIS OF REPATRIATION OF FOREIGN INCOME.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 is amended by inserting after subpart G the following new subpart:

''Subpart H—Special Rules for Allocation of Foreign-Related Deductions and Foreign Tax Credits

''Sec. 975. Deductions allocated to deferred foreign income may not offset United States source income.
''Sec. 976. Amount of foreign taxes computed on overall basis.
''Sec. 977. Application of subpart.

''SEC. 975. DEDUCTIONS ALLOCATED TO DEFERRED FOREIGN INCOME MAY NOT OFFSET UNITED STATES SOURCE INCOME.

''(a) CURRENT YEAR DEDUCTIONS.—For purposes of this chapter, foreign-related deductions for any taxable year—

''(1) shall be taken into account for such taxable year only to the extent that such deductions are allocable to currently-taxed foreign income, and

''(2) to the extent not so allowed, shall be taken into account in subsequent taxable years as provided in subsection (b).

Foreign-related deductions shall be allocated to currently taxed foreign income in the same proportion which currently taxed foreign income bears to the sum of currently taxed foreign income and deferred foreign income.

''(b) DEDUCTIONS RELATED TO REPATRIATED DEFERRED FOREIGN INCOME.—

''(1) IN GENERAL.—If there is repatriated foreign income for a taxable year, the portion of the previously deferred deductions allocated to the repatriated foreign income shall be taken into account for the taxable year as a deduction allocated to income from sources outside the United States. Any such amount shall not be included in foreign-related deductions for purposes of applying subsection (a) to such taxable year.

''(2) PORTION OF PREVIOUSLY DEFERRED DEDUCTIONS.—For purposes of paragraph (1), the portion of the previously deferred deductions allocated to repatriated foreign income is—

''(A) the amount which bears the same proportion to such deductions, as

''(B) the repatriated income bears to the previously deferred foreign income.

''(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

''(1) FOREIGN-RELATED DEDUCTIONS.—The term 'foreign-related deductions' means the total amount of deductions and expenses which would be allocated or apportioned to gross income from sources without the United States for the taxable year if both the currently-taxed foreign income and deferred foreign income were taken into account.

''(2) CURRENTLY-TAXED FOREIGN INCOME.—The term 'currently-taxed foreign income' means the amount of gross income from sources without the United States for the taxable year (determined without regard to repatriated foreign income for such year).

''(3) DEFERRED FOREIGN INCOME.—The term 'deferred foreign income' means the excess of—

''(A) the amount that would be includible in gross income under subpart F of this part for the taxable year if—

''(i) all controlled foreign corporations were treated as one controlled foreign corporation, and

''(ii) all earnings and profits of all controlled foreign corporations were subpart F income (as defined in section 952), over

''(B) the sum of—

''(i) all dividends received during the taxable year from controlled foreign corporations, plus

''(ii) amounts includible in gross income under section 951(a).

''(4) PREVIOUSLY DEFERRED FOREIGN INCOME.—The term 'previously deferred foreign income' means the aggregate amount of deferred foreign income for all prior taxable years to which this part applies, determined as of the beginning of the taxable year, reduced by the repatriated foreign income for all such prior taxable years.

''(5) REPATRIATED FOREIGN INCOME.—The term 'repatriated foreign income' means the amount included in gross income on account of distributions out of previously deferred foreign income.

''(6) PREVIOUSLY DEFERRED DEDUCTIONS.—The term 'previously deferred deductions' means the aggregate amount of foreign-related deductions not taken into account under subsection (a) for all prior taxable years (determined as of the beginning of the taxable year), reduced by any amounts taken into account under subsection (b) for such prior taxable years.

''(7) TREATMENT OF CERTAIN FOREIGN TAXES.—

''(A) PAID BY CONTROLLED FOREIGN CORPORATION.—Section 78 shall not apply for purposes of determining currently-taxed foreign income and deferred foreign income.

''(B) PAID BY TAXPAYER.—For purposes of determining currently-taxed foreign income, gross income from sources without the United States shall be reduced by the aggregate amount of taxes described in the applicable paragraph of section 901(b) which are paid by the taxpayer (without regard to sections 902 and 960) during the taxable year.

''(8) COORDINATION WITH SECTION 976.—In determining currently-taxed foreign income and deferred foreign income, the amount of deemed foreign tax credits shall be determined with regard to section 976.

''SEC. 976. AMOUNT OF FOREIGN TAXES COMPUTED ON OVERALL BASIS.

''(a) CURRENT YEAR ALLOWANCE.—For purposes of this chapter, the amount taken into account as foreign income taxes for any taxable year shall be an amount which bears the same ratio to the total foreign income taxes for that taxable year as—

''(1) the currently-taxed foreign income for such taxable year, bears to

''(2) the sum of the currently-taxed foreign income and deferred foreign income for such year.

The portion of the total foreign income taxes for any taxable year not taken into account under the preceding sentence for a taxable year shall only be taken into account as provided in subsection (b) (and shall not be taken into account for purposes of applying sections 902 and 960).

''(b) ALLOWANCE RELATED TO REPATRIATED DEFERRED FOREIGN INCOME.—

''(1) IN GENERAL.—If there is repatriated foreign income for any taxable year, the portion of the previously deferred foreign income taxes paid or accrued during such taxable year shall be taken into account for the taxable year as foreign taxes paid or accrued. Any such taxes so taken into account shall not be included in foreign income taxes for purposes of applying subsection (a) to such taxable year.

''(2) PORTION OF PREVIOUSLY DEFERRED FOREIGN INCOME TAXES.—For purposes of paragraph (1), the portion of the previously deferred foreign income taxes allocated to repatriated deferred foreign income is—

''(A) the amount which bears the same proportion to such taxes, as

''(B) the repatriated deferred income bears to the previously deferred foreign income.

''(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

''(1) PREVIOUSLY DEFERRED FOREIGN INCOME TAXES.—The term 'previously deferred foreign income taxes' means the aggregate amount of total foreign income taxes not taken into account under subsection (a) for all prior taxable years (determined as of the beginning of the taxable year), reduced by any amounts taken into account under subsection (b) for such prior taxable years.

''(2) TOTAL FOREIGN INCOME TAXES.—The term 'total foreign income taxes' means the sum of foreign income taxes paid or accrued during the taxable year (determined without regard to section 904(c)) plus the increase in foreign income taxes that would be paid or accrued during the taxable year under sections 902 and 960 if—

''(A) all controlled foreign corporations were treated as one controlled foreign corporation, and

''(B) all earnings and profits of all controlled foreign corporations were subpart F income (as defined in section 952).

''(3) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means any income, war profits, or excess profits taxes paid by the taxpayer to any foreign country or possession of the United States.

''(4) CURRENTLY-TAXED FOREIGN INCOME AND DEFERRED FOREIGN INCOME.—The terms 'currently-taxed foreign income' and 'deferred foreign income' have the meanings given such terms by section 975(c)).

''SEC. 977. APPLICATION OF SUBPART.

''This subpart—

''(1) shall be applied before subpart A, and

''(2) shall be applied separately with respect to the categories of income specified in section 904(d)(1).''.

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subpart N of chapter 1 is amended by inserting after the item relating to subpart G the following new item:

''SUBPART H. SPECIAL RULES FOR ALLOCATION OF FOREIGN-RELATED DEDUCTIONS AND FOREIGN TAX CREDITS.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. ___132. EXCESS INCOME FROM TRANSFERS OF INTANGIBLES TO LOW-TAXED AFFILIATES TREATED AS SUBPART F INCOME.

(a) IN GENERAL.—Subsection (a) of section 954 is amended by inserting after paragraph (3) the following new paragraph:

''(4) the foreign base company excess intangible income for the taxable year (determined under subsection (f) and reduced as provided in subsection (b)(5)), and''.

(b) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME.—Section 954 is amended by inserting after subsection (e) the following new subsection:

''(f) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME.—For purposes of subsection (a)(4) and this subsection:

''(1) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME DEFINED.—

''(A) IN GENERAL.—The term 'foreign base company excess intangible income' means, with respect to any covered intangible, the excess of—

''(i) the sum of—

''(I) gross income from the sale, lease, license, or other disposition of property in which such covered intangible is used directly or indirectly, and

''(II) gross income from the provision of services related to such covered intangible or in connection with property in which such covered intangible is used directly or indirectly, over

''(ii) 150 percent of the costs properly allocated and apportioned to the gross income taken into account under clause (i) other than expenses for interest and taxes and any expenses which are not directly allocable to such gross income.

''(B) SAME COUNTRY INCOME NOT TAKEN INTO ACCOUNT.—If—

''(i) the sale, lease, license, or other disposition of the property referred to in subparagraph (A)(i)(I) is for use, consumption, or disposition in the country under the laws of which the controlled foreign corporation is created or organized, or

''(ii) the services referred to in subparagraph (A)(i)(II) are performed in such country,

the gross income from such sale, lease, license, or other disposition, or provision of services, shall not be taken into account under subparagraph (A)(i).

''(2) EXCEPTION BASED ON EFFECTIVE FOREIGN INCOME TAX RATE.—

''(A) IN GENERAL.—Foreign base company excess intangible income shall not include the applicable percentage of any item of income received by a controlled foreign corporation if the taxpayer establishes to the satisfaction of the Secretary that such income was subject to an effective rate of income tax imposed by a foreign country in excess of 5 percent.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the ratio (expressed as a percentage), not greater than 100 percent, of—

''(i) the number of percentage points by which the effective rate of income tax referred to in subparagraph (A) exceeds 5 percentage points, over

''(ii) 10 percentage points.

''(C) TREATMENT OF LOSSES IN DETERMINING EFFECTIVE RATE OF FOREIGN INCOME TAX.—For purposes of determining the effective rate of income tax imposed by any foreign country—

''(i) such effective rate shall be determined without regard to any losses carried to the relevant taxable year, and

''(ii) to the extent the income with respect to such intangible reduces losses in the relevant taxable year, such effective rate shall be treated as being the effective rate which would have been imposed on such income without regard to such losses.

''(3) COVERED INTANGIBLE.—The term 'covered intangible' means, with respect to any controlled foreign corporation, any intangible property (as defined in section 936(h)(3)(B))—

''(A) which is sold, leased, licensed, or otherwise transferred (directly or indirectly) to such controlled foreign corporation from a related person, or

''(B) with respect to which such controlled foreign corporation and one or more related persons has (directly or indirectly) entered into any shared risk or development agreement (including any cost sharing agreement).

''(4) RELATED PERSON.—The term 'related person' has the meaning given such term in subsection (d)(3).''.

(c) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—Subsection (d) of section 904 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(6) SEPARATE APPLICATION TO FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME.—

''(A) IN GENERAL.—Subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to each item of income which is taken into account under section 954(a)(4) as foreign base company excess intangible income.

''(B) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the

purposes of this subsection, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 954(b) is amended by inserting ''foreign base company excess intangible income described in subsection (a)(4) or'' before ''foreign base company oil-related income'' in the last sentence thereof.

(2) Subsection (b) of section 954 is amended by adding at the end the following new paragraph:

''(7) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME NOT TREATED AS ANOTHER KIND OF BASE COMPANY INCOME.—Income of a corporation which is foreign base company excess intangible income shall not be considered foreign base company income of such corporation under paragraph (2), (3), or (5) of subsection (a).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. ___133. LIMITATIONS ON INCOME SHIFTING THROUGH INTANGIBLE PROPERTY TRANSFERS.

(a) CLARIFICATION OF DEFINITION OF INTANGIBLE ASSET.—Clause (vi) of section 936(h)(3)(B) is amended by inserting ''(including any section 197 intangible described in subparagraph (A), (B), or (C)(i) of subsection (d)(1) of such section)'' after ''item''.

(b) CLARIFICATION OF ALLOWABLE VALUATION METHODS.—

(1) FOREIGN CORPORATIONS.—Paragraph (2) of section 367(d) is amended by adding at the end the following new subparagraph:

''(D) REGULATORY AUTHORITY.—For purposes of the last sentence of subparagraph (A), the Secretary may require—

''(i) the valuation of transfers of intangible property on an aggregate basis, or

''(ii) the valuation of such a transfer on the basis of the realistic alternatives to such a transfer,

in any case in which the Secretary determines that such basis is the most reliable means of valuation of such transfers.''.

(2) ALLOCATION AMONG TAXPAYERS.—Section 482 is amended by adding at the end the following: ''For purposes of the preceding sentence, the Secretary may require the valuation of transfers of intangible property on an aggregate basis or the valuation of such a transfer on the basis of the realistic alternatives to such a transfer, in any case in which the Secretary determines that such basis is the most reliable means of valuation of such transfers.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers in taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendment made by subsection (a) shall be construed to create any inference with respect to the application of section 936(h)(3) of the Internal Revenue Code of 1986, or the authority of the Secretary of the Treasury to provide regulations for such application, on or before the date of the enactment of such amendment.

SEC. ___134. LIMITATION ON EARNINGS STRIPPING BY EXPATRIATED ENTITIES.

(a) IN GENERAL.—Subsection (j) of section 163 is amended—

(1) by redesignating paragraph (9) as paragraph (10), and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULES FOR EXPATRIATED ENTITIES.—

''(A) IN GENERAL.—In the case of a corporation to which this subsection applies which is an expatriated entity, this subsection shall apply to such corporation with the following modifications:

''(i) Paragraph (2)(A) shall be applied without regard to clause (ii) thereof.

''(ii) Paragraph (1)(B) shall be applied—

''(I) without regard to the parenthetical, and

''(II) by substituting 'in the 1st succeeding taxable year and in the 2nd through 10th succeeding taxable years to the extent not previously taken into account under this subparagraph' for 'in the succeeding taxable year'.

''(iii) Paragraph (2)(B) shall be applied—

''(I) without regard to clauses (ii) and (iii), and

''(II) by substituting '25 percent of the adjusted taxable income of the corporation for such taxable year' for the matter of clause (i)(II) thereof.

''(B) EXPATRIATED ENTITY.—For purposes of this paragraph—

''(i) IN GENERAL.—With respect to a corporation and a taxable year, the term 'expatriated entity' has the meaning given such term by section 7874(a)(2), determined as if such section and the regulations under such section as in effect on the first day of such taxable year applied to all taxable years of the corporation beginning after July 10, 1989.

''(ii) EXCEPTION FOR SURROGATES TREATED AS A DOMESTIC CORPORATION.—The term 'expatriated entity' does not include a surrogate foreign corporation which is treated as a domestic corporation by reason of section 7874(b).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE II—ENDING EXCESSIVE CORPORATE TAX DEDUCTIONS FOR STOCK OPTIONS

SEC. ___201. CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS.

(a) CONSISTENT TREATMENT FOR WAGE DEDUCTION.—

(1) IN GENERAL.—Section 83(h) is amended—

(A) by striking ''In the case of'' and inserting:

''(1) IN GENERAL.—In the case of'', and

(B) by adding at the end the following new paragraph:

''(2) STOCK OPTIONS.—In the case of property transferred to a person in connection with a stock option, any deduction related to such stock option shall be allowed only under section 162(q) and paragraph (1) shall not apply.''.

(2) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—Section 162 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—

''(1) IN GENERAL.—In the case of compensation for personal services that is paid with stock options, the deduction under subsection (a)(1) shall not exceed the amount the taxpayer has treated as compensation cost with respect to such stock options for the purpose of ascertaining income, profit, or loss in a report or statement to shareholders, partners, or other proprietors (or to beneficiaries), and shall be taken into account in the same period that such compensation cost is recognized for such purpose.

''(2) SPECIAL RULES FOR CONTROLLED GROUPS.—The Secretary may prescribe rules for the application of paragraph (1) in cases where the stock option is granted by—

''(A) a parent or subsidiary corporation (within the meaning of section 424) of the taxpayer, or

''(B) another corporation.''.

(b) CONSISTENT TREATMENT FOR RESEARCH TAX CREDIT.—Section 41(b)(2)(D) is amended by inserting at the end the following new clause:

''(iv) SPECIAL RULE FOR STOCK OPTIONS.—The amount which may be treated as wages for any taxable year in connection with the issuance of a stock option shall not exceed the amount allowed for such taxable year as a compensation deduction under section 162(q) with respect to such stock option.''.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to stock options exercised after the date of the enactment of this Act, except that—

(1) such amendments shall not apply to stock options that were granted before such date and that vested in taxable periods beginning on or before June 15, 2005,

(2) for stock options that were granted before such date of enactment and vested during taxable periods beginning after June 15, 2005, and ending before such date of enactment, a deduction under section 162(q) of the Internal Revenue Code of 1986 (as added by subsection (a)(2)) shall be allowed in the first taxable period of the taxpayer that ends after such date of enactment,

(3) for public entities reporting as small business issuers and for non-public entities required to file public reports of financial condition, paragraphs (1) and (2) shall be applied by substituting ''December 15, 2005'' for ''June 15, 2005'', and

(4) no deduction shall be allowed under section 83(h) or section 162(q) of such Code with respect to any stock option the vesting date of which is changed to accelerate the time at which the option may be exercised in order to avoid the applicability of such amendments.

SEC. ___202. APPLICATION OF EXECUTIVE PAY DEDUCTION LIMIT.

(a) IN GENERAL.—Subparagraph (D) of section 162(m)(4) is amended to read as follows:

''(D) STOCK OPTION COMPENSATION.—The term 'applicable employee remuneration' shall include any compensation deducted under subsection (q), and such compensation shall not qualify as performance-based compensation under subparagraph (C).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock options exercised or granted after the date of the enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Subcommittee on Primary Health and Aging of the Committee on Health, Education, Labor, and Pensions will meet in open session on Wednesday, February 29, 2012, at 10 a.m. in SD 430 Dirksen Senate Office Building to conduct a hearing entitled Dental Crisis in America: The Need to Expand Access.

For further information regarding this meeting, please contact the subcommittee on (202) 224 5480.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Thursday, March 1, 2012, at 10 a.m. in SD 430 Dirksen Senate Office Building to conduct a hearing entitled The Key to America's Global Competitiveness: A Quality Education.

For further information regarding this meeting, please contact the committee on (202) 224 5501.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Senate HELP Committee hearing previously scheduled for March 1, 2012, entitled ''The Key to America's Global Competitiveness: A Quality Education'' has been postponed until Thursday, March 8, 2012 at 10 a.m. in room 430 of the Dirksen Senate Office Building.

For further information regarding this meeting, please contact the committee on (202) 224 5501.

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 Subcommittee on National Parks. The hearing will be held on Wednesday, March 7, 2012, at 2:30 p.m. in room SD 366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 29, a bill to establish the Sacramento-San Joaquin Delta National Heritage Area;

S. 1150, a bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania;

S. 1191, a bill to direct the Secretary of the Interior to carry out a study regarding the suitability and feasibility of establishing the Naugatuck River Valley National Heritage Area in Connecticut;

S. 1198, a bill to reauthorize the Essex National Heritage Area;

S. 1215, a bill to provide for the exchange of land located in the Lowell National Historical Park;

S. 1589, a bill to extend the authorization for the Coastal Heritage Trail in the State of New Jersey;

S. 1708, a bill to establish the John H. Chafee Blackstone River Valley National Historical Park;

H.R. 1141, to authorize the Secretary of the Interior to study the suitability and feasibility of designating prehistoric, historic, and limestone forest sites on Rota, Commonwealth of the Northern Mariana Islands, as a unit of the National Park System.

H.R. 2606, to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, 304 Dirksen Senate Office Building, Washington, DC 20510 6150, or by email to Jake___McCook@energy.senate.gov.

For further information, please contact David Brooks (202) 224 9863 or Jake McCook (202) 224 9313.

COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, Thursday, March 8, 2012, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on the President fiscal year 2013 Budget for Native Programs.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224 2251.

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 Tuesday, March 13, 2012, at 10 a.m., in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the ''Report of the Independent Consultant's Review with Respect to the Department of Energy Loan and Loan Guarantee Portfolio.''

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

For further information, please contact Michael Carr at 202 224 8164 or Colin Hayes at (202) 224 4797 or Abigail Campbell at 202 224 1219.

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Ed Chung, a Department of Justice detailee on my Judiciary Committee staff, be given Senate floor privileges for the duration of the 112th Congress.

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

MEASURE READ THE FIRST TIME—H.R. 1173

Mr. PRYOR. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 1173) to repeal the CLASS program.

Mr. PRYOR. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR TUESDAY, FEBRUARY 28, 2012

Mr. PRYOR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Tuesday, February 28, 2012, at 10 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate be in a period of morning business until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half hour and the Republicans controlling the second half hour; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus meetings.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. PRYOR. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:05 p.m., adjourned until Tuesday, February 28, 2012, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate February 27, 2012:

THE JUDICIARY

MARGO KITSY BRODIE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.