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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by guest Chaplain Rev. Dr. Charles W. Starks, district superintendent of the Wytheville, VA, district of the United Methodist Church.

The guest Chaplain offered the following prayer:

Let us pray.

As we pray, we remember the wisdom of Proverbs 24:10, ''If you falter in times of adversity, your strength is too small.''

O loving and eternal God, we are humbled and grateful for the privilege of gathering here in Your presence. We lift up to You our President, Barack Obama, and Vice President, JOE BIDEN. We lift to you, O God, each elected, appointed, and employed public servant at each level of government across these United States.

And this day, O God, we particularly intercede on behalf of the women and men of this Senate. We pray for these Senators to stand in unity of purpose, like great and sturdy trees in the face of the swirling and perilous storms of this day. We ask for the roots of their strength, courage, and wisdom to be nourished in Your abundant grace, even the grace of Jesus, who reminds us to treat others in the same manner we desire to be treated. From that rich grace, O God, allow these Senators the privilege of bearing good fruit which will be a blessing to the people of this great land and Your entire good Earth.

O God, we lift this prayer to You, our Creator, Redeemer, and Sustainer who loves us this day and for all times. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 26, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the District of Columbia House Voting Rights Act. At 10:30, the Senate will proceed to a rollcall vote in relation to the Kyl amendment regarding retrocession. Additional rollcall votes are expected to occur throughout the day.

Last night, I filed cloture on the bill. If we are unable to complete action on the bill today, the cloture vote will occur tomorrow. Under rule XXII, the cloture rule, the filing deadline for germane first-degree amendments is 1 o'clock today.

MEASURES PLACED ON THE CALENDAR—S. 478, S. 482, H.R. 1105

Mr. REID. Mr. President, I understand there are three bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the titles of the bills for the second time.

The assistant legislative clerk read as follows:

A bill (S. 478) to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

A bill (S. 482) to require Senate candidates to file designations, statements, and reports in electronic form.

A bill (H.R. 1105) making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Mr. REID. Mr. President, I would object to any further proceedings with respect to these bills en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

RESERVATION OF LEADER TIME

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

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 160, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

Pending:

Ensign amendment No. 575, to restore second amendment rights in the District of Columbia.

Coburn amendment No. 576 (to amendment No. 575), of a perfecting nature.

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

Thune amendment No. 579, to amend chapter 44 of title 18, U.S. Code, to allow citizens who have concealed carry permits from the State or the District of Columbia in which they reside to carry concealed firearms in another State or the District of Columbia that grants concealed carry permits, if the individual complies with the laws of the State or the District of Columbia.

Kyl amendment No. 585, to provide for the retrocession of the District of Columbia to the State of Maryland.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 will be equally divided and controlled between the Senator from Arizona, Mr. KYL, and the Senator from Connecticut, Mr. LIEBERMAN, or their designees.

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, under the previous order, the Senate will now move to the Kyl amendment, I believe, on retrocession, not to be confused with retrogression, although there may be some similarity between the two.

I am looking at the Senator from Maryland, who will rise to the defense in a moment.

As my colleagues know, last night the majority leader filed a cloture motion on this bill, S. 160, the District of Columbia House Voting Rights Act. We made some progress yesterday. There are a few amendments still pending. Obviously, it is our hope that we will be able to complete the bill today and hopefully not have to go to the cloture vote. But that depends on our colleagues.

So I would yield on the pending Kyl amendment to the distinguished Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

AMENDMENT NO. 585

Mr. CARDIN. I thank my friend from Connecticut for his leadership on this issue. Let me tell my colleagues, I think this is a major human rights issue. I have the opportunity of representing this body as the chairman of the Helsinki Commission. The Helsinki Commission deals internationally with issues of human rights. It is interesting that the United States has taken the leadership on protecting the rights of individuals to vote and to be able to determine their own government. So we have invested a lot of resources in the Helsinki Commission to protect steps to monitor elections around Europe and central Asia and to fight for minority communities to have the right to vote and to have open and honest voting.

Let me tell you, last year there was a resolution filed in our Parliamentary Assembly of the CSCE to encourage America to give the people of the District of Columbia the right to vote. The international community understands that we are out of compliance with basic international norms on giving our citizens the right to participate in their parliament.

So I look at this bill first as a basic right, that every American should be able to have their voice heard here in the Congress of the United States. I support this bill because it moves us in the right direction. But I must tell you, I believe the people of the District should have two Members of this body, two U.S. Senators, and a voting Member of Congress, and I know we tried to do that in the 1970s with a constitutional amendment. I was proud at that time to be a State legislator in Maryland as speaker of the Maryland House. We passed and ratified that constitutional amendment because we thought it was the right thing for the District to have full representation in this body and to have a voting representative in the House of Representatives.

So this legislation, as I said, moves in the right direction. It gives the people of the District a voting Representative in the House of Representatives. That, we should do. And then it even goes further, recognizing the political sensitivity of having another Congressman who may represent one political party. Since the District registration is heavily Democratic, the compromise is to give another Representative to the State of Utah because they are the closest to having been able to obtain another Representative and the registration in Utah is heavily Republican. So it balances it from a political point of view. I understand that is how the system works here. I think this is a fair compromise. What I do not understand is why we are getting all of these other amendments on this bill as an effort to try to kill the underlying bill. Let's have an up-or-down vote on it.

The people of the District have been waiting a long time. I think it is the right thing for us to do to say: Let's give them a vote. Let's get rid of these amendments because these amendments are not aimed at trying to solve the problem, they are aimed at trying to defeat the bill, which brings me to the amendment offered by Senator KYL that is currently pending.

I find this amendment somewhat surprising. Let me tell you why. It would cede the District back to the State of Maryland. It would change the border of my State that I represent in this body. Now, I would have thought—maybe I am naive about this—that if a Senator was introducing an amendment which would change the border of a particular State, that he would talk to the Senators from that State, he would talk to the Governor from that State, he would try to work with the Representatives from that State because if this amendment were adopted, it would affect every single person in Maryland. Our formulas for aid to our counties and Baltimore City are based upon population. If all of a sudden Maryland grows by a couple hundred thousand people, it affects the way our counties operate essential services. Yet there was no effort made by the author of this amendment to consult with the political leadership of my State.

I do not know how another Senator would feel if I introduced an amendment—and I am glad to see Senator KYL has returned to the floor. I don't know how Senator KYL would feel if I introduced an amendment that said, perhaps, Arizona's borders should change a little bit because it makes more sense to do it that way, and there is no need to talk to the Senators from Arizona about it or the government of Arizona, we are just going to do it. I do not think that is the right thing to do.

So I am somewhat puzzled. I must tell you, to me, it is a matter of an unfunded mandate on my State. It is a matter of what federalism is about. It is a matter of States rights, and it is a matter of common decency.

Now, I read the amendment coming over, and I am not sure how these lines were drawn, but I would have thought, if Maryland were to get the District, we would at least get the Kennedy Center. But it looks as if they took the Kennedy Center out, for reasons I cannot explain. I do not know how these lines were drawn. So perhaps my friend will help me understand this better and understand whether the courtesies of the Senate mean you can put legislation in affecting the borders of one State or another without even having the courtesy to talk to the Members of that State.

I can tell you that Maryland very much works very closely with the Mayor of Washington and the people of the District. We have a wonderful regional governmental organization. We work cooperatively on providing services to the people of this region. We have an excellent relationship. We support giving the people of the District representation in Congress because it is the right thing to do, and we want them to have their own Representatives here. We think it is a wrong suggestion to now say: Oh, we can solve this problem by changing the borders of the State of Maryland for that.

I urge my colleagues to reject the Kyl amendment and let us get on with passing this very important bill for Americans who have been denied a voice in the Congress of the United States.

I yield the floor.

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

Mr. KYL. Mr. President, if the Senator from Maryland has a moment, I would be very happy to respond to some of the concerns he raised. They are all legitimate questions, I acknowledge up front. No State should have territory foisted upon it. That is absolutely true. And the questions raised here were good questions.

First of all, the amendment before us is an amendment that has frequently been offered in the House of Representatives. It has been vetted over there for a long time. So this is not something new.

Secondly, it is absolutely clear from section 6 of the amendment that nothing happens with regard to retrocession unless the State of Maryland agrees.

The effectiveness provision reads as follows:

Not later than 30 days after the State of Maryland enacts legislation accepting the retrocession described in section 1(a), the President shall issue a proclamation announcing such acceptance.

Unless the State of Maryland affirmatively, through an act of the people's representatives of that State, vote to do this, there is no retrocession to the State of Maryland.

That answers the question of States rights.

Mr. CARDIN. Will the Senator yield?

Mr. KYL. Of course.

Mr. CARDIN. Does he believe it is fair to say to the people of the District of Columbia that their right to have a voice in the House of Representatives depends upon the will of the people of Maryland?

Mr. KYL. I say to my colleague, the first point he made was that the State of Maryland should have a say in this, and it should be a definitive say. If the State of Maryland doesn't want the residents of the District of Columbia to be part of the State, that informs our decision about what the people of the State of Maryland want. I wouldn't force that decision upon them any more than the Senator suggests should be the case. The State of Maryland should have that say. If the Senator is saying: I can tell you right now Marylanders don't want these folks from the District as part of their State, we ought to know that by a definitive process rather than assuming it to be the case going into the debate. That would be my response.

Mr. CARDIN. Will my colleague yield further?

Mr. KYL. I am happy to engage in a colloquy.

Mr. CARDIN. I am wondering how my colleague would feel if legislation was introduced here by a Senator not from Arizona saying: I understand what the people of Arizona want better than the Senator does. I want to introduce a bill affecting land rights or property rights or anything in the State of Arizona, and I will make it subject to the vote of the people of Arizona. It will change the border area a little bit, and I know you don't want this, but I am going to do it anyway. I am curious how the Senator would respond if such legislation was introduced and the Senator who introduced it said: I am allowing your Governor to take it to the people. I know there will be a lot of pressure building up on that. But it is not relevant to the Senators from Arizona.

Mr. KYL. Mr. President, my colleague makes a good point. I will respond in two ways. First, I appreciate the sentiment and would hope that when western land issues are dealt with in this body, our eastern colleagues would apply that same principle. Frequently, there is a sense that folks in the east know best about what we should be doing with Federal lands in the west. I certainly respect that sentiment. Obviously, in some respects, that is not as important as the fundamental political jurisdictional issue we are facing here. The question of retrocession is a fundamental issue, and it has to do with a fundamental right the District of Columbia residents would have to participate in State government. I recognize there are some differences, but I offer that first response.

Second, I am not presupposing anything with the amendment. The question will always be before the Maryland electorate whether they want to do this. I don't know whether the Maryland electorate wants to do this. I presume there would be a debate. The result of that debate, decided by the people of Maryland or their elected representatives, would be dispositive on the question. Nobody is foisting anything on anyone. I would be the first to say: If the people of Maryland don't want the residents of the District to be part of the State of Maryland, then the Congress would have to be informed by that decision. I would think it would be dispositive.

Could I respond to a couple other points first and then I will be happy to engage in a further colloquy.

On the matter of the way the lines were drawn, the history of this is that the so-called national areas, the areas where the Federal buildings, various Government departments are located, the Mall, the monuments and those sorts of things, would not be part of the retrocession. The bulk of the bill draws those lines. I can't tell my colleague exactly what the philosophy was with respect to each of those areas. Any question about what should or should not be in, be it the Kennedy Center or anything else, is a legitimate subject of discussion. It could be the subject of amendment. This has been a matter that has been not frequently but not infrequently debated in the House of Representatives. So there is some history of the rationale behind the line drawing. But with respect to where any of these particular lines are drawn, obviously, the Senators from Maryland should be key in helping us to decide where those lines would be. There is nothing locked in stone here that could not be considered the subject of an amendment.

Finally, with respect to the unfunded mandate part, I am not sure it wouldn't work the other way around. I cited a couple days ago the statistics about the money that the Government provides for the District of Columbia. Some of that money has to do with the running of these Government departments, the construction of buildings, maintenance of the buildings, and so on, but much of it does not. Much of it has to do with what the Constitution provides as to the general welfare of the people within the District. I suspect that under any scenario, the money that has been provided to the District of Columbia would still be far in excess of the money returned to any of the several States. And because of the unique nature of the District and the history and traditions, much of that funding would naturally carry over to future years. There is no way the Federal Government is not going to fund all of the national areas that are retained in this legislation.

As the District's Delegate NORTON said in a press release recently, much of the money in the stimulus bill that is going to refurbish or construct office buildings that are Federal Government buildings provides employment opportunities for the residents of the District. While we should obviously be sensitive to any issues of transfer, if the State of Maryland were to accept the residents of the District of Columbia, it is a very legitimate point, and all of those things are appropriate for discussion.

On the matter of the unfunded mandate, it would probably work the other way around, that Maryland would receive a lot of money from the Federal Government. In any event, the Federal national areas that would be receiving the amount of money that they naturally do would certainly help the residents who work here in what is now the District of Columbia.

There is nothing in this amendment that is intended to jam anything down the throats of the people of Maryland. They have the final and ultimate say of what is done. I wouldn't propose anything different from that.

Mr. CARDIN. Will the Senator yield?

Mr. KYL. Absolutely.

Mr. CARDIN. Let me make a brief comment with regard to the mandate on Maryland. Maryland would be under tremendous pressure to change funding formulas consistent with what aid the District currently receives. It would have a major impact on the ability of our State to carry out its fundamental aid formulas to local governments, considering how significant the District would be, the population, relative to the State of Maryland.

The second point is, I can tell you how the people of Maryland feel. They believe the residents of the District of Columbia should have their voting representative in the House of Representatives. That is how the members of our congressional delegation have acted. That is how Senators are acting. We know that is what the District wants. We agree with that. I hope we can get an up-or-down vote on this bill and let's move forward.

I thank the Senator for yielding.

Mr. KYL. If I may make one other point, we will have an up-or-down vote on this amendment at 10:30 and on the bill, of course. I want to conclude my comments to the Senator, because he, obviously, has a good sense of what the people of Maryland want. I concede that. Again, I concede the premise of his point which is that the people of Maryland should have a say before this is done. The reason for the amendment is simply this: We believe it is unconstitutional for the Congress to simply provide a congressional district without an amendment to the Constitution.

I personally think the residents of the District should be represented in the House. The only other way to do that, for those of us who believe it is unconstitutional to pass the legislation pending before us, and a court will in relatively short order make a determination on whether that is true, and let's assume that the court says, you can't do it, Congress, by simple legislation, then short of a constitutional amendment, this is the only other way to achieve the objective. It is presented in good faith. It is presented as the only other logical alternative for the residents of the District of Columbia to have their own congressional district. Because of the number of people who live in the District, something over 600,000, and because the representation from House congressional districts today is approximately a shade over 600,000, the fact is that the residents of the District could have a district of their own or essentially exactly as the District is configured today without presumably modifying the lines of other Maryland districts. Of course, that would be up to the State of Maryland in the way that it sets its congressional district lines.

Mr. CARDIN. Will the Senator yield on that point?

Mr. KYL. I am happy to.

Mr. CARDIN. Having served in the House and also going through redistricting, the courts are now requiring an exact number of equality. So it would be improbable that the lines would remain the same.

Mr. KYL. I said that is why it would be ''almost.'' You might have to include a few residents of what are now Maryland within the District, and I acknowledge that to be the case. In any event, I accept the fundamental premise of the Senator. Our amendment addresses that specifically. My hope would be that if the courts should declare that we cannot by legislation do what this bill attempts, then the people of Maryland would strongly consider whether the next best alternative is to provide for the retrocession we have in this amendment as the next best way to provide a vote for the residents of the District of Columbia.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Arizona and the Senator from Maryland for a thoughtful discussion. I rise to oppose amendment No. 585, offered by the Senator from Arizona. Unlike some of the other amendments pending, this one goes to the heart of what the underlying bill that came out of committee is all about, which is how do we give voting rights in Congress to 600,000 Americans who happen to live in our Nation's Capital who don't have such representation now. I disagree with the method, but I appreciate the fact that this is not germane in a parliamentary sense, but it is directly relevant to the underlying injustice and inequity. But for the reasons that the Senator from Maryland made clear, this is not a practical solution to the problem before us, the longstanding injustice.

It requires the consent of the people of Maryland, and all their leaders tell us that the people will not support it. So it may be a solution on paper, but it is not going to be a solution and a fix to the problem in fact. It is also full of complications that would ensue.

For instance, section 2 of the amendment would automatically transfer all pending legal actions in the District of Columbia to an ''appropriate Maryland court.'' We can only imagine the legal and political tangle that could create given that Maryland and the District actually have distinct legal structures, rules, and precedents. Section 3 of the amendment describes at some length the boundaries of a small but still sizable national capital service area that would continue to be controlled by Congress and which would consist of key Federal buildings and monuments. There are complications there too. Who would police and maintain those streets and otherwise administer this large swath of downtown Washington?

As has been said, it would require a constitutional amendment to repeal amendment XXIII which granted the District of Columbia three electoral votes in Presidential elections. If amendment XXIII were not repealed, presumably the effect would be to grant a disproportionately large role in Presidential elections to a relatively small population that would continue to reside in that national capital service area and that would remain under congressional control. In fact, the amendment recognizes this and, therefore, would not become effective until such a repeal amendment to the Constitution is ratified.

As I have said, this is an alternative solution to the problem. I appreciate it in that it would, if it overcame the obstacles, actually be a remedy, but it is not the right or realistic remedy to the injustice of nonvoting representation in Congress for residents of the District. The right and reasonable and realistic solution is the underlying bill before us, S. 160. That is why I oppose the amendment and urge the passage of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, let me respond to two points my colleague made, and they are both legitimate questions. The first is some of the technical problems. I am sure there are a lot of technical problems we have not even thought about that would attend. This is a big change. Whether you adopt the underlying legislation or you go through a process such as retrocession, there will have to be a lot of adjustments and accommodations, to be sure.

But on questions such as, for example, policing the Mall and so on, those things are already well understood and resolved. For example, I have spoken recently with Capitol Police and asked them about the overlapping jurisdiction: Where, for example, does the Capitol Police jurisdiction end and where does the DC Police jurisdiction begin, and so on? They have all these things worked out. I do not think there is any difficulty with those kinds of technical issues. But there will be, undoubtedly, others that will have to be addressed as well.

Secondly, my colleague is correct, in order to avoid the anomalous situation where a few people who might be technically residents downtown and not have other residence downtown—being in the Federal areas or national areas as described in this legislation—we would have to eliminate the twenty-third amendment to make sure those people would not have three electoral votes for the Presidency. I cannot imagine that if retrocession did occur the citizens of the country would not follow through on that essentially technical issue and approve the recession of the twenty-third amendment. But it is one of the things that will have to be done. That is absolutely true.

Again, I will conclude by saying, for those of us who believe it would be preferable for the residents of the District to have their own representative in the House of Representatives and, in fact, to be able to vote for Senators, and have that representation as well, if they are part of a State—if, in fact, the underlying legislation is unconstitutional, as many of us believe it is—then this amendment offers a constructive way to achieve the same result, I would suggest, with very little in the way of adjustment, but with some adjustment that would have to occur—again, subject solely to the approval of the people of the State of Maryland.

I say to our colleagues, this vote is scheduled for 10:30, so if there are people who want to discuss other amendments or other matters, or to further debate this amendment, this would be a good time to do so.

Mr. LIEBERMAN. Mr. President, I thank my friend from Arizona. He is absolutely right. I have been informed that the senior Senator from Delaware is on his way to the floor to speak on this amendment. But I echo what Senator KYL has said, that we have some other pending amendments. The floor is open until the vote at 10:30, and I urge our colleagues to come and take advantage of that opening.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CARPER. Mr. President, yesterday morning, at about 8 o'clock, down

in, I think, S. 115, there was a prayer breakfast. Actually, that happens about every week. And for many weeks in the last year or two, our Acting President pro tempore was one of two Members—one a Democrat and one a Republican—who brought people together for an hour of fellowship. They would have breakfast together and sing a hymn—or at least try to sing a hymn—or a song of some kind, and they would share their story, if you will, their spiritual journey with one another.

I usually do not get to go to those; I am on a train coming down from Wilmington, DE. But I have been a time or two, and I find it very uplifting. There is a smaller gathering that will occur today a little after noon, right here off the Senate floor, and it will be a group convened by our Chaplain, Barry Black, who is a retired Navy rear admiral. He used to be Chief of Chaplains for the Navy and the Marine Corps.

What we have is a little bit like an adult Sunday school class. There are people of different faiths who show up. Sometimes we may have five or six or seven or eight or nine people there, Democrats and Republicans.

I always like to tell the story that happened about a couple years ago, when we were having orientation for new Senators—something our Acting President pro tempore has been a part of establishing—but we had a last session of orientation for new Senators—I think it was about 2004, right after the election—a last session where John Breaux, a Democrat, was leaving and Don Nickles, a Republican, was leaving the Senate, and they both were talking to our new Senators and their spouses about bridging the partisan divide.

Don Nickles talked—he has a great sense of humor; so does John Breaux, as we know—and Senator Nickles was about to leave the Senate. He was talking to the Democrats and Republicans who had just arrived, and their spouses, and he said: You all ought to think about going to this Bible study group. It is uplifting. It is inspiring. It is refreshing. You get to know your colleagues better. It does not take that much time every week. He said: You ought to try to do it. TOM CARPER and I go to that Bible study group. He is a Democrat and I am a Republican.

He said: Week after week, month after month, you sit together, you read Scriptures together, you talk and share with one another your thoughts and problems and what you are facing in your life. You pray for each other. He said: You know, after I do that, it is hard to walk out on the Senate floor and stab TOM CARPER in the back. He said: It is not impossible, but it is hard.

One of the other things that is hard is for us to actually figure out how our faith should guide us in the decisions we make here. I am always inspired by the depth of conviction of the floor manager, the chief sponsor of this bill, Senator LIEBERMAN, and how his faith guides him in the work we do here.

But Barry Black, our Chaplain, often challenges us in the Senate—Democrats and Republicans—and not just there, but, later today, in our Bible study class, and also at the Wednesday morning prayer breakfast, and throughout the week—he is always challenging us: How should we use our faith to help guide us in the decisions we make?

The other thing he is good at doing is reminding us, about every other week, of the two great Commandments in the New Testament. The first: Love Thy Lord Thy God with all thy heart, all thy soul, all thy mind. And the second one is: To love thy neighbor as thyself—which we also call the Golden Rule: Treat others the way we want to be treated. Chaplain Black likes to say the ''CliffsNotes'' of the New Testament is the Golden Rule: Treat other people the way we want to be treated.

When I run into great leaders in my life, in this country and in other countries, a lot of times the good leaders are those who actually internalize the Golden Rule, who do try to treat others the way they want to be treated. I am pleased to say that the two Senators who are here on the floor right now certainly embody that rule too.

How does that pertain to the legislation before us? Well, I think it pertains to the legislation before us because there are about 600,000 people who live in the District of Columbia. Some of them actually work here with us, but they live here in the District of Columbia and they pay taxes. They pay Federal taxes. They don't get to vote. They don't have a vote here in the Senate. They don't have a Representative, if you will, who can vote for them and for their interests and concerns in the House of Representatives.

Delaware has about 850,000 people, so we have a few more people than the District of Columbia. There are some other States that have fewer people than we do. There is actually probably a State or two that has fewer people living in it than does the District of Columbia. I won't call out those States here this morning. They are pretty big in geography but not so big in population. They have two Senators and at least one U.S. Representative. Whether the issue is foreclosures, budget, or stimulus package, they have somebody here to vote, to represent them, to speak on the floor and to offer legislation, amend legislation, and to vote on legislation. We saw in the stimulus package how critical one or two votes can be. The District of Columbia has nobody here and they have nobody voting for them in the House. They have a delegate—a very good one—who can vote in committee, offer legislation, offer amendments, and introduce bills, but can't actually vote when the time comes. There is something about that that seems unfair to me. It seems unfair to me. I think it certainly seems unfair to the sponsor of the bill, Senator LIEBERMAN, and to a lot of people who cosponsored the legislation, as have I.

None of us is suggesting that there ought to be two Senators representing folks from the District of Columbia. In allowing the delegate to become sort of a full-fledged U.S. Representative over in the House, there is a trade that—we would expect that person to be a Democrat, at least initially; maybe someday Republican—but the idea would be to provide an additional Republican representative, in this case from the State of Utah. That seat may become a Democratic seat. I wouldn't want to bet my paycheck on it, but it might. So we are trying to come up with an equitable, a fair, a reasonable compromise. Isn't politics the art of compromise? This is a compromise.

There are some who have suggested that is unconstitutional. I am not a constitutional expert. I know a lot of smart people have considered it. We will have an opportunity—if this legislation is passed and signed by the President, there will be an opportunity for an expedited process and the Federal courts, the appropriate courts will determine whether this measure, this statute actually is constitutionally sound. My hope is it will be. A lot of forethought has gone into this issue already.

In closing, let me say in the minute or so that is left on our side, I wish to thank Senator LIEBERMAN for his steadfast leadership on this issue and for making it not just a bipartisan issue but a tripartisan issue, by making sure we have both Republicans and Democrats and Independents such as himself and BERNIE SANDERS to weigh in and to support this legislation; not just to offer the bill but actually to stand up and call on the rest of us to do what we know in our hearts is fair and just, and to put ourselves in the shoes of the folks who live here in Washington, DC and who work and pay their taxes and who deserve a full-fledged vote, at least in the House of Representatives. We will wait another day to take up that battle here in the Senate.

That having been said, I yield back my time.

The ACTING PRESIDENT pro tempore. The time for the majority has expired.

Mr. LIEBERMAN. Mr. President, seeing no one on the other side in the Chamber, I ask unanimous consent to speak for no more than 5 minutes, probably less.

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

Mr. LIEBERMAN. I thank the Chair. I will yield if anyone on the other side comes in.

I thank my friend from Delaware for his very eloquent and thoughtful statement. The pending amendment is on retrocession. As the Senator began his remarks about the Bible study and prayer groups, I thought he was going to talk about redemption and not retrocession, but he got to the point. I must say, if I may continue the argument the Senator from Delaware made

very eloquently in two ways, S. 160, the underlying bill, does provide—please allow me some license here for a kind of political redemption—for the voters of the District of Columbia who up until this time have been denied a voting representative in Congress. The whole premise of our Government is that we govern with the consent of the governed, but here we have 600,000 Americans who, through historical anomalies and maybe more recently partisan disagreements, don't get to consent or object to anything we do to them or even for them.

The second—and I thank my friend from Delaware for making this point about the Golden Rule. I hope all of our colleagues in the Senate will apply that fundamental ethical human principle to this vote and think about how we would feel if we were the District's Delegate in the House of Representatives. ELEANOR HOLMES NORTON is a gifted and wonderful person. I have known her—I won't state the year because I don't want to compromise the privacy of her age; mine has already been compromised this week. We were at law school together. She is an extraordinarily gifted person and a very diligent and passionate and aggressive advocate for the people of the District of Columbia. Imagine how we would feel if we were occupying the seat she occupies in the House of Representatives. She gets to debate issues. She gets to talk. But when the roll is called, imagine how we would feel—my friend from Delaware and our dear friend from Arkansas who occupies the Chair at the moment, myself—if there were a major item here in the Senate and we could debate it, but then the roll is called and it is as if our mouths are stifled, muffled. We couldn't vote. That is what Delegate NORTON goes through in the House of Representatives. If we think about it that way, in the terms the Senator from Delaware stated, to treat others as we would like to be treated ourselves, it seems only fair, reasonable, human to give Delegate NORTON and the 600,000 people she represents the right to vote on the floor.

So I thank my friend for taking the time to come over and speak as eloquently and convincingly as he has.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

Under the previous order, the question is on agreeing to amendment No. 585.

Mr. KYL. Madam President, I ask for the yeas and nays.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Tennessee (Mr. CORKER).

Further, if present and voting, the Senator from Tennessee (Mr. CORKER) would have voted ''yea.''

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

The result was announced—yeas 30, nays 67, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—30

Alexander	Crapo	Kyl
Barrasso	DeMint	Martinez
Bennett	Enzi	McCain
Bond	Graham	McConnell
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Cornyn	Johnson	Wicker

NAYS—67

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

NOT VOTING—2

Corker	Kennedy

The amendment (No. 585) was rejected.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Madam President, I believe two of our colleagues wish to speak as in morning business at this time. After that, our intention is to pick up the amendment offered by the Senator from South Carolina, Mr. DEMINT, on the fairness doctrine, and then Senator DURBIN also will be offering a matter on the fairness doctrine as well.

With that in mind, I yield the floor to one of the two Senators to my right, and they may joust as to who goes first.

Mr. BOND. Madam President, I thank my colleague from Connecticut, with whom I worked so closely last fall and at the end of January, for allowing us to go forward. I ask unanimous consent to speak as in morning business, and my colleague, the Senator from Iowa, I believe, wishes to speak as in morning business after that, as indicated by the manager of the bill.

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

(The remarks of Mr. BOND and Mr. GRASSLEY are printed in today's RECORD under ''Morning Business.'')

Mr. ENSIGN. Madam President, I ask unanimous consent that the pending amendment be set aside to call up the amendment No. 587.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Reserving the right to object, it is my understanding that the Senator from Nevada wishes to call up the amendment and speak very briefly—he mentioned to me 2 minutes. I believe I am in the line to speak and I wish to speak on this amendment.

Is that the agreement?

Mr. ENSIGN. Madam President, I ask unanimous consent that I be allowed to call up my amendment, get it pending, and speak on it for 2 minutes.

Mrs. FEINSTEIN. Is the subject of this amendment vouchers?

Mr. ENSIGN. Yes.

Mrs. FEINSTEIN. No problem.

AMENDMENT NO. 587

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 587.

Mr. ENSIGN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To reauthorize the DC School Choice Incentive Act of 2003 for fiscal year 2010)

At the end, add the following:

SEC. ___. REAUTHORIZATION OF THE DC SCHOOL CHOICE INCENTIVE ACT OF 2003.

(a) REAUTHORIZATION.—Section 313 of the DC School Choice Incentive Act of 2003 (title III of division C of Public Law 108–199, 118 Stat. 134) is amended by striking ''fiscal year 2004 and such sums as may be necessary for each of the 4 succeeding fiscal years'' and inserting ''fiscal year 2010''.

(b) SEVERABILITY.—Notwithstanding section 7, if any provision of this Act (other than this section), and amendment made by this Act (other than by this section), or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this section, the amendment made by this section, and the application of such to any person or circumstance shall not be affected thereby.

Mr. ENSIGN. Madam President, I rise to offer a DC voucher program for low-income children at or below 185 percent of the Federal Poverty Line. Children would be eligible to receive up to $7,500 to attend a private school in the District.

It has been said that education, especially K–12 education is a civil right. I

believe it is. In Washington, DC, public schools are failing too many of our kids—especially our low-income kids. These children are trapped in schools that are failing.

About half the kids in Washington, DC, public schools do not graduate, and this is not because of money. The District spends perhaps the most in the country, on education. They spend almost $15,000 a year per student per year in public schools. That is almost three times the amount we spend per student per year in Nevada. Yet the performance of the public schools in the District is pathetic. There are very few Members of Congress who would allow their kids to go to these failing schools.

The reason I am offering my amendment today, which would reauthorize, for 1 year, a very valuable voucher program, is because the upcoming Omnibus appropriations bill basically guts the program. We need to make sure this program is in place in time for parents to plan for their children's education in the fall.

This is an important amendment. This is a civil rights amendment. We are talking about the right to a DC Representative voting here, we should care enough about our children to give them the right to a good education. That is what this amendment is about. Now, we are going to try to work this out. We may not be offering this amendment if we can get an agreement from the majority leader for time on the floor sometime this spring to be able to debate a full bill. That is what I would hope we could be able to do. If not, then we will hope for a vote on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, if I may very briefly respond to my friend from Nevada, I appreciate the statement he has made. Personally, I agree with him on this DC scholarship program which I supported in past years. The authorization is running out.

The Homeland Security and Governmental Affairs Committee, as my friend knows, actually still possesses jurisdiction over matters related to the District of Columbia. So we would be the proper committee to consider an authorization bill.

As I have said to my friend, I do not know what I would support. I do not know what the outcome of the committee would be. But I appreciate the spirit in which he has presented this amendment. I agree with him totally that we ought to be reauthorizing this program, and we will work together to see, with the majority leader, whether we can get an agreement that there will be floor time with a time limit given to a debate and an attempt to reauthorize the program when it expires, which I believe is in this fiscal year, meaning that it would affect the school year that begins in September.

So I will pursue that with the leader and will continue our conversations. I thank him for offering the amendment.

I now yield the floor to our distinguished colleague from California.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 575

Mrs. FEINSTEIN. Madam President, I thank the manager of the bill. I rise today to speak in strong opposition to amendment No. 575 offered by Senator ENSIGN. This amendment is not the instant amendment that he just spoke about; it is the amendment that essentially would repeal all commonsense gun laws in the District of Columbia.

I believe the amendment is reckless. I believe it is irresponsible. I believe it will lead to more weapons and more violence on the streets of our Nation's Capital. It will endanger the citizens of the District, the Government employees who work here, our elected officials, and those who visit this great American Capitol. And, of course, if successful, it will be the first new step in a march to remove all commonsense gun regulations all over this land.

The Ensign amendment repeals gun laws promoting public safety, including DC laws that the U.S. Supreme Court indicated were permissible under the second amendment in the Heller decision. I strongly disagree with the Supreme Court decision in Heller that the second amendment gives individuals a right to possess weapons for private purposes not related to State militias, and that the Constitution does not permit a general ban on handguns in the home. But that is the law. It has been adjudicated. It has gone up to the highest Court, and I am one who believes if we do not like the law, we should try to make changes through the proper legal channels. However, it is important to note that Heller also stands for the proposition that reasonable, commonsense gun regulations are entirely permissible.

As the author of the original assault weapons ban that was enacted in 1994, I know commonsense gun regulations do make our communities safer, while at the same time respecting the rights of sportsmen and others to keep and bear arms.

Just yesterday, the Department of Justice announced the arrest of 52 people in California, Minnesota, and Maryland. In addition to seizing 12,000 kilograms of cocaine and more than 16,000 pounds of marijuana, the DEA also seized 169 illegal firearms from members of the Sinoloa Cartel.

Where did they get those guns? It would be interesting to find out because this cartel is one of several that law enforcement believes is responsible for kidnappings and murders within the United States in addition to engaging in violent gun crimes.

In talking about the Sinoloa Cartel yesterday, Attorney General Holder noted that reinstituting the assault weapons ban would benefit the United States, as well as help stop the flood of weapons being sent from the United States to Mexico for use by drug cartels to cause violence on both sides of the border.

I am prepared to wage the assault weapons battle again and intend to do so. I have been quiet about this because there are many pressing needs of this Nation. But with the help of the President, the administration, and the people of this great country, we do need to fight back against these kinds of amendments.

Justice Scalia wrote in the majority opinion on the Heller case that a wide variety of gun laws are ''presumptively lawful,'' including the laws ''forbidding the carrying of firearms in sensitive places'' and regulations governing ''the conditions and qualifications of the commercial sale of arms.''

I cannot think of any place more sensitive than the District of Columbia. Even bans on ''dangerous and unusual weapons'' are completely appropriate under the Heller decision. So it is interesting to me that you have this decision, and then you have the Senate moving even to obliterate what is allowable under the decision.

Senator ENSIGN's amendment completely ignores Heller's language and takes the approach that all guns for all people at all times is called for by Heller. It is not.

We have all seen the tragic consequences of gun violence: the massacre of students at Virginia Tech University in 2007, the murders at Columbine High School in Colorado, the North Hollywood shootout where bank robbers carrying automatic weapons and shooting armor-piercing bullets shot 10 Los Angeles Police Department SWAT officers and seven civilians before being stopped.

We have seen criminal street gangs able to buy weapons at gun shows and out of the back seats or the trunks of automobiles. We have seen their bullets kill hundreds, if not thousands of people across this great land—men, women, and children.

I remember one case in the San Francisco Bay area not long ago where a youngster taking a piano lesson in a home had a bullet from a gang member pierce the wall of the home, cut his spine, and today he is a paraplegic. It is unbelievable for me to think of the ease with which people can buy weapons.

As Senator SCHUMER said, if this amendment becomes law, even if you cannot see, even if you cannot pass a sight test, you can have access to firearms. That is not what this Nation should encourage. Those incidents and the gun violence that occurs every day across this country show us that we should be doing more, not less, to keep guns out of the hands of criminals and the mentally ill and not give them unfettered access to firearms.

It is worth noting just how far this amendment goes in repealing DC law and just how unsafe it will make the streets of this Capitol. Here is what it

would do: It would repeal DC's ban on semiautomatic weapons, including assault weapons. If this amendment becomes law, military-style assault weapons with high-capacity magazines will be allowed to be stockpiled in homes and businesses in the District, even near Federal buildings such as the White House and the Capitol. Even the .50 caliber sniper rifle, with a range of over 1 mile, will be allowed in DC under this amendment. This is a weapon capable of firing rounds that can penetrate concrete and armor plating. And at least one model of the .50 caliber sniper rifle is easily concealed and transported. One gun manufacturer describes this model as a ''lightweight and tactical'' weapon and capable of being collapsed and carried in ''a very small inconspicuous package.''

Is this what we want to do? There is simply no good reason anyone needs semiautomatic, military-style assault weapons in an urban community. It is unfathomable to me that the same high-powered sniper rifle used by our Armed Forces will be permitted in the Nation's Capital. Yet this is exactly what the amendment would allow if passed by the Senate.

Next, the amendment would repeal existing Federal anti-gun trafficking laws. For years, Federal law has banned gun dealers from selling handguns directly to out-of-State buyers who are not licensed firearms dealers. This has helped substantially in the fight against illegal interstate gun trafficking, and it has prevented criminals from traveling to other States to buy guns.

Senator ENSIGN's amendment repeals this longstanding Federal law and allows DC residents to cross State lines to buy handguns in neighboring States. Illegal gun traffickers will be able to easily obtain large quantities of firearms outside of DC and then distribute those guns to criminals in DC and in surrounding States.

And no one should be so naive as to say that this amendment will not do this. It will. The amendment repeals DC law restricting the ability of dangerous and unqualified people to obtain guns. The amendment also repeals many of the gun regulations that the Supreme Court said were completely appropriate after Heller.

So all of those who will vote for this amendment should not do so thinking they are just complying with the Heller decision. This is part of a march forward by gun lobby interests in this country to begin to remove all commonsense regulations, and no one should think it is anything else.

This would repeal the DC prohibition on persons under the age of 21 from possessing firearms, and it repeals all age limits for the possession of long guns, including assault weapons.

Do we really want that? I think of the story of an 11-year-old who had a reduced barrel shotgun and just recently killed somebody with it. Is this what we want to see all over this country, the ability of virtually anyone to obtain a firearm regardless of their age? I don't think so.

The amendment even repeals the DC law prohibiting gun possession by people who have poor vision. I heard Senator SCHUMER speak about this yesterday afternoon. Unbelievably, under this amendment, the District would be barred from having any vision requirement for gun use, even if someone is blind. Is this the kind of public policy we want to make for our Nation? Is this how co-opted this body is to the National Rifle Association and others? I hope not.

One of the reasons we have 6-year terms is to allow us to make difficult decisions. There is no higher charge than protecting our public safety. We should protect individuals. The way we protect individuals is by enacting public policy that is prudent, reasonable, and subject to common sense. This amendment does none of the above.

I ask my colleagues to think carefully about this amendment, because if it succeeds, trust me, the march for similar legislation will be on. I introduced the assault weapons legislation. I survived. I had an election in 1994, just after I had introduced it. I survived. The people of my State want commonsense gun control. They don't want local jurisdictions stripped of any ability to enact prudent regulation.

The Presiding Officer is in the chair. The husband of one of her colleagues, going home on the Long Island train, was shot and killed by someone who never should have had a weapon. How many of these incidents do we have to have? How many businesses employing people who are mentally ill have to suffer when they have a grudge against an employee, and kill 6, 7, 8, 9, or 10 people? How many schools do we have to have where aggrieved students go out and acquire the most powerful weapons and come into cafeterias, libraries, or classrooms and mow down students? A vote for this amendment, any way we look at it, makes this easier to happen.

I believe passionately about this. I will never forget, many years ago, before I was mayor, walking into the robbery of a corner grocery store. When people die of gunshot wounds, it is not the way it is on television or in the movies. I saw brain matter all over the walls. I saw the husband, a proprietor, the wife, a proprietor. This individual who came in even shot the dog. People are capable of terrible criminality. We should not encourage that criminality by making their access to weapons so very easy.

As I say, this is the first step in a march to see that there is no ability to enact prudent gun regulation throughout the United States.

I ask every colleague, before they vote for this, to think about the people they represent and whether society is going to be safer because of their vote. How deep have we sunk in catering to these interests? For shame.

The amendment before the Senate repeals all firearm registration requirements in the District, making it even more difficult for law enforcement to trace guns used in crimes and track down the registered owner. The amendment repeals all existing safe-storage laws and prohibits the District from enacting any additional safe-storage laws. After the Heller decision, the District passed emergency legislation to allow guns to be unlocked for self-defense, but requiring that they otherwise be kept locked to keep guns out of the hands of children and criminals. We all ought to want that. The Ensign amendment repeals even this modest limitation and prevents the District of Columbia City Council from enacting any law that discourages—whatever that means—gun ownership or requiring the safe storage of firearms. How can we, in the Capital of the United States where we have had so many tragic events, possibly do this? This is simply ridiculous and goes well beyond the Supreme Court's ruling in Heller.

Think about what this means. Consider that every major gun manufacturer recommends that guns be kept unloaded, locked, and kept in a safe place. Under this amendment, the District could not enact any legislation requiring that guns be stored in a safe place, even in homes with children. How can anyone believe this broadbrush amendment is the right thing to do? How can any of us believe it provides protection for the people we represent?

Let me make one other point. The American people clearly do not agree with this amendment. Last fall, when a virtually identical bill was being considered in the House of Representatives, a national poll found that 69 percent of Americans opposed Congress passing a law to eliminate the District's gun laws—69 percent. That is about as good as we get on any controversial issue. Additionally, 60 percent of Americans believe Washington will become less safe if Congress takes this step. Is this what we want? Do we want the Capital of the United States to become less safe? I don't think so. Today, if this amendment passes in the Senate, it will be directly against the wishes of the American people. It will not pass because it is good public policy—it will only be passed to placate the National Rifle Association. I say for shame.

As a former mayor who saw firsthand what happens when guns fall into the hands of criminals, juveniles, and the mentally ill, I believe this amendment places the families of the District of Columbia in great jeopardy. The amendment puts innocent lives at stake. It is an affront to the public safety of the District. It is an affront to local home rule. This isn't just a bad amendment; it is a very dangerous one. I very strongly urge Senators to join me in opposing it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I appreciate the debate on several key

amendments. I also want to recognize my colleague from California and her strong support—indeed, key position—on the voucher program, the DC scholarship program that she has been one of the primary architects of and wants to get measurables on it. It is in the subcommittee on appropriations on which I serve, and she has been a key person on that. It is my hope we can work that out, whether it is going to be at a later time for reauthorization or if we can pass it here today. It is a key program, and I want to recognize what my colleague has done on that historically. That is what I come to the floor to talk about, as well as a couple of other things that are coming up but particularly the DC scholarship program. It is an amendment. We have it appropriated in the appropriations bill, but it is required for reauthorization. It needs to be reauthorized. My hope is that the majority leader will say, yes, we will bring this up for reauthorization and give us floor time to do that. I understand the manager of this bill has said he would bring it up in his committee and do a markup in committee.

I have worked for this program for some period of time. I have worked with the students and parents in this program. They love it. They appreciate the chance to succeed in a failed school system. The DC Opportunity Scholarship Program has received applications from over 7,000 low-income students, has served over 2,600 of these children. We have far more applicants than we do slots. When these students entered the program, they had average math and reading test scores in the bottom third of all test takers. Recent evaluation by the U.S. Department of Education—this goes back to last year—affirms academic gains among scholarship students less than 2 years after receiving a scholarship. Last year, after less than 1 year in the program, two subgroups of students, representing 83 percent of participating students, showed positive results in math, and both years showed overwhelming parental satisfaction. Parents like it. Students are doing better. It is working.

I certainly wish to salute Mayor Fenty and DC school chancellor Michelle Rhee for making education reform and support for this program something important in the District. They made this a high priority.

Certainly, we have to get the schools functioning in the District of Columbia. This is a piece of it that is working for 1,700 students. We need it reauthorized to be able to continue to move it forward. It would be heartless for us not to do it.

I recognize a number of people have a problem with it on this bill. I understand that. If there is a chance we can get an agreement that the reauthorization would take place later, that would be a wise route to go, and then follow through regular order. But this one is working and is working well. It is being well received by parents and students. It has an odd sort of support base where it has both left and right. It has a lot of people in a low-income situation supporting it. It is one of those pieces of legislation that have a broad base of support ideologically and practically. People want to see it moving forward and have it succeed as an overall program. I am very hopeful this Congress can do that.

Two other quick points. One is coming up on the fairness doctrine that will be considered. The fairness doctrine, to educate my colleagues—I am sure everybody is familiar with it—was promulgated by the FCC in 1949 to ensure that contrasting viewpoints would be presented on radio and television.

In 1985, the FCC began the process of repealing the doctrine after concluding that it actually resulted in broadcasters limiting coverage of controversial issues of public importance.

Now we are hearing from some voices saying this doctrine should be put back in place. I urge colleagues to not do that. This isn't the way for us to get a good discussion going in the public marketplace. Indeed, the results in the past, and I believe today, would be that the doctrine would actually result in less, not more, broadcasting of important issues to the public. Airing controversial issues would subject broadcasters to regulatory burdens and potentially severe liabilities. They simply would say: We will not put anything on.

Just think about the changing landscape in broadcast radio and television that has taken place since 1949. These numbers are startling. In 1949, there were 51 television stations in the country and 2,500 radio stations. Maybe a lot of people wish we would go back to that era of less media, but we will not. In 1958, there were 1,200 television stations and 9,800 radio stations. Today, there are 1,800 television stations and 14,000 radio stations. There is simply no scarcity to justify content mandates such as the fairness doctrine that would be a regulatory nightmare for radio and television stations. Plus, we have all the new media, social networking, and individual citizen access to information on the Internet that does not warrant this being put back into place.

Finally, to comment on the second amendment rights, the Supreme Court, in a historic ruling, has found that second amendment rights apply to the individual, and that applies to individuals across the country, that applies to individuals in the District of Columbia. I think those should be continued and guaranteed and supported by this body as well. I think it would be appropriate for us to support that and support that in this legislation.

Madam President, in conclusion, I would like to have printed in the RECORD two editorials in agreement from two publications that frequently do not agree. One is from the Wall Street Journal and the other is from the Washington Post. Both are in support of the DC voucher program, saying it works—it works for kids, it works for parents—and is something that should be continued. I have never had printed in the RECORD before editorials from those two publications at the same time agreeing on the same topic, particularly in education. I think what it says is that this one is working and should be continued.

So I ask unanimous consent that the editorials be printed in the RECORD.

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

[From the Wall Street Journal, Feb. 25, 2009]

OBAMA'S SCHOOL CHOICE

President Obama made education a big part of his speech Tuesday night, complete with a stirring call for reform. So we'll be curious to see how he handles the dismaying attempt by Democrats in Congress to crush education choice for 1,700 poor kids in the District of Columbia.

The omnibus spending bill now moving through the house includes language designed to kill the Opportunity Scholarship Program offering vouchers for poor students to opt out of rotten public schools. The legislation says no federal funds can be used on the program beyond 2010 unless Congress and the D.C. City Council reauthorize it. Given that Democrats control both bodies—and that their union backers hate school choice—this amounts to a death sentence.

Republicans passed the program in 2004, with help from Democratic Senator Dianne Feinstein, and it has been extremely popular. Families receive up to $7,500 a year to attend the school of their choice. That's a real bargain, given that D.C. public schools spend $14,400 per pupil on average, among the most in the country.

To qualify, a student's household income must be at or below 185% of the poverty level. Some 99% of the participants are minority, and the average annual income is $23,000 for a family of four. A 2008 Department of Education evaluation found that participants had higher reading scores than their peers who didn't receive a scholarship, and there are four applicants for each voucher.

Vouchers also currently exist in Arizona, Florida, Georgia, Ohio, Louisiana, Utah and Wisconsin. And school choice continues to proliferate elsewhere in the form of tax credits and charter schools. The District's is the only federally funded initiative, however, and local officials from former Mayor Anthony Williams to current Mayor Adrian Fenty and Schools Chancellor Michelle Rhee support its continuation. As Ms. Rhee put it in a December 2007 interview with the Journal, ''I would never, as long as I am in this role, do anything to limit another parent's ability to make a choice for their child. Ever.''

Ms. Rhee is working to reform all D.C. public schools, which in 2007 ranked last in math and second-to-last in reading among all U.S. urban school systems on the federal National Assessment of Educational Progress. Without the vouchers, more than 80% of the 1,700 kids would have to attend public schools that haven't made ''adequate yearly progress'' under No Child Left Behind. Remember all of those Members of Congress standing and applauding on Tuesday as Mr. Obama called for every American child to get some education beyond high school? These are the same Members who protect and defend a D.C. system in which about half of all students fail even to graduate from high school.

On Tuesday, Mr. Obama spoke of the ''historic investment in education'' in the stimulus bill, which included a staggering, few-strings-attached $140 billion to the Department of Education over two years. But he also noted that ''our schools don't just need more resources; they need more reform,'' and he expressed support for charter schools and other policies that ''open doors of opportunity for our children.''

If he means what he says, Mr. Obama won't let his fellow Democrats consign 1,700 more poor kids to failing schools he'd never dream of letting his own daughters attend.

[From the Washington Post, Feb. 25, 2009]

VOUCHER SUBTERFUGE

Congressional Democrats want to mandate that the District's unique school voucher program be reauthorized before more federal money can be allocated for it. It is a seemingly innocuous requirement. In truth it is an ill-disguised bid to kill a program that gives some poor parents a choice regarding where their children go to school. Many of the Democrats have never liked vouchers, and it seems they won't let fairness or the interests of low-income, minority children stand in the way of their politics. But it also seems they're too ashamed—and with good reason—to admit to what they're doing.

At issue is a provision in the 2009 omnibus spending bill making its way through Congress. The $410 billion package provides funds for the 2009–10 school year to the D.C. Opportunity Scholarship Program, a pioneering effort that awards scholarships of up to $7,500 a year for low-income students to attend private schools. But language inserted by Democrats into the bill stipulates that any future appropriations will require the reauthorization of the program by Congress and approval from the D.C. Council.

We have no problem with Congress taking a careful look at this initiative and weighing its benefits. After all, it was approved in 2004 as a pilot program, subject to study. In fact, this is the rare experimental program that has been carefully designed to produce comparative results. But the proposed Democratic provision would short-circuit this study. Results are not due until June, and an additional year of testing is planned. Operators of the program need to accept applications this fall for the 2010–11 school year, and reauthorizations are complicated, time-consuming affairs. Indeed, staff members on various House and Senate committees scoffed yesterday when we asked about the chances of getting such a program reauthorized in less than a year. Legislation seeking reauthorization has not even been introduced.

If the Democratic leadership is so worried about process, it might want to review a recent report from the Congressional Budget Office listing the hundreds of millions of dollars that have been appropriated to programs whose authorizations have expired. Many of these programs get far more than the $14 million allocated to the Opportunity Scholarships. House Minority Leader John A. Boehner (R-Ohio) was right to call out the Democrats for this back-door attempt to kill the voucher program. The attention should embarrass congressional Democrats into doing the right thing. If not, city leaders, including D.C. Mayor Adrian M. Fenty (D), need to let President Obama know that some 1,800 poor children are likely to have their educations disrupted.

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

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

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the Senate now debate concurrently the DURBIN amendment No. 591 and the DEMINT amendment No. 573; that no amendments be in order to either amendment prior to a vote in relation to the amendment; with the time equally divided and controlled between Senators DURBIN and DEMINT or their designees; that at 2 p.m. today, the Senate proceed to vote in relation to the Durbin amendment No. 591, to be followed by a vote in relation to the DeMint amendment No. 573; that prior to the second vote, there be 2 minutes of debate equally divided and controlled in the usual form, and the second vote be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

The Senator from South Carolina.

Mr. DEMINT. Madam President, reserving the right to object—and I will not object—will the time be equally divided between now and 2 o'clock?

Mr. LIEBERMAN. That was my understanding. As a point of clarification, it actually is as I suggested earlier, which is that the floor is open for debate from now until 2 and that the time is equally divided. Obviously, if others want to come to the floor and speak about something else, they can ask unanimous consent to do that.

Mr. DEMINT. Madam President, I have no objection.

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

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 573

Mr. DEMINT. Madam President, I ask unanimous consent to set aside the pending amendment and call up DeMint amendment No. 573.

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

The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 573.

Mr. DEMINT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prevent the Federal Communications Commission from repromulgating the fairness doctrine)

At the end of the bill add the following:

SEC. 9. FAIRNESS DOCTRINE PROHIBITED.

(a) LIMITATION ON GENERAL POWERS: FAIRNESS DOCTRINE.—Title III of the Communications Act of 1934 is amended by inserting after section 303 (47 U.S.C. 303) the following new section:

''SEC. 303A. LIMITATION ON GENERAL POWERS: FAIRNESS DOCTRINE.

''Notwithstanding section 303 or any other provision of this Act or any other Act authorizing the Commission to prescribe rules, regulations, policies, doctrines, standards, guidelines, or other requirements, the Commission shall not have the authority to prescribe any rule, regulation, policy, doctrine, standard, guideline, or other requirement that has the purpose or effect of reinstating or repromulgating (in whole or in part)—

''(1) the requirement that broadcasters present or ascertain opposing viewpoints on issues of public importance, commonly referred to as the 'Fairness Doctrine', as repealed in In re Complaint of Syracuse Peace Council against Television Station WTVH, Syracuse New York, 2 FCC Rcd. 5043 (1987); or

''(2) any similar requirement that broadcasters meet programming quotas or guidelines for issues of public importance.''.

(b) SEVERABILITY.—Notwithstanding section 7(a), if any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the amendment made by subsection (a) and the application of such amendment to any other person or circumstance shall not be affected by such holding.

Mr. DEMINT. Madam President, I ask unanimous consent to add as cosponsors to my amendment Senators VITTER, INHOFE, WICKER, BOND, BENNETT, ENZI, BARRASSO, BROWNBACK, and ALEXANDER.

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

Mr. DEMINT. Thank you, Madam President.

This has been a good debate, not just about DC voting rights but constitutional rights in our country, and if we are going to go by our own opinions and good intentions or are we going to follow the Constitution. Clearly, a lot of us wish to give fair representation to everyone who lives in the District of Columbia. But our oath of office is not to our good intentions, it is to protect and defend the Constitution of the United States.

The Constitution is very clear that Congressmen and Senators are allocated only to States. The District of Columbia was set up as a neutral entity, certainly where people will live and work associated with the business of the Federal Government, but there is nothing in the Constitution that would give a Congressman or Senators to this Federal District of Columbia. So we are talking about a constitutional issue.

We have had other constitutional issues, such as the Bill of Rights guarantee to bear arms, and there will be an amendment to that effect with the bill. I wish to bring up another constitutional issue, which is the right of free speech and the freedom of the press.

A number of Members of Congress have been talking about the annoyance of having radio talk show hosts talk about what we are doing here. I do not blame the other side for being annoyed when a radio talk show host actually describes what is in a bill, since we have gotten in the habit of not actually reading them ourselves. When we have radio talk show hosts all around the country going through page by page, contradicting what is actually being said here, I can understand that people wish to muzzle those radio talk show hosts. That could be the opinion of some of those in Congress today, but it happens to go against the Constitution when we try to decide what people can say and what they believe.

There is actually a doctrine that was mentioned by the Senator from Kansas

called the fairness doctrine that is one of those political doublespeak titles that is radio censorship that actually tries to control what radio talk show hosts could say. That doctrine was dispensed with by Reagan, and since then we have thousands of radio talk shows with wide varieties of opinion. But many are starting to talk about bringing back this radio censorship idea to try to force radio stations to present alternative opinions every time a radio talk show host presents an opinion of their own.

What this would do is create a dysfunctional situation where no radio station could afford to have a talk show host express an opinion of any kind if they had to go out and find someone to express the opposite opinion and in the meantime face lawsuit after lawsuit from the ACLU and others. Because whose opinion is going to determine what is fair, what is balanced, what is diverse? But the whole implication here is that the Federal Government and the Federal Communications Commission are somehow going to decide for us what is fair and what is balanced and what is diverse.

The amendment I am offering today, which we call the Broadcaster Freedom Act, would prohibit the Federal Communications Commission from reestablishing any part of what is called the ''fairness doctrine'' into their regulatory structure today.

Plain and simple, most people here have said they do not want it to come back. President Obama said last week he is against the fairness doctrine. So who could oppose us making it a law that some bureaucrat over at the Federal Communications Commission could not write into regulations all or parts of this censorship of radio talk shows across the country?

It is a pretty simple amendment, but I have a feeling it is getting ready to sound lot more complicated when the other side starts presenting what is in it. We have found in this body that the facts, the truths, sometimes do not make a lot of difference. But anyone who votes against my amendment, the Broadcaster Freedom Act, is voting against the Constitution. They are voting against the freedom of the press. They are voting against the freedom of speech in this country.

The one hope we have to turn this Government around, to stop this spending, and the intervention in all areas of our life, is a free press that can tell people the truth about what is going on. More and more, we have the radio talk show hosts and the bloggers and some cable news that every day are telling Americans more about what we are doing, and Americans are getting more informed, they are getting more engaged and increasingly more outraged about what we are doing.

I encourage my colleagues to support my amendment and to vote against this side by side that is being presented by the Democratic majority. What we are seeing in this side by side is the real intention of the Democratic majority as far as dealing with this fairness doctrine. They are going to propose that we as a Congress direct the Federal Communications Commission—that we are going to say: ''shall take actions to encourage and promote diversity in communication media ownership.''

Now, they are not just saying radio here. This is ''communication.'' This includes the Web, the Internet, the blogs, blogisphere, television, newspapers. This language would direct the Federal Communications Commission to take action to enforce diversity in communication. This is Soviet-style language that you are going to get some rosy picture of in a minute. But it is so open and so vague that about every communication outlet in this country is going to be faced with accusations that their ownership is not diverse.

What does ''diverse'' mean? Does it mean ''white and black''? What they are after is what they believe, what their opinions are. If this were applied to our offices here in the Senate, we could not say anything, I could not express my opinion today without being obligated by law to go find somebody to say something completely opposite of what I am saying. This is not freedom. Anyone who votes for this alternative is voting to repress the freedom of speech in this country, the freedom of media.

The second part of what they have after ''promote diversity in communication media''—all media; only the lawyers and the bureaucrats are going to tell us what that means—is ''to ensure that broadcast station licenses are used in the public interest.'' That is already a law, and that is good, and television and radio stations that use the public airwaves all over the country are held accountable by current law to do things in the public interest, and many of them are very good at that, and it is very helpful in our communities.

But I will ask my colleagues not to let this distraction confuse them about the real intention. If we pass the broadcaster freedom amendment today, we are going to close the front door to taking away the freedom of speech in this country. But this alternative opens the backdoor to what the Democratic majority is after; that is, to muzzle this annoyance of people on the radio who are telling the truth about what is going on in this Congress.

If they can go out and threaten a station that they are not diverse in their ownership, and some judge or some bureaucrat is going to decide whether they are diverse—and who knows what that means—we are going to create such risk and such liability and such intimidation that this will not even look like America in a few years.

This is dangerous material that is being offered on the other side. I will encourage my colleagues to remember our oath of office. It has nothing to do with enforcing our opinions or some judge's opinion on some radio station out there that is trying to give its opinion to the American people. We are dangerously close to the enslavement of socialism in this country with the expansion of Government on every front.

This is intolerable. Do not let the pretty language you are getting ready to hear confuse you because this is against everything we swear an oath to in this Congress. I encourage my colleagues to vote against the Durbin amendment, vote for the Broadcaster Freedom Act, and I would appreciate their support.

Thank you, Madam President, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 591

Mr. DURBIN. Madam President, I am beginning to believe the Senator from South Carolina opposes my amendment. He has called it unconstitutional, Communist, socialistic, enslavement, and he is just getting started. So I wish to explain what the debate is all about.

It is a fundamental question, and it is one I have reflected on. The fairness doctrine is the idea that broadcasters should cover issues important to local viewers and should cover these issues fairly; in other words, allow for different viewpoints to be heard and allow those ideas to be presented in a way that is balanced or, as one of the networks say, fair and balanced.

The fairness doctrine isn't a new idea; it is one that has been around in some shape or form since the 1920s, and it was formally adopted by the Federal Communications Commission as a standard in 1949—60 years ago. Back then, though, the world was a lot different. Television was in its infancy. It was just starting. In the 1950s, of course, there emerged three major television networks—NBC, ABC, and CBS. Congress and the FCC had a legitimate concern that these three networks and their local stations could abuse their power, because when you broadcast to radio and television consumers, you are not using something you own, you are using the public airways. We own it. All of us collectively as Americans own it. We license those who use it and say: You are allowed to broadcast your television signal or your radio signal and you have to do it under certain rules and regulations. Listening to the Senator from South Carolina, he is basically saying: Government, step aside. If a private entity wants to get involved in broadcasting, that is an exercise of free speech.

Well, historically, the courts have not agreed with my friend from South Carolina. They have said that you can impose reasonable obligations on those who have licenses to use the airwaves. They don't own the airwaves; the public owns the airwaves, and there is a public interest in reaching certain goals in those airwaves. One of those

public interests was expressed and defined for many years as the fairness doctrine. The fairness doctrine basically said Americans are entitled to hear both sides of the story so there is balance and fairness in the news and in the expressions of ideas on these radio and TV stations. The fairness doctrine was clearly I think American, not Communist; constitutional—no one struck it as unconstitutional during the period of time it was in effect—and I don't know about the enslavement of socialism; I will have to reflect on that for a minute. But the fact is, it was the law of the land. The mightiest broadcast stations, radio and TV stations that could have gone to court, I say to my friend from South Carolina, and challenge that idea as unconstitutional were not successful in doing so. It is hard to imagine we would restrict their broadcasting and they wouldn't challenge it if it was unconstitutional. Well, that is a fact. Facts sometimes are hard to deal with in debates such as this, but that was the reality.

That was then and this is now. The world has changed. The world of broadcasting has changed. We still have the major networks—ABC, NBC, and CBS—but we also have CNN, FOX News, MSNBC, and hundreds of other channels on cable TV. We have public broadcasting. We have more than 14,000 AM and FM radio stations, hundreds of satellite radio stations, and we have the Internet. It is clear that technology has changed dramatically since 1949 and the institution of the fairness doctrine. There are more ways now than ever to hear a variety of perspectives on a number of issues.

So when the fairness doctrine was repealed in 1987, many of us objected. The basic argument: Americans have the right to hear both sides of the story; television and radio stations should still hold themselves to that standard. Let the American people decide. Don't let one major network jam through a political viewpoint over the public airwaves that the American people, frankly, have to take or leave. I thought that was the right position then in 1987, but I will tell my colleagues the world has changed.

President Obama has said while on the campaign trail and in the White House that he doesn't support reinstating the fairness doctrine, and neither do I. You will find no mention of the fairness doctrine on the White House Web site; you will find no effort to reinstitute the fairness doctrine in my amendment. Because, quite honestly, now it isn't a question of NBC giving me one point of view and I have to take it or leave it. We all know what happens when you go home with the remote control; you have more choices than you know what to do with. That gives a variety of opinions an opportunity to be expressed on television—the same thing is true on radio—for Americans to hear a different point of view. If they want to switch from Rachel Maddow to Bill O'Reilly, they will hear a much different view of the world. It is there. It reflects the reality of technology and media today.

So I think it is interesting that the Senator from South Carolina still bangs away at this notion that some people on the floor want to reinstate the fairness doctrine. I don't. There may be others who do. My amendment has nothing to do with that.

The amendment Senator DEMINT has written was not carefully written. I don't know if he understands some of the language he included. I call his attention to a paragraph in his amendment, paragraph 2 of section 303A. It seems like a very general statement that shouldn't cause any trouble, but I am afraid it does, because after he goes after eliminating the fairness doctrine, he also includes any similar requirement that broadcasters meet program and quotas or guidelines for issues of public importance. Now, that is a problem. I don't know if he understands it is a problem, but it is. This amendment does more than ban the FCC from doing something it wasn't going to do anyway. Incidentally, nobody is talking about reinstating the fairness doctrine. This is the ''bloody shirt.'' That term is a political term that came about after the Civil War when people would come to the floor and try to inflame passions, and they said: You are waving the bloody shirt of the war; stop that. Let's have a rational conversation.

Well, the rightwing broadcasters on their side, conservative broadcasters, have been waving this bloody shirt of the fairness doctrine for months. They love this. They have set up this kind of false choice that you are going to take away the right of free speech and they are trying to impose the fairness doctrine. It hasn't happened, it isn't going to happen, and I am not trying to make it happen.

The DeMint amendment also contains a provision which I read to my colleagues that seriously cripples the FCC's ability to ensure responsible broadcasting. Remember: Public airwaves that the radio and TV station owners apply for a license from the Government to use to make money. The public airwaves truly are the property of the American people. We say to broadcasters that in return for a license to use those airwaves, your Government is going to ask that you use them in the public interest. Now, what does it mean to say we use the airwaves in the public interest? According to Senator DEMINT, it is the enslavement of socialism. Well, here are the 14 major elements listed by the FCC when it comes to defining the public interest: Opportunity for local self-expression, development and use of local talent, programs for children, religious programs, educational programs, public affairs programs, editorialization by licensees, political broadcasts, agricultural programs, news programs, weather and market services, sports programs, service to minority groups, and entertainment programming.

Senator DEMINT's amendment—that second paragraph I read which has not been carefully written—goes way beyond stopping the fairness doctrine; it undermines the FCC's ability to make sure broadcasters meet these public interest obligations. So what. What if the public interest requirement disappeared tomorrow? What difference would it make? Let me tell my colleagues the difference it would make. There would be no requirement that your local station provide local news and weather. There would be no requirement that your local television station provide children with programming that is free from sex and violence. There would be no requirement to make sure advertising to children is subject to appropriate limitations and no requirement to provide a minimum amount of educational programming on each channel. Does that have anything to do with the fairness doctrine? It doesn't. What Senator DEMINT is doing is undermining broadcasting in the public interest.

If a station decided to run a religious program, they would be doing it in the public interest. Senator DEMINT removes that definition of public interest. In fact, he says—let's go back to the exact language of his amendment. He says, ''any similar requirement that broadcasters meet programming quotas or guidelines for issues of public importance.'' So his language goes too far.

What we have tried to do is to make sure we don't limit the FCC's ability to protect the most vulnerable and impressionable viewers and listeners in America—our kids and our grandkids. The DeMint amendment takes away that requirement of licensees, radio and TV licensees, to protect children from sex and violence. They might do it anyway, they might not, but there would be no license requirement under the DeMint language.

I still believe broadcasters who use public airwaves should use them in a fair and reasonable way in the public interest, and I believe the FCC should be able to enforce this. If the DeMint amendment is passed and if it became law, if you wanted to enforce the fact that on Saturday morning, when a lot of kids are watching television, the local television station is running a gory movie or one that is on the edge when it comes to sexual content, it would be hard, if not impossible, to do it. I am sure that is not the Senator's intent, but that paragraph was very poorly written, and that is why I change it.

Now, there is also the suggestion by the Senator from South Carolina that if we encourage diversity of media ownership, somehow that is communistic. From my point of view, it is not. Diversity of ownership opens the public airwaves to a variety of different owners. I am not saying here—and no one is suggesting—that the law for the Federal Communications Commission says you can give this license to a Republican and this one to a Democrat or

this one to a liberal and this one to a conservative. When I talk about diversity of media ownership, it relates primarily to gender and race and other characteristics of that nature. We don't mandate it, even though you would think we did when you hear Senator DEMINT read from my amendment. What we say is the Commission shall take actions to encourage and promote diversity in communications media ownership. I don't think that is a mandate to give licenses to any one group; it just says ''take actions to promote and encourage,'' something that is already in the law.

I might say to the Senator, section 307B of the Communications Act—and I hope you will have your staff look at it—requires that the FCC ensure that license ownership be spread among diverse communities. It is there already. It is there already. This enslavement of socialism, in the words of the Senator from South Carolina, is already there. I don't think this is socialistic, communistic or unconstitutional. It is in the law. So to say we are going to promote what the law already says is hardly a denial of basic constitutional freedoms. Second, the Communications Act requires the FCC to eliminate market entry barriers for small businesses to increase the diversity of media voices. That is section 257, which I hope your staff will look at too.

To argue that what I am putting in here is a dramatic change in the law or is going to somehow muzzle Rush Limbaugh is not the case. What we are suggesting is, it is best that we follow the guidelines already in the law to promote and encourage diversity in media ownership. Even with cable, satellite, and Internet, broadcast TV and radio, there are still important ways we learn about what is going on in our communities and in our country.

The Senator from South Carolina went on to say this amendment would affect the Internet and blogs. I have to remind the Senator they are not licensed. They don't have FCC licenses. They are not affected by this debate. You can start a blog tomorrow, I can, too, and I don't have to go to the FCC for approval. They certainly cannot monitor that blog to determine whether it is in the public interest. That is not the law. The Senator is on this rampage and, yet, when you look at the facts, they do not apply to the Internet or blogs.

We should be concerned, however, that the policies of the last decade have led to bigger and more consolidated media outlets controlling more of the stations and more of the content. As a result of these policies today, women and minorities are less likely to own media stations, even though the existing law says that is a goal when it comes to licensure. Nationwide, women own just 5 percent of all broadcast TV stations. Racial or ethnic minorities own just 3.3 percent. In Chicago, the city I am proud to represent—diverse and vibrant with many significant minority communities—there is only one commercial TV station owned by a racial or ethnic minority. The numbers are almost as dismal in radio. Nationwide, women own just 6 percent of broadcast stations; minorities, 7.7 percent. In Chicago, only four radio stations are owned by minorities. That is about 5 percent of the radio stations in Chicago, less than the national average.

The content of the media should reflect the diversity of America. These statistics show this is not currently the case. The law says that should be our goal. The existing law says that should be our goal. I restate the existing law, and the Senator from South Carolina calls it communism. I don't think it is. I think it is still a worthy goal so that there is diversity in ownership, diversity in stations. I am acknowledging the obvious.

I am acknowledging the obvious: We are no longer in the world of three television networks; we are in a world where we have many different choices. I ask that we reaffirm diversity and media ownership so there will be choices. I hope the Senator from South Carolina cannot argue that we should not have choices, that we cannot turn the dial to our favorite stations, or punch the remote control to reach those stations. I think that as long as America has those choices, it serves the original goal of letting us hear different sides of the story and doesn't reimpose the fairness doctrine, which none of us are asking for.

We need to make the media more accessible to all voices in America. Isn't that what we are all about in this country? Don't we basically say we trust the people of this country to hear both sides of the story and make up their own minds? We sure do. We give them a right to vote. I guess that is the most instructive delegation of authority you can give to a person: you get to pick your leadership based on your opinion.

All I am asking is that we encourage diversity of media ownership so there are more options, more opinions being shared, and Americans can choose the ones they want. I will repeat so my friend from South Carolina understands clearly, I do not favor the reinstatement of the fairness doctrine. The world has changed. The world of media and technology has changed. I believe Americans are entitled to hear different points of view, and that is why I restate the existing law—and I have given citations for both sections of the Communications Act—which is that we need to have more diversity in media ownership in America. I have not proposed taking away a license from anybody or giving one to anybody. Setting this as a goal is as American as apple pie and has nothing to do with communism or Marxism.

I say to the Senator I was careful in writing this amendment, so I included a section very similar to his section (2) but narrowing it to the issue of fairness. I say—and this is so short that I will read parts:

> The Commission shall take actions to encourage and promote diversity in communication ownership and ensure that broadcast station licenses are used in the public interest.

That is so there is diversity in ownership and we protect kids from sex and violence. If the Senator thinks that is communism, I disagree with him.

Then I say:

> Nothing in section 303A—

Which is what we are talking about in this amendment—

> shall be construed to limit the authority of the commission regarding matters unrelated to a requirement that broadcasters present or ascertain opposing viewpoints on issues of public importance.

I protect what I think was the intent of his amendment to prohibit the reinstitution of the fairness doctrine, which nobody has suggested, but to make it clear that is as far as we go. We are not eliminating the requirement of broadcasting in the public interest for obvious reasons: We want to protect kids; we want to protect families; we want to keep sex and violence away from kids; and make sure there is local news and weather so people can turn on the TV stations and learn about it.

All of these things, from my point of view, are constructive, and I hope we all agree. The Senator from South Carolina has said that old DURBIN will argue for the fairness doctrine. Let's correct the record. I am not doing that. The fairness doctrine, in 2009, doesn't make sense. It might have made sense in 1948. We should not reinstitute that, but let's not give up on fairness. Let's make sure American viewers of television and listeners of radio have choices. Making those choices can form an opinion that leads to their expression of points of view and their votes. There is nothing wrong with that.

For the people who want to take a license and use the airwaves, there are basic rules. We don't want you to put gory movies and sex on television during early morning hours on a Saturday when kids are watching. We want you to be careful in your content so you don't do something that is abusive of your use of our public airwaves.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Madam President, I always enjoy a good debate with the Senator from Illinois. He is certainly good at what he does and, in this case, that is confusing facts. The good news for us and all Americans is, this afternoon, on radio talk shows all across the country, they can find out what is in both of these amendments and what it really means. They are not going to hear it here today. There have been a lot of distortions but interesting admissions.

Certainly, the Senator from Illinois made it very clear that he should be a part of determining what is fair and balanced and how we should determine

what is both sides. He mentioned there are 14,000 radio stations. What he does with his amendment is he orders ''shall take action to encourage and promote diversity and communication media ownership.'' He wants our FCC to monitor 14,000 radio stations to decide if their ownership is diverse. He said it doesn't apply to the Internet, but we do regulate the Internet. We regulate everything in America, folks—everything that a Federal dollar touches.

Believe me, this language is not just about radio stations; it is about doing the impossible, and that is to centrally manage the ownership of radio and other communications in this country. It goes back to his original opinion that, yes, he believes there should be fair and balanced perspective presented in the media. But what he believes—and what many on his side believe—is that fairness should be determined by those of us in Government rather than the listeners and viewers who tune into that radio or the TV station or go to that Web site.

It is not for us to determine what is fair and balanced. His distortion about my amendment and what it does is exactly wrong. We do not address or change in any way the requirements of radio stations to act in the public interest. The nonsense about children's programming and indecency has nothing to do with this. It is another section in the law. I don't affect that in any way.

What this is about is, saying to your face, America, that they are not for reinstating the censorship of radio, while at the same time introducing an amendment that would allow us to go in and make our judgment, our opinion, about what is diverse ownership of a radio station.

Let me read again what this provision in my amendment addresses. He says it takes away the public interest clause. It has nothing to do with that. But it prohibits this backdoor approach to getting back to the principles of the fairness doctrine by saying broadcasters do not have to meet programming quotas and guidelines. In other words, we can't decide how many opinions they have to offer and what the guidelines for those opinions are. It is not for us to say. They have to fulfill their public interest obligations. We don't change that. But this clause would keep the good Senator from Illinois and those on his side who want to censor radio from allowing the FCC to go in and set some kind of quotas on how often, how they need to state their opinions, and the guidelines for that. It creates a license for us to go in and determine what opinions, how many opinions, and basically it is the fairness doctrine through the back door.

I will restate that this Broadcasters Freedom Act protects the constitutional rights of freedom of speech and freedom of the press. It does nothing to dislodge or change the requirement that public stations—radio or whatever communications—meet the current law requirements to act in the public good. But it does keep us, as a government, from setting quotas and guidelines of what opinions can be expressed and how often they can be expressed.

Mr. LIEBERMAN. Will the Senator yield for a question?

Mr. DEMINT. Yes.

Mr. LIEBERMAN. On that last point, am I correct in reaching the conclusion—and that second clause is prohibiting any similar requirement that broadcasters meet programming quotas or guidelines for issues of public importance—that you do not intend to affect or dislodge in any way existing FCC laws or guidelines with regard to, for instance, decency standards, language, or sexually loaded content, or violent content that currently prevails?

Mr. DEMINT. The Senator is right. We have legal opinions on that, and it doesn't overrule any existing commission regulations. We asked the broadcasters' legal counsel, and this is intended to narrow this fairness doctrine backdoor approach of controlling what people say by establishing quotas and guidelines about how that is done. I thank the Senator for that question.

We have probably talked enough about this subject. I reserve the remainder of my time. 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. DEMINT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DEMINT. Madam President, I ask unanimous consent that the time during the quorum call be equally divided.

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

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

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

AMENDMENT NO. 587

Mr. VOINOVICH. Madam President, today I speak as a Member of the Senate, but also as a former chairman and now ranking member of the Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee. I have had a relationship with the District for quite some period of time and have been very interested in the District and also in the District's reaching out in terms of providing a quality education for the boys and girls who live in the District, understanding that this is the Nation's Capital and it should be the shining city on a hill where people can come from all over America and see the very best we have in our country in terms of educational opportunities and, I also feel, the opportunity of people to have the right to vote.

As a result of my concerns about the ways to rectify the lack of voting representation for the District, I have approached this bill with the belief that citizens who pay taxes and serve in the military should have House representation so long as such representation conforms to the Constitution.

Although a constitutional amendment would provide the clearest constitutional means to ensure District residents are provided House representation, after studying the legal arguments, I have concluded that there are sufficient indicia and precedent that the Constitution's District clause grants Congress the constitutional authority to give the District a House Member. As for any argument that the bill is unconstitutional, I need only to say that I believe any ambiguity and disagreement will be resolved quickly by the courts.

After weighing the constitutional arguments and equities, I have decided to support this legislation—in fact, I am a cosponsor of this legislation—on one condition: We must also continue to give the families of the District a vote on how their children are educated.

Accordingly, I am proud to join Senator ENSIGN in offering an amendment to reauthorize the District of Columbia Scholarship Program for an additional year. Perhaps one may wonder why am I so concerned about this issue. It is because of the fact that when I was Governor of Ohio, we started a scholarship program in Ohio for children who were not members of the public schools. That experiment has worked to the benefit of thousands of children, particularly in the Cleveland district, who have gone through the system and are now in college. I meet with them, and they tell me: Were it not for the Cleveland Scholarship Program where I had a choice to go to another school, I don't believe I would be in college today and be as successful as I have been.

When I instituted that program, it was said it was unconstitutional. I am pleased to say that several years ago, the U.S. Supreme Court said that providing scholarships to nonpublic school systems fit in with the Constitution of our country.

When we had an opportunity to help the District, we provided $14 million for public schools, $14 million for charters, and $14 million for the scholarship program. It is a critical component of a three-sector education strategy to provide a quality education to every child in the District, regardless of income or neighborhood.

The program provides up to $7,500 per student per year to fund tuition, fees, and transportation expenses for K–12 for low-income DC families.

To qualify, students must live in the District and have a household income of no more than 185 percent of the Federal poverty level. In 2008, that was

about $39,000 per family of four. In fact, the average income for families using scholarships in 2008 was just over $24,000.

Since its inception, the program has served over 2,600 students. They have about 7,500 who would like to get in the program, but they do not have a place for them. Entering students had average math and reading test scores in the bottom third.

A recent evaluation of the Department of Education reaffirms academic gains among participants less than 2 years after receiving a scholarship. They are benefiting from it. We need more time to see how it works out. I wish to underscore that I think this is part of this whole package we put together.

Many Members of this body are unaware of the fact that today the people who live in the District can go to any public college in the United States and we provide up to $10,000 for out-of-State tuition. They are not aware of the fact that Don Graham over at the Washington Post got the business community together and set up the Washington scholarship program, the CAP program, and $2,500 is available for youngsters. Or that the Gates Foundation thinks so much of what is happening in the District that they provided another $120 million to keep kids in school in the two worst dropout districts in the District of Columbia.

There are some wonderful things happening in the District, and yet—and yet—there are some people here, because of special interest groups, who want to do away with the scholarship program. They want to deny these children an opportunity to have this educational opportunity, this smorgasbord we have available to them.

What this amendment does is it extends for 1 year that program as we look at it and see how it goes through its metamorphosis.

I have to say to my colleagues on the other side of the aisle and this side of the aisle, if you want to do something that is disastrous to the kids in the District in terms of public relations and the interest of all these people in the District, go ahead and make it impossible for this program to keep going.

Think about this: the Gates Foundation, the College Assistance Program—great things are happening in the District today. What a terrible message it would send to the rest of the country and those who care about education in the District if we were denied this opportunity, this experiment to continue in the District.

I ask unanimous consent to have printed in the RECORD two editorials, one on January 26 titled ''School Vouchers, District parents know why the program should continue.'' The demand for it is tremendous. They want it. And a recent editorial, ''Hoping no one notices, congressional Democrats step between 1,800 DC children and a good education.''

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

[From the Washington Post, Jan. 26, 2009]

SCHOOL VOUCHERS—DISTRICT PARENTS KNOW WHY THE PROGRAM SHOULD CONTINUE.

Early surveys of D.C. parents of children receiving federal school vouchers showed many of them liked the program because they believed their children were in safe schools. Over time, a new study shows, their satisfaction has deepened to include an appreciation for small class sizes, rich curricula and positive change in their sons and daughters. Above all, what parents most value is the freedom to choose where their children go to school.

Here, for example, is what one parent told University of Arkansas researchers studying the District's Opportunity Scholarship Program: ''I know for a fact they would never have received this kind of education at a public school. . . . I listen to them when they talk, and what they are saying, and they articulate better than I do, and I know it's because of the school, and I like that about them, and I'm proud of them.'' Overall, researchers found that choice boosts parents' involvement in their children's education.

Whether they continue to have such a choice could be determined soon. The program that provides scholarships of up to $7,500 per year for low-income students to attend private schools is funded only through the 2009–10 school year. Unusually restrictive language being drafted for the omnibus budget bill would forbid any new funding unless Congress reauthorizes the program and the District passes legislation in agreement. Yet results of the Education Department's scientific study of the program are not expected until June.

We hope that, despite his stated reservations about vouchers, President Obama includes money in his upcoming budget to safeguard the interests of children in this important local program and to preserve an unusually rigorous research study. Mr. Obama and his education secretary, Arne Duncan, say they eschew ideology in favor of what serves the interests of children. Here's a chance to help 1,716 of them.

[From the Washington Post, Feb. 25, 2009]

VOUCHER SUBTERFUGE—HOPING NO ONE NOTICES, CONGRESSIONAL DEMOCRATS STEP BETWEEN 1,800 D.C. CHILDREN AND A GOOD EDUCATION

Congressional Democrats want to mandate that the District's unique school voucher program be reauthorized before more federal money can be allocated for it. It is a seemingly innocuous requirement. In truth it is an ill-disguised bid to kill a program that gives some poor parents a choice regarding where their children go to school. Many of the Democrats have never liked vouchers, and it seems they won't let fairness or the interests of low-income, minority children stand in the way of their politics. But it also seems they're too ashamed—and with good reason—to admit to what they're doing.

At issue is a provision in the 2009 omnibus spending bill making its way through Congress. The $410 billion package provides funds for the 2009–10 school year to the D.C. Opportunity Scholarship Program, a pioneering effort that awards scholarships of up to $7,500 a year for low-income students to attend private schools. But language inserted by Democrats into the bill stipulates that any future appropriations will require the reauthorization of the program by Congress and approval from the D.C. Council.

We have no problem with Congress taking a careful look at this initiative and weighing its benefits. After all, it was approved in 2004 as a pilot program, subject to study. In fact, this is the rare experimental program that has been carefully designed to produce comparative results. But the proposed Democratic provision would short-circuit this study. Results are not due until June, and an additional year of testing is planned. Operators of the program need to accept applications this fall for the 2010–11 school year, and reauthorizations are complicated, time-consuming affairs. Indeed, staff members on various House and Senate committees scoffed yesterday when we asked about the chances of getting such a program reauthorized in less than a year. Legislation seeking reauthorization has not even been introduced.

If the Democratic leadership is so worried about process, it might want to review a recent report from the Congressional Budget Office listing the hundreds of millions of dollars that have been appropriated to programs whose authorizations have expired. Many of these programs get far more than the $14 million allocated to the Opportunity Scholarships. House Minority Leader John A. Boehner (R-Ohio) was right to call out the Democrats for this back-door attempt to kill the voucher program. The attention should embarrass congressional Democrats into doing the right thing. If not, city leaders, including D.C. Mayor Adrian M. Fenty (D), need to let President Obama know that some 1,800 poor children are likely to have their educations disrupted.

Mr. VOINOVICH. Madam President, do you know why? It is because of the National Education Association. They do not want it to happen. They fought it in my State. The Ohio school boards fought it. I will never forget going up for an endorsement in 2004 when I ran last time. When I ran in 1998, I got support from the Ohio Education Society. They said: No Governor has done more for education than GEORGE VOINOVICH. So I came to Washington. They kind of forgave me for the scholarship program in Cleveland. They kind of let that go.

Madam President, 2004 came along, and I went through the whole endorsement procedure. I did everything. After it was over, many people came up to me and said: George, you absolutely did a fabulous job with your presentation, what you are trying to do with education on the national level and you are concerned about it. But we got the word from Washington that you are not going to be endorsed because you have broken the rule in supporting scholarships, supporting an opportunity for kids to have another opportunity to go to school and try something new.

I want to say this. In this country of ours, we cannot survive with half the kids in our urban districts dropping out of school. I am glad the President spoke about it in his State of the Union. I am glad the President talked about charter schools. But the real question is, Is he going to stand up and are the Democrats on the other side of the aisle and some Republicans going to stand up to the National Education Association, the National School Boards Association and some of these groups that want to keep things as they are?

I am going to tell you something, Madam President. We will never make

it. I want everybody to understand that I am for this bill, voting rights, but I am not going to support this bill unless I am convinced we are going to have an opportunity to debate this issue in the Senate and keep this program going for the boys and girls who are benefiting from it, the same kind of program that benefited so many thousands of people in the State of Ohio.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank my friend from Ohio. He speaks with such admirable passion about the needs of children who obviously are not his. He has a record on this issue. He knows, as I do, though, that some groups may disapprove, oppose this DC low-income student scholarship program. One group that doesn't oppose it—in fact, enthusiastically supports it—is the parents of low-income children in the District who have oversubscribed by multiples for this program every year.

We are going to have conversations during this discussion. I support this program, as my friend from Ohio knows. Hopefully, we can get to a point where we can have an agreement that will get some floor time for this discussion. As I said earlier, since the Homeland Security and Governmental Affairs Committee has tucked within it jurisdiction over matters related to the District of Columbia, we would, I believe, be the authorizing committee.

I am certainly committed to holding a hearing on the reauthorization bill. The Senator from Ohio rightly wants to guarantee by one means or another that there will be floor debate on this issue in a timely way; that is, so that we can consider it in plenty of time for the DC school system to act.

Most of all, I tell him I admire the strength of his position because it is a position that cares for children. It is not against anything. It is for a good education for all our children. I thank him. I admire him.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 591

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the clerk report the amendment which I have pending at the desk.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 591.

Mr. DURBIN. I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

(Purpose: To encourage and promote diversity in communication media ownership, and to ensure that the public airwaves are used in the public interest)

At the end of the bill add the following:

SEC. 9. FCC AUTHORITIES.

(a) CLARIFICATION OF GENERAL POWERS.—Title III of the Communications Act of 1934 is amended by inserting after section 303 (47 U.S.C. 303) the following new section:

''SEC. 303B. CLARIFICATION OF GENERAL POWERS.

''(a) CERTAIN AFFIRMATIVE ACTIONS REQUIRED.—The Commission shall take actions to encourage and promote diversity in communication media ownership and to ensure that broadcast station licenses are used in the public interest.

''(b) CONSTRUCTION.—Nothing in section 303A shall be construed to limit the authority of the Commission regarding matters unrelated to a requirement that broadcasters present or ascertain opposing viewpoints on issues of public importance.''.

(b) SEVERABILITY.—Notwithstanding section 7(a), if any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the amendment made by subsection (a) and the application of such amendment to any other person or circumstance shall not be affected by such holding.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. LINCOLN. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mrs. LINCOLN and Mr. CHAMBLISS are printed in today's RECORD under ''Morning Business.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BUY AMERICA

Mr. BROWN. Mr. President, we are in the worst recession since the Great Depression. We have been in a recession in my State longer than the official 13 months that economists have noted. With the economic recovery package signed into law last week, we took a major step toward getting our economy on the path for success and toward rebuilding and strengthening the Nation's middle class. The economic recovery package means billions of dollars to help shore up State budgets and help States pay for essential programs such as Medicaid and unemployment insurance. The economic recovery package means money for job-creating efforts from shovel-ready projects to long-term investment in new technology.

In this economic crisis, we have seen demand for manufactured goods slow to a crawl. Coupled with the unavailability of credit, many manufacturers have ceased or idled operations. American manufacturing shed 800,000 jobs last year, nearly one-third of all job losses. Last week many people probably missed the bad news on manufacturing released by the Federal Reserve. The Fed reported that output in manufacturing fell 2.5 percent in January. That means manufacturing lost 207,000 jobs in January alone. That is on top of manufacturing falling nearly 3 percent in December. This puts manufacturing's decline over the last 3 months at a shocking 26.7 percent.

That is why this recovery package is so important. The recovery package has two key objectives: stimulate the economy and create jobs. The Government is investing billions of tax dollars in infrastructure, in safety net programs and alternative energy development. It is common sense to ensure that Federal funds for this recovery are used to buy American products and to help promote manufacturing and job creation.

Studies across the board say more jobs are created when we have strong domestic sourcing requirements. One recent study estimates 33 percent more manufacturing jobs will be created with ''Buy America''. When we utilize domestically manufactured goods, the more jobs we will create and the greater the stimulus will be to our economy, an economy that has been the engine of growth for the world. The American people clearly have spoken out that they want this ''Buy America'' provision. ''Buy America'' is common sense. The majority of Americans know that. Some 84 percent favored strong ''Buy America'' provisions in the stimulus.

Last week in Cleveland I visited ArcelorMittal Steel, a steel manufacturer that employs lots of people but is a foreign-owned company. I met with the plant manager and his staff. I met with union workers, including some who were recently laid off. This company, similar to all steel companies, is down 45 percent of its capacity. They are forced to lay off workers because the demand for steel has declined—steel for autos, steel for household appliances, steel for infrastructure projects. We talked about ''Buy America'' provisions and how that can help the plant get up and running again. It is important to note that ArcelorMittal is an international company. Its headquarters is not located in the United States. Yet that company believes ''Buy America'' provisions make sense, a foreign-based company that supports ''Buy America'' provisions in the recovery package. There

are more foreign-based companies with American factories such as ArcelorMittal that can benefit from the stimulus. I hope ''Buy America,'' if properly implemented and properly enforced, will help manufacturers such as ArcelorMittal and even attract new foreign investment in the United States. We need to make sure these provisions are properly implemented. We need to make sure that when a State or local government requests a waiver on ''Buy America'' provisions, the agency makes the request known. We need transparency so that, at the very least, the taxpayers know if dollars are going to domestic or foreign manufacturers.

There are good reasons on occasion to have waivers. Sometimes domestic steel or iron or cement might be too costly for a project to make sense. Sometimes the right product in the right quantity may not be available at the right time. Waivers are fine if implemented correctly, fairly, and with transparency. But that has not always been the case. Since 2001, the Federal Highway Administration has granted 54 ''Buy America'' waivers. The Federal Transit Administration has granted more than 40 waivers. Most were granted based on the product not being available in the United States. When the waiver request is not known by anyone except the Federal agency that receives it, how do we know the products are not made in America? Waivers can be fine but not if they are granted without transparency. We have a responsibility to the taxpayer to ensure that these dollars are creating American jobs.

Americans, whether they are in Denver or Columbus, have supported ''Buy America'' in large numbers. We know that, when the President spoke down the hall in the House about this stimulus package and about our efforts. We also know, if we are going to ask Americans to reach into their pockets and spend tens of millions of dollars on infrastructure projects, as Americans have said they would, we also need to know this will create the jobs we promised.

The American people want three things: Accountability, which we give in this package; they want to know that this infrastructure is done by American workers; and they want to know their tax dollars are used to buy materials made in America for these projects that American workers are building.

We have a responsibility to give American manufacturers the opportunity to bid on the steel and iron and cement and the concrete that will be in demand for these massive investments. ''Buy America'' is significant because it helps ensure we have a diverse and strong manufacturing base.

Textbook trade theory says that making companies more and more specialized in one sector is an unquestionable good, but that is not always true. We have seen countries such as Great Britain overspecialize in finance while neglecting manufacturing. Some might say that has happened here. The people screaming bloody murder about ''Buy America'' are the same people who oversold the benefits of free trade. These are entrenched interests, companies that, for instance, outsource their manufacturing, move their manufacturing plants abroad. They import products back into the United States, and they use cheap labor. That is so much of the story. In opposing ''Buy America,'' companies would say: We want to be able to sell our products overseas. That is not the real story. The real story is these companies want to outsource their production to China, use very inexpensive labor, take advantage of no worker safety rules in China, take advantage of very weak environmental rules in China, make those products there and then import them back into the United States, outsource the jobs to China, make the products there, and bring the products back to the United States. We know what that does to American employment. We also know what it does for food safety, toy safety, vitamins, all the things we have seen, contaminants in the food and toys. We cannot afford this any longer. We cannot be a healthy economy without strong manufacturing. A healthy economy is a balanced one, not overly dependent on one sector.

Let me be clear. ''Buy America'' is not about slowing international trade. The editorial boards and pundits may scream trade war when the Congress considers how it will spend taxpayer dollars, but there is no danger of a trade war. There is no danger of protectionism. We are a country with the most open markets in the world. We are a country with an $800 billion trade deficit, $2 billion a day going out of the country rather than money coming into the country. How can we be called protectionist when we have that policy?

The United States will continue to have the most open market in the world, and we should. The United States is a signatory to the World Trade Organization and other trade deals that actually limit policies that countries can use on things such as ''Buy America'' or on climate change or on food and product safety. That, in itself, is a subject matter for further debate.

This is about using tax dollars in the best way to create jobs in Illinois, Colorado, and in Ohio. Now that the provisions are in the bill, Congress will work with the Obama administration in implementing them with transparency and accountability. It is the right thing to do. It will put Americans back to work. Americans demand that their tax dollars be spent on American workers using American products to build this infrastructure to make a better economy.

I thank the Chair.

Mr. FEINGOLD. Mr. President, the fairness doctrine was repealed by the FCC over 20 years ago. I do not support its reinstatement because I don't like the idea of the government micromanaging speech. I also have serious questions about whether it would be constitutional to reinstate the fairness doctrine, given the wide variety of media outlets available for the expression of different points of view. That is why I voted for the amendment offered by Senator DEMINT banning the fairness doctrine.

Unfortunately, that amendment was drafted so broadly that it could have also restricted the FCC from encouraging localism and ensuring that broadcasters are living up to their public interest responsibilities. These are responsibilities that broadcasters agree to when they are provided a segment of spectrum—a valuable piece of public property—and they should not be undone. I supported the Durbin amendment to clarify that public interest obligations remain, while ensuring that the fairness doctrine does not return.

Mr. DORGAN. My vote on the DeMint amendment, No. 573, should not be construed as a vote in favor of restoring the fairness doctrine. I do not favor restoring the fairness doctrine.

However, the DeMint amendment went much further than legislating on the fairness doctrine. His amendment would have prohibited the FCC from establishing any program guidelines at all no matter how reasonable. For example, his amendment would have prohibited the FCC from establishing guidelines for children's programs or guidelines to prohibit violent programming during a family viewing hour in the evening. These are just two examples that the DeMint amendment would have prohibited.

To be clear, I support the provision in the DeMint amendment that would have precluded the restoration of the fairness doctrine. My view is that the fairness doctrine is not appropriate for today's market. I do support the creation of reasonable public interest standards that attach to a broadcast license dealing with localism issues and community responsibility. But, I could not vote for such a broad amendment that would have stripped from FCC reasonable and appropriate regulation of the type described above.

AMENDMENT NO. 591

The PRESIDING OFFICER (Mr. BENNET). The Senator from Illinois.

Mr. DURBIN. It is my understanding the vote is scheduled for 2 o'clock.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. I ask unanimous consent that it be moved until 2 minutes after 2 and I be allowed to speak and there be response.

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

Mr. DURBIN. Mr. President, before us is a debate on the fairness doctrine. Sixty years ago, the Federal Communications Commission said radio and TV stations had to tell Americans both sides of the story. In those days, television was just starting. In the 1950s,

three networks emerged and the fairness doctrine applied for decades. Then, in 1987, the FCC canceled the fairness doctrine, and there has been a debate ever since whether we should return to it.

Well, if you want to argue whether Americans should hear both sides of every story to make up their minds, I think it is a pretty basic concept. But while we were debating whether to return to the fairness doctrine, media and technology changed dramatically. It is no longer three networks, it is 200 channels, cable channels, and all sorts of opportunities for information.

So the fairness doctrine in its day was the right thing for the right reason. Today it is not. Senator DEMINT wants to eliminate it—make sure no one brings it back. No one is planning on bringing it back. There is no problem with that. But he included some language in his amendment that goes too far. It takes away the authority of the Federal Communications Commission to basically determine that radio and TV stations use their Federal licenses in the public interest. What does that mean?

It means the FCC can tell a television station it cannot put on a violent movie early on Saturday morning when kids are tuning in to cartoons. It cannot put on something with sexual tones to it at a time when children and family are watching. There are limitations because it is using America's airwaves to make money. Use them responsibly in the public interest. I think it was inadvertent, but, in fact, he removed that. He removed that authority of the FCC.

My amendment says two things. It is the first amendment we will vote on. First, the existing statutory requirement for diversity in media ownership is going to be encouraged so we have more and more different people applying for licenses for radio and TV stations. There is nothing wrong with that, as I see it. It is already in the law. Secondly, do not take away the FCC's power to say to public licensees of television and radio: Operate in the public interest. Make sure you have local news and weather. Make sure you do not have sexual content and violence on children's shows—basic things that are common sense.

I do not think the Senator from South Carolina wanted to change that. He did inadvertently. My amendment cleans it up. If the Durbin amendment is adopted, I encourage people to support both the Durbin amendment and the DeMint amendment. If my amendment is not adopted, I hope they will reconsider their support for Senator DEMINT's amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I am going to proceed for a few moments on leader time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. MCCONNELL. Mr. President, in recent months, a number of our colleagues on the other side of the aisle have expressed support for reinstating the so-called fairness doctrine. But let's be honest. The fairness doctrine was anything but fair. It amounted to Government control over political speech, and in the end it actually resulted in less, not more, political discourse over the airwaves because broadcasters did not want to deal with all of its redtape. That is precisely why the Federal Communications Commission repealed it back in 1987, and why we must keep it from being reinstated now.

The reality behind this so-called fairness doctrine is that some of my friends on the other side do not like what they are hearing on the radio these days. So instead of addressing the criticisms head on, they want to silence them.

Americans will not stand for that, and we will not let it happen. Government is not the speech police, and I will not support—and I am confident the American people do not support—efforts to restrict free speech.

The Founding Fathers enshrined the right to free speech in the very first amendment to the Constitution because they knew it was fundamental—that it was the one right without which the others would lose their force. They also knew future generations would have to continue to defend that right from those who viewed it as an obstacle to their goals.

We should adopt the DeMint amendment to kill the so-called fairness doctrine once and for all.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 591 offered by the Senator from Illinois.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—57

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

NAYS—41

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Specter
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Voinovich
Cornyn	Lugar	Wicker
Crapo	Martinez	

NOT VOTING—1

Kennedy

The amendment (No. 591) was agreed to.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 573

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided, before a vote in relation to amendment No. 573 offered by the Senator from South Carolina. Who yields time?

The Senator from South Carolina.

Mr. DEMINT. Mr. President, if I could have my colleagues' attention for just a moment, I think this should be an easy vote for all of us. President Obama has expressed his opposition to the fairness doctrine. Senator DURBIN has expressed his opposition to the fairness doctrine. This amendment, the Broadcasters Freedom Act, prohibits the Federal Communications Commission from implementing all or part of the fairness doctrine, which has been repealed.

I wish to clear up one misunderstanding that has been stated on the other side. This amendment does not affect the public interest requirements of broadcast radio. It does not change children's programming or opposition to indecency. What it does is, it prohibits quotas and guidelines on programming, which is another way to prohibit the implementation of the fairness doctrine.

While the fairness doctrine is a direct and obvious method to burden and chill broadcaster speech, there are also several indirect ways that are not as well-known, but no less available to proponents of limiting the freedom of our national media.

Last year's FCC Localism Notice of Proposed Rulemaking—MB Docket No. 04–233, released January 24, 2008, ''Localism Notice''—contained a number of ''tentative conclusions'' that, if adopted, would result in greater regulation of broadcaster speech.

First, the FCC proposed to reintroduce license renewal processing ''guidelines'' that would measure specific categories of speech aired by broadcasters.

The guidelines would pressure broadcasters to air Commission-specified amounts of programming in Commission-defined program categories. Although the Localism Notice does not specify which categories broadcasters would be measured by, political programming, public affairs programming, and local news are mentioned as possible types of programming to be regulated. Broadcasters that do not meet the thresholds to the Commission's satisfaction would risk losing their license to broadcast.

While ostensibly the renewal processing guidelines are meant to increase the total amount of local programming, the adjective ''local'' is ill-defined in this proceeding. It could be expanded to include an almost limitless array of speech and could shift with the political winds.

My amendment, DeMint No. 573, would not eliminate the FCC's power to develop license renewal processing guidelines completely, but only its authority to develop processing guidelines that mimic its past authority under the fairness doctrine, hence the language which limits it to quotas or guidelines for issues of public importance.

The second way in which the Commission has proposed to indirectly regulate broadcaster speech is by return of ascertainment requirements, which would mandate that every broadcaster develop and meet with an ''advisory board'' made up of community groups and local officials that would ''inform the stations' programming decisions.'' This proposal would make broadcasters very vulnerable to pressure or even harassment by groups that do not approve of their programming.

A similar ascertainment requirement was eliminated in the early 1980s after the Commission determined that the rule did more to create bureaucratic burdens than it did to improve broadcasting.

Like the processing guidelines, the ascertainment requirement could become a factor for broadcasters at license renewal. Groups that feel a local broadcaster did not listen to their suggestions through the advisory board—suggestions to, for example, air more programming that addresses whatever social or political issue is of concern to these groups—could challenge the broadcasters' license and argue that the broadcaster ignored the ''needs and interests'' of their local community. Talk radio would be particularly vulnerable to this type of harassment, as would religious broadcasters.

Again, my amendment, DeMint No. 573, would not eliminate the Commission's authority to mandate ascertainment completely, but only its authority to mandate that broadcasters seek out opposing viewpoints on ''issues of public importance.''

I encourage all of my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. LIEBERMAN. Mr. President, I yield back the time on our side.

Mr. DEMINT. 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 on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 87, nays 11, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—87

Akaka	Durbin	McConnell
Alexander	Ensign	Menendez
Barrasso	Enzi	Merkley
Baucus	Feingold	Mikulski
Bayh	Gillibrand	Murkowski
Begich	Graham	Murray
Bennet	Grassley	Nelson (FL)
Bennett	Gregg	Nelson (NE)
Bond	Hagan	Pryor
Boxer	Hatch	Reid
Brown	Hutchison	Risch
Brownback	Inhofe	Roberts
Bunning	Inouye	Schumer
Burr	Isakson	Sessions
Burris	Johanns	Shaheen
Byrd	Kaufman	Shelby
Cantwell	Klobuchar	Snowe
Cardin	Kohl	Specter
Carper	Kyl	Stabenow
Casey	Landrieu	Tester
Chambliss	Lautenberg	Thune
Coburn	Leahy	Udall (CO)
Cochran	Levin	Udall (NM)
Collins	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	Martinez	Webb
DeMint	McCain	Wicker
Dodd	McCaskill	Wyden

NAYS—11

Bingaman	Harkin	Rockefeller
Conrad	Johnson	Sanders
Dorgan	Kerry	Whitehouse
Feinstein	Reed	

NOT VOTING—1

Kennedy

The amendment (No. 573) was agreed to.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I have a unanimous consent request that has been agreed to on both sides. It is as follows: I ask unanimous consent that amendments Nos. 579 and 587 be withdrawn and that when the Senate resumes consideration of the Ensign amendment No. 575, the second-degree amendment No. 576 be withdrawn; that there then be 30 minutes of debate prior to a vote in relation to the Ensign amendment, with no amendment in order to the amendment prior to a vote, with the time equally divided and controlled between Senators ENSIGN and FEINSTEIN or their designees; and further, that Senator FEINSTEIN's 15 minutes begin at 3:30 p.m.; that at 3:45 p.m., the Senate proceed to vote in relation to amendment No. 575; that upon disposition of amendment No. 575, no further amendments be in order; that the substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill; that passage of the bill be subject to a 60-vote threshold; that if the bill achieves that threshold, then the motion to reconsider be laid upon the table; provided further that the cloture motion be withdrawn, with this addendum: that 2 minutes of Senator ENSIGN's time be reserved to occur at 3:45 p.m., with the vote occurring with respect to Ensign amendment No. 575 following Senator ENSIGN's 2 minutes.

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

The Senator from South Dakota.

AMENDMENT NO. 579 WITHDRAWN

Mr. THUNE. Mr. President, I had filed an amendment and have pending at the desk amendment No. 579, which is a concealed carry amendment. I talked about it yesterday on the floor of the Senate. I would like to have had a vote on it and certainly believe it is something the Senate ought to consider. It is worth voting on.

My State of South Dakota is one of many States around the country that has concealed carry laws. What my amendment simply would have done is allowed those who have concealed carry permits in a particular State to have reciprocity with other States that have concealed carry laws, respectful of the laws of those other States, but it would have allowed people of this country under the second amendment to exercise the individual right to carry firearms insofar as they are adhering and following the laws of the State not only in which they reside but the State in which they would be carrying that firearm. That is something for which I think there is a lot of support.

I introduced a bill in the Senate. It has 19 cosponsors. As I said, I offered the amendment to this particular piece of legislation. My understanding is the other side does not want to vote on it. What I have tried to ascertain is whether the chairman of the Judiciary Committee, the Senator from Vermont, Mr. LEAHY, would be willing to hold a hearing. He informs me he will do that. I will have a hearing on the bill itself.

With that understanding, Mr. President, my intention is to withdraw amendment No. 579 and hope that we will have an opportunity to consider it at some point at a future date.

The PRESIDING OFFICER. The amendment has been withdrawn.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from South Dakota. I just want to say as a manager of the bill, I was present at the conversation with Senator LEAHY, the chairman of the Judiciary Committee, and Senator THUNE. The conversation was exactly as reported.

Senator LEAHY could not be here because he had other pressing business,

but he asked me to represent to our colleagues that the Judiciary Committee will hold a hearing on the amendment offered by Senator THUNE and now withdrawn.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, the last amendment is going to be debated soon. Senator ENSIGN is here to begin that debate.

Both Senator MCCONNELL and I would like to make some brief remarks.

(The remarks of Mr. KYL and Mr. MCCONNELL are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 575

Mr. ENSIGN. Mr. President, I wish to take a little bit of time to refute some of the inaccuracies about my amendment dealing with the repeal of the gun ban in the District of Columbia. This really is about restoring second amendment rights to residents who live here in the District of Columbia. We have a constitutional right and duty to deal with matters dealing with the District of Columbia.

Last year, the Supreme Court ruled that the laws that had been passed by the city council in the District of Columbia were in fact unconstitutional because the District of Columbia did not recognize there was a constitutional right to the individual—not just a militia but to the individual—to keep and bear arms. Since then, the District of Columbia has attempted to subvert what the Supreme Court said by putting very burdensome types of laws to make it more and more difficult for District residents to own a gun in order to protect themselves in their own homes.

It is interesting. If you go back to what the Founders talked about, as far as the second amendment, look at James Madison. He wrote in Federalist No. 46:

> . . . the advantage of being armed, which the Americans possess over the people of almost every other nation . . . forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

Washington, DC, has blatantly violated this right for more than 30 years, and it has led to catastrophic results. This chart reflects the murder rates in Washington, DC, relative to 48 other of the largest cities, excluding Chicago, from the top 50 list. And this is all weighted by population. You can see here, and especially as we go forward, when other crime rates in the country were actually going down and murder rates in the country were going down, as Washington, DC, was enacting more and more gun ban laws and stricter gun ban laws, the murder rate in Washington, DC, continued to rise.

It has been characterized that this bill would allow a 10-year-old to carry shotguns in the streets of Washington, DC. That is completely ridiculous. That is a scare tactic. Our amendment basically ensures the individual's second amendment right. It removes the tremendous barriers and burdens on law-abiding citizens to be able to have the protection they want, to protect themselves in their own homes.

Right now, we know that if a criminal in Washington, DC, wants to get a gun, they will get a gun. We are making it difficult for the people who actually abide by the law to get a gun. We want law-abiding citizens to have the arms, not just the criminals. That is what this amendment is really all about.

You are probably going to hear some people say that Washington, DC, is just trying, within the Supreme Court decision, to enact laws that will put reasonable restrictions on guns. I would say that is not the case, and the reason it is not the case is they are actually trying to make technical changes in the law which they think will restrict people's rights to keep and bear arms. It is going against the intent of what the Supreme Court has enacted.

People across the United States have recognized for a long time how important it is for individuals to be able to keep and bear arms.

Around the world, we often hear asked: Well, why does Great Britain have a lower murder rate than the United States? Well, first of all, there are a lot of cultural differences between the United States and Great Britain. But also, since Great Britain enacted some of its strictest gun control laws, murder rates have actually gone up in London.

In case after case where you look to find out whether gun control laws actually are effective in reducing crime, the statistics are pretty overwhelming against it. Criminals will get the guns. They get them on the black market or they go someplace, but they get their guns. The question is, Are law-abiding citizens going to be able to protect themselves in their own homes?

That is what this amendment is attempting to do, to say to citizens who live in the District of Columbia: We are going to protect your second amendment rights. The laws the District of Columbia has enacted to own a gun are stricter than what we require in Nevada to get a concealed weapons permit.

Mr. President, I believe it is high time this body give the citizens who live in the District of Columbia that second amendment right to keep and bear arms in order to protect themselves in their own homes, so I urge my colleagues to support this amendment.

Mr. President, I will save a couple of minutes right before the vote to be able to conclude my remarks, but how much time remains on my side?

The PRESIDING OFFICER. There is 9 minutes remaining.

Mr. ENSIGN. Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Mr. President, I rise now for the second time in strong opposition to Senator ENSIGN's amendment. This is a dangerous amendment that goes far beyond anything the Supreme Court contemplated in the Heller decision. If you have been committed to a mental institution, if you can't pass a vision test, this forces the District of Columbia to still allow you to have a gun. That doesn't make any sense.

Americans basically believe in the Heller decision, which says there is a right to bear arms in the Constitution. But Americans have the good sense to know that no amendment is absolute. We put limitations on the first amendment—libel laws, pornography; you can't falsely scream ''fire'' in a crowded theater. We put limits on every other amendment. Why is it that some in the gun lobby say there should be no limitation on the second amendment? They support limitations on the first amendment. I am sure most of them feel antipornography laws are justified.

Just as those on the left, I believe, are wrong to say the first amendment should be broad, the fourth amendment should be broad, the fifth amendment should be broad, but the second amendment should be seen through the pinhole of only militias, those on the other side are equally wrong when they do the converse and say the first amendment should be narrow, the fourth amendment should be narrow, the fifth amendment should be narrow, but the second amendment should have almost no limitation.

Isn't it reasonable to say that someone who has been in a mental institution shouldn't automatically get a gun? Isn't it reasonable to say that if someone fails a vision test, they should not automatically get a gun? Of course it is. But because we get into sort of a macho game here of, hey, we are going to show there should be no limitations on the second amendment, we end up hearing about fundamentally absurd propositions that those who fail vision tests should be allowed a gun. It defies common sense to say that someone who is voluntarily committed to a mental institution should be allowed to get a gun. In fact, limitations on access to guns by the mentally ill was one of the few things Justice Scalia, a strong second amendment supporter, specifically said would be okay after Heller.

Let me just say to my colleagues, we are only a few years after Virginia Tech and the pain and tragedy for the parents who anguish every day for their lost sons and daughters. They came to us and lobbied us and said: Please just pass minimal laws to prevent those who are mentally ill from getting a gun. Now we are saying that in the District of Columbia that will be OK.

As for the vision, there cannot be a more reasonable restriction than the requirement that someone see before they are allowed on the streets with a gun. We wouldn't want that in our communities where we live. Why would we impose it on the District of Columbia? The District of Columbia has the highest per capita homicide rate in the United States. I understand, if you are from, say, Wyoming—there are broad, open spaces, very low crime rate—that the rules on guns should be different than the rules in Washington, DC and New York City. I understand that. I accept it, as someone who has been an advocate of gun control.

But why are we imposing those laws that may work in Wyoming on the people of the District of Columbia? Firearms cause more needless damage in Washington, DC than anywhere else. The Heller decision made it clear that Washington, DC could impose reasonable restrictions on the right to bear arms and that was perfectly consonant with the Constitution. Every Justice of the Supreme Court, including those who are the most conservative, such as Justice Scalia, such as Justice Thomas, believe there can be some limitation imposed. Because the NRA does not, too many in this country, and in this Chamber, jump when they say so.

It is wrong. It makes people's lives less safe. It is unfortunate. I hope this body will have the courage to reject the Ensign amendment while still affirming the right to bear arms as certified in the Heller case.

I yield the floor.

Mr. HATCH. Mr. President, I rise to support final passage of S. 160, the District of Columbia House Voting Rights Act.

I have spoken and written many times about my conclusion that the Constitution allows Congress to provide a House seat for the people of the District of Columbia.

And I have said for more than 30 years that Americans living in the District should have all the rights of citizenship, including voting rights.

The bill would also give an additional seat temporarily to the State next qualifying for one under the 2000 census.

I believe the bill before us is a constitutional and balanced way to achieve these important goals.

Article I, section 2, states that the House shall be composed of Members elected by the ''People of the several States.''

The District did not yet exist when those words were drafted.

The observation that this provision does not itself provide a House seat for the people of the District begs rather than answers the constitutional question.

That question is whether the House Composition Clause prohibits Congress from providing for the people of the District what the Constitution provides for the people of the States.

The Constitution uses the word ''States'' in various provisions.

Opponents of this bill have argued that some of those cannot include the District.

Once again, that observation begs rather than answers the constitutional question.

For more than two centuries, the Supreme Court has held that other provisions framed in terms of ''States'' can indeed apply to the District.

Or, even more relevant to the bill before us today, the Supreme Court has ruled that Congress can legislatively do for the District what the Constitution does for States.

I believe the House Composition Clause falls in this category.

The Supreme Court has held, for example, that Congress could apply to the District the direct taxes that the original Constitution apportioned among the several States.

Opponents of the bill before us have not even attempted to explain why the phrase ''the several States'' can apply to the District, which is obviously not a State, but the phrase ''the People of the several States'' cannot apply to the District, which obviously has population.

The Supreme Court has held that Congress can extend to the District Federal court jurisdiction over lawsuits by citizens of different States.

The great Chief Justice John Marshall wrote in 1805 that while the Constitution does itself extend such diversity jurisdiction to the District, ''this is a subject for legislative . . . consideration.''

He added that the contrary conclusion, which I take to be the position of those opposing the bill before us today, would be simply extraordinary.

Those opponents have not even attempted to explain why extending diversity jurisdiction to the District is a subject for legislative consideration but extending House representation to the people of the District is not.

The Supreme Court has held that Congress can extend to the District the restrictions the fourteenth amendment imposes upon the States.

Once again, the Court suggested that Congress's plenary authority over the District would be a sufficient basis for such legislation.

Opponents of S. 160 have cited the decision in Adams v. Clinton for the proposition that the Constitution does not provide a right to congressional representation for the District.

I agree.

That decision did not say, however, that Congress was precluded from doing so.

In fact, the court said the opposite.

The court in Adams said that while it lacked authority to grant such representation in the name of the Constitution, the plaintiffs could ''plead their case in other venues,'' including ''the political process.''

That is precisely what the bill before us represents and opponents of S. 160 have not even attempted to explain otherwise.

Let me repeat, the constitutional question is not whether the Constitution itself grants House representation to the people of the District. It does not.

The constitutional question is whether Congress may, under its explicit and plenary authority over the District, legislatively provide for the people of the District what the Constitution provides for the people of the States.

Those who say that the word ''States'' necessarily excludes the District must at least try to show that the many judicial precedents saying otherwise either were wrongly decided or are somehow irrelevant to this bill. They have not even attempted to do either.

I believe that the foundational principle of representation and suffrage, the legislative actions by America's Founders, two centuries of judicial precedent, and Congress's explicit legislative authority over the District in all cases whatsoever combine to allow Congress to enact the bill before us today.

One of my predecessors as a Senator from Utah, George Sutherland, was later appointed to the Supreme Court.

He wrote for the Court in 1933 what I believe is relevant to this debate today:

> The District [of Columbia] was made up of portions of two states of the original states of the Union, and was not taken out of the Union by the cession. Prior thereto its inhabitants were entitled to all the rights, guarantees, and immunities of the Constitution. . . . We think it is not reasonable to assume that the cession stripped them of those rights.

More than 30 years ago, I made the same argument on this floor and later argued that one way to achieve this goal was by giving the people of the District representation in the House.

The defeat of the retrocession amendment offered by the Senator from Arizona showed that the underlying bill is the only legislative vehicle for providing this representation.

I voted for that amendment as a vote on the idea of retrocession, which I find has some general merit.

Even with my vote, however, the Senate resoundingly defeated it.

So I urge the Senate to pass this bill.

It constitutionally gives one House seat to the people of the District.

It fairly gives another seat to the State qualifying for one under the last census.

It explicitly and implicitly disclaims Senate representation for the District.

It provides for expedited judicial review.

In short, I believe this is a sound and fair way to strengthen our system of self-government so that Americans can exercise the most precious right available in a free country, the right to participate in electing those who govern us.

Mr. FEINGOLD. Mr. President, I am pleased to support this bill, and congratulate the Senator from Connecticut and the Senator from Utah for their tireless efforts. Senator LIEBERMAN and Senator HATCH have

put forward innovative, bipartisan legislation that will strengthen our democracy. I also want to recognize the contribution of the majority leader, who, by championing this issue, renews and fulfills our country's commitment to equality, democracy, and justice.

When I watch my colleagues on the floor today, I see the spirit of Paul Douglas, Hubert Humphrey, and Everett Dirksen. This legislation is part of the struggle to fulfill the promise of America that led to the landmark civil rights bills of 1957, 1964, and 1965. Today, we follow in the footsteps of some of our greatest predecessors. We are here to right a historic wrong, to enfranchise hundreds of thousands of our fellow Americans by giving them a vote in Congress.

The struggle to give Washington, DC, a vote in the House of Representatives has already been historic. I was disappointed that the Senate was the graveyard for this bill in 2007. By using a filibuster to prevent the bill from even reaching the floor at that time, opponents of this bill recalled history, too—an unfortunate history we should not revisit. I am sure that I do not need to remind anyone here that for decades the Senate was an implacable bulwark that no civil rights bill could breach. Unfortunately, when this great institution was faced a year and a half ago with a new kind of voting rights bill, it did not rise to the challenge.

Now we have a chance to correct this breach of American principles and pass the District of Columbia House Voting Rights Act of 2009. And so now is the time to remedy the injustice being done to Americans residing in the District of Columbia, and stop this violation of their fundamental rights. Now is the time to take action on this legislation and to finally give the disenfranchised District at least a partial say in the decisions of the Congress, to make the ''People's House'' a body that truly represents all of the people of this Nation.

In 1964, the Supreme Court stated that ''[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.'' It is time for Congress to live up to those words. At a time when Americans whose families wait for them at home in the District are fighting for our country overseas, it is a cruel and bitter irony that their own country denies them the right to representation in the House.

With all of the difficult issues and momentous decisions facing this Congress, the people of DC deserve a voice in it, now more than ever. As of February 14, 29 DC residents have been killed or wounded in Iraq or Afghanistan, wars that their elected representative had no say in commencing or funding. Approximately 1,500 homes are in foreclosure or pre-foreclosure, unemployment has gone up over 3 percent in the last year, to 8.8 percent. Just like all other Americans, the residents of the District want to participate in the crucial and difficult debates this Congress is having over foreign and economic policy. They want to set a new course for this country. Their voices should count just as much as their fellow citizens'.

Opponents of this bill have asserted that it is unconstitutional. I chaired a Judiciary Committee hearing in May 2007 to examine whether the Constitution, perhaps the greatest testament to democracy and freedom in human history, prevents the elected legislature of the people of this country from granting the most basic right of citizenship to the people of the District of Columbia. The hearing confirmed that while this is not an easy question of constitutional interpretation, there are strong arguments for the bill's constitutionality. Our conclusions were strengthened by the finding of the Committee on Homeland Security and Governmental Affairs that Congress's authority to legislatively extend House representation is supported by two centuries of judicial precedent.

In light of the historic wrong that this bill will correct, the case for its constitutionality is certainly strong enough to justify enacting it and letting the Supreme Court make the final decision. The Constitution grants Congress the power of ''exclusive legislation, in all cases whatsoever,'' over the District; I believe that we can use that authority to ensure that this Government's just powers are derived from the consent of the governed. Moreover, the basic sweep of the Constitution, its very essence, is to protect the fundamental rights of the citizens of this country, including the right to be represented in Congress.

The other fundamental document of our founding, the Declaration of Independence, laid out a list of grievances against the King of Great Britain, including the following:

He has refused to pass other Laws for the Accommodation of large Districts of People, unless those People would relinquish the Right of Representation in the Legislature, a Right inestimable to them, and formidable to Tyrants only.

That inestimable right has been denied to the residents of the District of Columbia for far too long.

We in Congress have a duty to fulfill the promise of democracy for DC residents. Those who rely on constitutional arguments to oppose this bill should ask themselves what the Framers would think today, if they were faced with the question of whether their handiwork should be used to prevent Congress from granting over a half million people the most basic right in a democracy—the right of representation in the legislature. It is simply inconceivable to me that those great and brave patriots would be comfortable with such a blatant injustice.

I hope that we finally have the votes to right this historic wrong. I urge my colleagues to support the District of Columbia House Voting Rights Act of 2009, and grant the most basic of democratic rights to the people of the District.

Mr. CORNYN. Mr. President, I ask unanimous consent a Washington Times article by George Smith on February 13, 2009; testimony by John P. Elwood, Deputy Assistant Attorney General before the Subcommittee on the Constitution, Civil Rights, and Property Rights, Senate Committee on the Judiciary on May 23, 2007; and a Statement of Administration Policy from September 18, 2007, be printed in the RECORD.

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

[From the Washington Times, Feb. 13, 2009]

NOT ON CONSTITUTION AVENUE

(By George C. Smith)

As the Obama administration commences its reign of one-party government, attention has understandably focused on the president's economic stimulus program and his new approach to the foreign terrorist threat.

But preoccupation with these topics should not divert attention from what may be the most ominous, and radical, collaboration between the new president and the Democratic-controlled Congress: the enactment of blatantly unconstitutional legislation to bypass the constitutional amendment process and give the District of Columbia a seat in the House of Representatives in a crass triumph of raw political power over the rule of law.

With relentless clarity, in provision after provision, the Constitution specifies that representation in both Houses of Congress is limited to the states—and the District of Columbia is not a state. The very first sentence of the Constitution says, ''All legislative powers herein granted shall be vested in a Congress of the United States''—not a Congress of the United Entities, Districts, Territories or Enclaves. The second sentence then specifies that the House of Representatives is to be composed of members ''chosen by the people of the several States.'' All told, no fewer than 11 constitutional provisions make it clear that congressional representation is linked inextricably to statehood.

If there were any plausible doubt that congressional representation was intentionally limited to the states when the Constitution was drafted in 1787, it would have been conclusively removed when the 39th Congress reiterated that ''Representatives shall be apportioned among the several States'' when it revisited the question of congressional apportionment in drafting the 14th Amendment in 1866. (In 1866 as well as in 1787, there was no ambiguity and no mistake in the express linkage of congressional representation to statehood.)

This does not mean, however, that the District of Columbia cannot obtain congressional representation. It only means it must do so by means of a constitutional amendment, as plainly provided in Article V of the Constitution.

For more than 200 years, this understanding of the Constitution (intelligible to any literate 12-year-old who reads its text) was accepted even by ardent advocates of D.C. representation. On repeated occasions in the 1960s and 197os, for example, the Democratic-controlled House Judiciary Committee ruefully acknowledged that a constitutional amendment was ''essential'' if D.C. were to receive such representation. They expressly recognized that the Constitution did not allow Congress to grant D.C. representation by simple legislation, and

proceeded to propose the constitutional amendment that was necessary. The amendment failed to achieve ratification, but the rule of law was honored.

The constitutional text limiting congressional representation to the states has not changed during the past several years. Nor have judicial interpretations of that text, which have consistently acknowledged that limitation. What has changed, however, is the willingness of D.C. representation advocates to run roughshod over the Constitution because they now have the raw political power to pass a statute awarding the District a seat in the House by main force.

As a fig leaf to cover up their brute power play, they invoke the risible theory that a constitutional provision authorizing Congress to exercise legislative jurisdiction over federal enclaves—including the District, but also including military reservations, park lands and similar enclaves—enables Congress to override express constitutional requirements, including the limitation of congressional representation to states, as long as they are doing so on behalf of the District. Oddly, this interpretation of the Enclave Clause somehow escaped the grasp of the Framers, the courts, and Congress for more than two centuries.

Apart from the fact that the Supreme Court has flatly held that Congress' power under the Enclave Clause is indeed limited by other constitutional requirements, the absurdity of the theory is demonstrated by considering its logical consequences. It would enable Congress to undercut the entire structure of state-based congressional representation—in the Senate as well as in the House—by extending representation to an unlimited variety of enclaves and territories by simply passing statutes reflecting evanescent political majorities. A more radical subversion of constitutional government would be difficult to imagine.

During the 110th Congress, it was only President Bush's veto threat, and a razor-thin sufficiency of Republican Senate votes to sustain a filibuster, that prevented enactment of the D.C. House seat legislation—what liberal legal scholar Jonathan Turley referred to as the most ''premeditated'' unconstitutional act in decades. But with Barack Obama's election and solid Democrat majorities in both Houses, there is no longer a finger in the dike. D.C. Delegate Eleanor Holmes Norton has asserted that Mr. Obama has committed to signing such legislation.

Significantly, the Justice Department carefully and forcefully opined and testified during the last Congress that the D.C. House legislation is patently unconstitutional. Given the current president's apparent commitment to sign the bill, however, it is difficult to envisage the new political appointees of the Obama Justice Department raising any constitutional objections to this grotesque power play. Interestingly, however, former Clinton-era Solicitor General Walter Dellinger recently observed that the persons named by the president-elect to advise him on such constitutional issues at the Justice Department ''bring a stature to the job that will allow them to say no to the president when no is the correct answer.'' ''No'' obviously remains the correct answer to the question of whether the president should sign D.C. House seat legislation that repudiates the Constitution's text, more than 200 years of unwavering historical practice and repeated pronouncements of the federal judiciary. But only the delusional would expect that the new president's men and women at Justice would stand with the Constitution against the menacing force of raw political power.

CONSTITUTIONALITY OF D.C. VOTING RIGHTS ACT OF 2007

S. 1257, a bill to grant the District of Columbia representation in the House of Representatives as well as to provide an additional House seat for Utah, violates the Constitution's provisions governing the composition and election of the United States Congress.

TESTIMONY BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND PROPERTY RIGHTS, SENATE COMMITTEE ON THE JUDICIARY

Thank you for the opportunity to discuss the Department's views on S. 1257, a bill to grant the District of Columbia representation in the House of Representatives as well as to provide an additional House seat for Utah. For the same reasons stated in the Statement of Administration Policy on the House version of this legislation, the Administration concludes that S. 1257 violates the Constitution's provisions governing the composition and election of the United States Congress. Accordingly, if S. 1257 were presented to the President, his senior advisors would recommend that he veto the bill. I will confine my testimony to the constitutional issues posed by the legislation.

The Department's constitutional position on the legislation is straightforward and is dictated by the unambiguous text of the Constitution as understood and applied for over 200 years. Article I, section 2 of the Constitution provides:

''The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous branch of the State Legislature.''

This language, together with the language of eleven other explicit constitutional provisions, including the Twenty-Third Amendment ratified in 1961,[1] ''makes clear just how deeply Congressional representation is tied to the structure of statehood.'' [2] The District of Columbia is not a State. In the absence of a constitutional amendment, therefore, the explicit provisions of the Constitution do not permit Congress to grant congressional representation to the District through legislation.

Shortly after the Constitution was ratified, the District of Columbia was established as the Seat of Government of the United States in accordance with Article I, §8, cl. 17 of the Constitution. The Framers deliberately placed the capital in a federal enclave that was not itself a State to ensure that the federal Government had the ability to protect itself from potentially hostile state forces. The Framers also gave Congress ''exclusive'' authority to enact legislation for the internal governance of the enclave to be chosen as the Seat of Government—the same authority Congress wields over the many other federal enclaves ceded by the States.

Beginning even before the District of Columbia was established as the Seat of Government, and continuing to today, there have been determined efforts to obtain congressional representation for the District. Apart from the various unsuccessful attempts to secure such representation through litigation, such efforts have consistently recognized that, because the District is not a State, a constitutional amendment is necessary for it to obtain congressional representation. S. 1257 represents a departure from that settled constitutional and historical understanding, which has long been recognized and accepted by even ardent proponents of District representation.

One of the earliest attempts to secure congressional representation for the Seat of Government was made by no less a constitutional authority than Alexander Hamilton at the pivotal New York ratifying convention. Recognizing that the proposed Constitution did not provide congressional representation for those who would reside in the Seat of Government, Hamilton offered an amendment to the Enclave Clause that would have provided:

''That When the Number of Persons in the District of Territory to be laid out for the Seat of the Government of the United States, shall according to the Rule for the Apportionment of Representatives and Direct Taxes Amount to [left blank] such District shall cease to be parcel of the State granting the Same, *and Provision shall be made by Congress for their having a District Representation in that Body*.'' [3]

Hamilton's proposed amendment was rejected. Other historical materials further confirm the contemporary understanding that the Constitution did not contemplate congressional representation for the District and that a constitutional amendment would be necessary to make such provision.[4] These historical facts refute the contention by proponents of S. 1257 that the Framers simply did not consider the lack of congressional representation and, if they had considered it, that they would have provided such representation. In fact, Framers and ratifiers did consider the question and rejected a proposal for such representation.

In more recent years, major efforts to provide congressional representation for the District were pursued in Congress in the 1960s and 1970s, but on each occasion Congress expressly recognized that obtaining such representation would require either Statehood or a constitutional amendment. For example, when the House Judiciary Committee favorably recommended a constitutional amendment for District representation in 1967, it stated as follows:

''*If the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice*. This is the case because provisions for elections of Senators and Representatives in the Constitution are stated in terms of the States, and the District of Columbia is not a State.'' [5]

Congress again considered the District representation issue in 1975, and the House Judiciary Committee again expressly acknowledged that, ''[i]f the citizens of the District are to have voting representation in Congress, a constitutional amendment is essential; statutory action will not suffice.'' [6]

Of course, the courts have not directly reviewed the constitutionality of a statute purporting to grant the District representation because, for the reasons so forcefully reiterated by the House Judiciary Committee, Congress has not previously considered such legislation constitutionally permissible. But numerous federal courts have emphatically concluded that the existing Constitution does not permit the provision of congressional representation for the District. In *Adams* v. *Clinton*, a three-judge court stated, in a decision affirmed by the Supreme Court, that ''the Constitution does not contemplate that the District may serve as a state for purposes of the apportionment of congressional representation'' and stressed that Article I ''makes clear just how deeply Congressional representation is tied to the structure of statehood.'' 90 F. Supp. 2d 35, 46–47 (D.D.C.), *aff'd*, 531 U.S. 941 (2000); *see generally S. Ry. Co.* v. *Seaboard Allied Milling Corp.*, 442 U.S. 444, 462 (1979) (stating that summary affirmance is a precedential ruling on the merits). In *Banner* v. *United States*, 428 F.3d 303 (D.C. Cir. 2005) (per curiam), a panel of the D.C. Circuit that included Chief Justice John Roberts flatly concluded: ''[t]he

Constitution denies District residents voting representation in Congress. . . . Congress is the District's Government, see U.S. Const. art. I, §8, cl. 17, and the fact that District residents do not have congressional representation does not alter that constitutional reality.'' Id. at 309.[7] The court added: ''[i]t is beyond question that the Constitution grants Congress exclusive authority to govern the District, but does not provide for District representation in Congress.'' Id. at 312. And in explaining why the Constitution does not permit the District's delegate in Congress to have the voting power of a Representative in *Michel* v. *Anderson*, 817 F. Supp. 126 (D.D.C. 1993), the court stressed that the legislative power ''is constitutionally limited to 'Members chosen . . . by the People of the several States.' U.S. Const. Art. I, §[2], cl. 1.'' Id. at 140.

The numerous explicit provisions of the constitutional text; the consistent construction of those provisions throughout the course of American history by courts, Congress, and the Executive;[8] and the historical evidence of the Framers' and ratifiers' intent in adopting the Constitution conclusively demonstrate that the Constitution does not permit the granting of congressional representation to the District by simple legislation.

We are aware of, and not persuaded by, the recent and novel claim that this legislation should be viewed as a constitutional exercise of Congress's authority under the Enclave Clause, U.S. Const. art. I, §8, cl. 17, to ''exercise exclusive legislation'' over the Seat of Government and other federal enclaves. That theory is insupportable. First, it is incompatible with the plain language of the many provisions of the Constitution that, unlike the Enclave Clause, are directly and specifically concerned with the composition, election, and very nature of the House of Representatives and the Congress. Those provisions were the very linchpin of the Constitution, because it was only by reconciling the conflicting wishes of the large and small States as to representation in Congress that the Great Compromise that enabled the Constitution's ratification was made possible. Consequently, every word of Article I's provisions concerning the composition and election of the House and the Senate—and particularly the words repeatedly linking congressional representation to ''each State'' or ''the People of the several States''—was carefully chosen. In contrast, the Enclave Clause has nothing to do with the composition, qualifications, or election of Members of Congress. Its provision for ''exclusive legislation'' concerns legislation respecting the internal operation of ''such District'' and other enclaves. The Enclave Clause gives Congress extensive legislative authority ''over such District,'' but that authority plainly does not extend to legislation affecting the entire Nation. S. 1257 would alter the very nature of the House of Representatives. By no reasonable construction can the narrowly focused provisions of the Enclave Clause be construed to give Congress such sweeping authority.

Second, whatever power Congress has under the Enclave Clause is limited by the other provisions of the Constitution. As stated by the Supreme Court in *Binns* v. *United States*, 194

U.S. 486 (1904), the Enclave Clause gives Congress plenary power over the District ''save as controlled by the provisions of the Constitution.'' Id. at 491. As the Supreme Court has further explained, the Clause gives Congress legislative authority over the District and other enclaves ''in all cases where legislation is possible.''[9] The composition, election, and qualifications of Members of the House are expressly and specifically governed by other provisions of the Constitution that tie congressional representation to Statehood. The Enclave Clause gives Congress no authority to deviate from those core constitutional provisions.

Third, the notion that the Enclave Clause authorized legislation establishing congressional representation for the Seat of Government is contrary to the contemporary understanding of the Framers and the consistent historical practice of Congress. As I mentioned earlier, the amendment unsuccessfully offered by Alexander Hamilton at the New York ratifying convention to authorize such representation when the Seat of Government's population reached a certain level persuasively demonstrates that the Framers did not read the Enclave Clause to authorize or contemplate such representation. Other contemporaneous historical evidence reinforces that understanding. *See supra* n. 4. Moreover, Congress's consistent recognition in practice that constitutional amendments were necessary not only to provide congressional representation for the District, but also to grant it electoral votes for President and Vice President under the 23rd Amendment, belies the notion that the Enclave Clause has all along authorized the achievement of such measures through simple legislation. Given the enthusiastic support for such measures by their congressional proponents, it is simply implausible that Congress would not previously have discovered and utilized that authority as a means of avoiding the enormous difficulties of constitutional amendment.

Fourth, the proponents' interpretation of the Enclave Clause proves far too much; the consequences that would necessarily flow from acceptance of that theory demonstrate its implausibility. As the Supreme Court has recognized, ''[t]he power of Congress over the federal enclaves that come within the scope of Art. I, 8, cl. 17, is obviously the same as the power of Congress over the District of Columbia.''[10] It follows that if Congress has constitutional authority to provide congressional representation for the District under the Enclave Clause, it has the same authority for the other numerous federal enclaves (such as various military bases and assorted federal lands ceded by the States). But that is not all. The Supreme Court has also recognized that Congress's authority to legislate respecting the U.S. territories under the Territories Clause, U.S. Const. art. IV, 3, cl. 2, is equivalent to its ''exclusive legislation'' authority under the Enclave Clause. *See, e.g.*, *Binns*, 194 U.S. at 488. If the general language of the Enclave Clause provides authority to depart from the congressional representational provisions of Article I, it is not apparent why similar authority does not reside in the Territories Clause, which would enable Congress to enact legislation authorizing congressional representation for Puerto Rico, the Virgin Islands, and other territories. These unavoidable corollaries of the theory underlying S. 1257 demonstrate its invalidity. Given the great care with which the Framers provided for State-based congressional representation in the Composition Clause and related provisions, it is implausible to suggest that they would have simultaneously provided for the subversion of those very provisions by giving Congress carte blanche to create an indefinite number of additional seats under the Enclave Clause.

Finally, we note that the bill's proponents conspicuously fail to address another logical consequence that flows from the Enclave Clause theory: If Congress may grant the District representation in the House by virtue of its purportedly expansive authority to legislate to further the District's general welfare, it follows logically that it could use the same authority to grant the District (and other enclaves and territories) two Senators as well.

At bottom, the theory that underlies S. 1257 rests on the premise that the Framers drafted a Constitution that left the door open for the creation of an indefinite number of congressional seats that would have fatally undermined the carefully crafted representation provisions that were the linchpin of the Constitution. Such a premise is contradicted by the historical and constitutional record.

The clear and carefully phrased provisions for State-based congressional representation constitute the very bedrock of our Constitution. Those provisions have stood the test of time in providing a strong and stable basis for the preservation of constitutional democracy and the rule of law. If enacted, S. 1257 would undermine the integrity of those critical provisions and open the door to further deviations from the successful framework that is our constitutional heritage. If the District is to be accorded congressional representation without Statehood, it must be accomplished through a process that is consistent with our constitutional scheme, such as amendment as provided by Article V of the Constitution.

JOHN P. ELWOOD,
Deputy Assistant Attorney General.

ENDNOTES

[1] E.g., U.S. Const. art. I, §§2–4; art. II, §1, cl. 2; amend. XIV, §2; amend. XVII; amend. XXIII, §1.

[2] *Adams* v. *Clinton*, 90 F. Supp. 2d 35, 46–47 (D.D.C.), aff'd, 531 U.S. 940, 941 (2000).

[3] The Papers of Alexander Hamilton 189–90 (Harold C. Syrett ed., 1962) (emphasis added).

[4] See 10 Annals of Congress 991, 998–99 (1801) (remarks of Rep. John Dennis of Maryland) (stating that because of District residents' ''contiguity to, and residence among the members of [Congress],'' that ''though they might not be represented in the national body, their voice would be heard. But if it should be necessary [that they be represented], the Constitution might be so altered as to give them a delegate to the General Legislature when their numbers should become sufficient''); see also 5 The Documentary History of the Ratification of the Constitution 621 (Merrill Jensen, John P. Kaminski & Gaspare J. Saladino eds., 1976) (statement by Samuel Osgood, a delegate to the Massachusetts ratifying convention, that he could accept the Seat of Government provision only if it were amended to provide that the District be ''represented in the lower House,'' though no such amendment was ultimately included in the amendments recommended by the Massachusetts convention).

[5] Providing Representation of the District of Columbia in Congress, H.R. Rep. No. 90–819, at 4 (1967) (emphasis added).

[6] Providing Representation of the District of Columbia in Congress, H.R. Rep. No. 94–714, at 4 (1975).

[7] Judge Roberts was a member of the D.C. Circuit when *Banner* was briefed and argued, but was serving as Chief Justice when the opinion issued. *See Banner*, 428 F.3d at 304–05 n.l.

[8] See, e.g., Letter for Mr. Benjamin Zelenko, Committee on the Judiciary, House of Representatives, from Martin F. Richman, Acting Assistant Attorney General, Office of Legal Counsel (Aug. 11, 1967) (expressing the view that ''a constitutional amendment is essential'' for the District to obtain voting representation in Congress in the recommendations for the Committee Report on a proposed constitutional amendment); District of Columbia Representation in Congress: Hearings on S.J. Res. 65 Before the Subcomm. on the Constitution of the Comm. on the Judiciary, 95th Cong. 16–29 (1978) (statement of John M. Harmon, Assistant Attorney General, Office of Legal Counsel). In endorsing a constitutional amendment as the means of obtaining congressional representation for the District, Mr. Harmon discussed the alternative ways of obtaining such representation, particularly the option of statehood legislation. Conspicuous by its absence was any suggestion that such representation could be provided through legislation granting the District a seat.

[9] *O'Donoghue* v. *United States*, 289 U.S. 516, 539 (1993) (citation omitted).

[10] *Paul* v. *United States*, 371 U.S. 245, 263–64 (1963).

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, DC, SEPTEMBER 18, 2007.

STATEMENT OF ADMINISTRATION POLICY

S. 1257—DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2007

The Administration strongly opposes passage of S. 1257. The bill violates the Constitution's provisions governing the composition and election of the United States Congress. Accordingly, if S. 1257 were presented to the President, his senior advisors would recommend that he veto the bill.

The Constitution limits representation in the House to Representatives of States. Article I, Section 2 provides: ''The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State legislature.'' The Constitution also contains 11 other provisions expressly linking congressional representation to Statehood.

The District of Columbia is not a State. Accordingly, congressional representation for the District of Columbia would require a constitutional amendment. Advocates of congressional representation for the District have long acknowledged this. As the House Judiciary Committee stated in recommending passage of such a constitutional amendment in 1975:

''If the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice. This is the case because provisions for elections of Senators and Representatives in the Constitution are stated in terms of the States, and the District of Columbia is not a State.''

Courts have reached the same conclusion. In 2000, for example, a three-judge panel concluded ''that the Constitution does not contemplate that the District may serve as a state for purposes of the apportionment of congressional representatives.'' Adams v. Clinton, 90 F. Supp. 2d 35, 46–47 (D.D.C. 2000). The Supreme Court affirmed that decision. Furthermore, Congress's own Research Service found that, without a constitutional amendment, it is ''likely that the Congress does not have authority to grant voting representation in the House of Representatives to the District of Columbia.''

Claims that S. 1257 should be viewed as an exercise of Congress's ''exclusive'' legislative authority over the District of Columbia as the seat of the Federal government are not persuasive. Congress's exercise of legislative authority over the District of Columbia is qualified by other provisions of the Constitution, including the Article I requirement that representation in the House of Representatives is limited to the ''several States.'' Congress cannot vary that constitutional requirement under the guise of the ''exclusive legislation'' clause, a clause that provides the same legislative authority over Federal enclaves like military bases as it does over the District.

For all the foregoing reasons, enacting S. 1257's extension of congressional representation to the District would be unconstitutional. It would also call into question (by subjecting to constitutional challenge in the courts) the validity of all legislation passed by the reconstituted House of Representatives.

Mr. KYL. Mr. President, I ask unanimous consent the testimony by Professor Jonathan Turley before the House Judiciary Committee September 14, 2006, be printed in the RECORD.

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

DISTRICT OF COLUMBIA VOTING RIGHTS

STATEMENT OF JONATHAN TURLEY, COMMITTEE ON HOUSE JUDICIARY, SUBCOMMITTEE ON CONSTITUTION

It is an honor to be asked to testify on the important question of the representational status of the District of Columbia in Congress. Due to the short period for the preparation of written testimony and a family emergency, the committee staff has permitted me to submit this summary of the testimony that I will offer on September 14, 2006. A full written statement is being completed and will be available at the hearing.

General Comments

There should be general agreement that the current non-voting status of the District is fundamentally at odds with the principles and traditions of our constitutional system. As Justice Black stated in Wesberry v. Sanders: ''No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.''

Yet, unlike many issues before Congress, there has always been a disagreement about the means rather than the ends of full representation for the District residents. Regrettably, I believe that H.R. 5388 is the wrong means. Despite the best of motivations, the bill is fundamentally flawed on a constitutional level and would only serve to needlessly delay true reform for District residents. Indeed, there would be an inevitable and likely successful legal challenge to a bill. Even if successful, this bill would ultimately achieve only partial representational status. Frankly, giving the District only a vote in the House is the equivalent of allowing Rosa Parks to move halfway to the front of the bus in the name of progress. District residents deserve full representation and, while this bill would not offer such reform, there are alternatives, including a three-phased proposal that I have advocated in the past.

The Original Purpose and Diminishing Necessity of the Federal Enclave

The creation of the federal enclave was the direct result of the failure of state officials to protect Congress during a period of unrest. On January 1, 1783, Congress was meeting in Philadelphia when they were surprised by a mob of Revolutionary War veterans demanding their long-overdue back pay. It was a period of great discontentment with Congress and the public of Pennsylvania was more likely to help the mob than to help suppress it. Indeed, when Congress called on state officials to call out the militia, they refused. Congress was forced to flee, first to Princeton, N.J., then to Annapolis and ultimately to New York City.

When the framers gathered again in Philadelphia in the summer of 1787 to draft a new constitution, the flight from that city five years before was still prominent in their minds. Madison and others called for the creation of a federal enclave or district as the seat of the federal government—independent of any state and protected by federal authority. Only then, Madison noted could they avoid ''public authority [being] insulted and its proceedings . . . interrupted, with impunity.''

In addition to the desire to be free of the transient support of an individual state, the framers advanced a number of other reasons for creating this special enclave. There was a fear that a state (and its representatives in Congress) would have too much influence over Congress, by creating ''a dependence of the members of the general government.'' There was also a fear that the symbolic honor given to one state would create in ''the national councils an imputation of awe and influence, equally dishonorable to the Government and dissatisfactory to the other members of the confederacy.'' There was also a view that the host state would benefit too much from ''[t]he gradual accumulation of public improvements at the stationary residence of the Government.

The District, therefore, was created for the specific purpose of being a non-State without direct representatives in Congress. The security and operations of the federal enclave would remain the collective responsibilities of the entire Congress—of all of the various states. While I believe that this purpose is abundantly clear, I do not believe that most of these concerns have continued relevance for legislators. Since the Constitutional Convention, courts have recognized that federal, not state, jurisdiction governs federal lands. Moreover, the federal government now has a large security force and is not dependent on the states for security. Finally, the position of the federal government vis-a-vis the states has flipped with the federal government now the dominant party in this relationship. The real motivating purposes of the creation of the federal enclave, therefore, no longer exist. What remains is the symbolic question of whether the seat of the federal government should be on neutral ground. It is a question that should not be dismissed as insignificant. To the contrary, I personally believe that the seat of the federal government should remain completely federal territory as an important symbol of the equality of all states in the governance of the nation. The actual seat of government, however, is a tiny fraction of the existing federal district.

The Unconstitutionality of H.R. 5388

I believe that the Dinh/Starr analysis is fundamentally flawed and that H.R. 5388 would violate the clear language and meaning of Article I. To evaluate the constitutionality of the legislation, it is useful to follow a classic constitutional interpretation that begins with the text, explores the original meaning of the language, and then considers the implications of the rivaling interpretations for the constitutional system. I believe that this analysis clearly shows that the creation of a vote in the House of Representatives for the District would do great violence to our constitutional traditions and process. To succeed, it would require the abandonment of traditional interpretative doctrines and would allow for future manipulation of one of the most essential and stabilizing components of the Madisonian democracy: the voting rules for the legislative branch.

1. Textual Analysis

Any constitutional analysis necessarily begins with the text of the relevant provision or provisions. In this case, there are two central provisions. The most important textual statement relevant to this debate is found in Article I, Section 2 that states unambiguously that the House of Representatives shall be composed of members chosen ''by the people of the several states.'' As with the Seventeenth Amendment election of the composition of the Senate, the text clearly limits the House to the membership of representatives of the several states. The second provision is the District Clause found in Article I, Section 8 which gives Congress the power to ''exercise exclusive Legislation in all Cases whatsoever, over such District.''

On its face, the reference to ''the people of the several states'' is a clear restriction of the voting membership to actual states. This is evidenced in a long line of cases that exclude District residents from benefits or

rights given to citizens of states under the Constitution.

It has been argued by both Dinh and Starr that the textual clarity in referring to states is immaterial because other provisions with such references have been interpreted as nevertheless encompassing District residents. This argument is illusory in my view. The major cases extending the meaning of states to the District involve an irreconcilable conflict between a literal interpretation of the term ''state'' and the expressed inherent rights of all American citizens under the equal protection clause and other provisions. District citizens remain U.S. citizens, even though they are not state citizens. The creation of the federal district removed one right of citizens—voting in Congress—in exchange for the status conferred by resident in the Capitol City. It was never intended to turn residents into noncitizens with no constitutional rights.

The upshot of these opinions is that a literal interpretation of the word ''states'' would produce facially illogical and unintended consequences. Since residents remain U.S. citizens, they must continue to enjoy those protections accorded to citizens. Otherwise, they could all be enslaved or impaled at the whim of Congress.

2. Original and Historical Meaning

Despite some suggestions to the contrary, the absence of a vote in Congress was clearly understood as a defining element of a federal district. During ratification, various leaders objected to the disenfranchisement of the citizens in the district and even suggested amendments that would have addressed the problem. One such amendment was offered by Alexander Hamilton, who wanted the District residents to be able to secure representation in Congress once they grew to a reasonable size. Neither this nor other such amendments offered in states like North Carolina and Pennsylvania were adopted.

Whatever ambiguity existed over continuing authority of Maryland or Virginia, the disenfranchisement of citizens from votes in Congress was clearly understood. Indeed, not long after the cessation, a retrocession movement began. Members questioned the need to ''keep the people in this degraded situation'' and objected to the subjection of American citizens to ''laws not made with their own consent.'' At the time of the ratification, leaders knew and openly discussed the non-voting status of the District in the clearest and strongest possible language.

This debate in 1804 leaves no question as to the early understanding of the status of the District as a non-state without representational status. Much of this debate followed the same lines of argument that we hear today. While acknowledging that ''citizens may not possess full political rights,'' leaders like John Bacon of Massachusetts noted that they had special status and influence as residents of the Capitol City. Yet, retrocession bills were introduced within a few years of the actual cessation—again prominently citing the lack of any congressional representation as a motivating factor. Indeed, the retrocession of Virginia highlights the original understanding of the status of the District. Virginians contrasted their situation with those residents of Washington. Washingtonians, however, were viewed as compensated for their loss of political representation. As a committee noted in 1835, ''[o]ur situation is essentially different, and far worse, than that of our neighbors on the northern side of the Potomac. They are citizens of the Metropolis, of a great, and noble Republic, and wherever they go, there clusters about them all those glorious associations, connected with the progress and fame of their country. They are in some measure compensated in the loss of their political rights.''

Much is made of the ten-year period during which District residents voted with their original states—before the federal government formally took over control of the District. This, however, was simply a transition period before the District became the federal enclave.

3. Policy Implications

There are considerable risks and problems with this approach to securing a vote in Congress for the District. First, by adopting a liberal interpretation of the meaning of states in Article I, the Congress would be undermining the very bedrock of our constitutional system. The membership and division of Congress was carefully defined by the Framers. The legislative branch is the engine of the Madisonian democracy. It is in these two houses that disparate factional disputes are converted into majoritarian compromises—the defining principle of the Madisonian system. By allowing majorities to manipulate the membership rolls would add a dangerous instability and uncertainty to the system.

Second, if successful, this legislation would allow any majority in Congress to manipulate the voting membership of the House. This is not the only federal enclave and there is great potential for abuse and mischief in the exercise of such authority. Third, while the issue of Senate representation is left largely untouched in the Dinh/Starr analysis, there is no obvious principle that would prevent a majority from expanding its ranks with two new Senate seats for the District. Two Senators and a member of the House would be a considerable level of representation for a non-state with a small population. Yet, this analysis would suggest that such a change could take place without a constitutional amendment.

Finally, H.R. 5388 would only serve to delay true representational status for district residents. On a practical level, this bill would likely extinguish efforts at full representation in both houses. During the pendency of the litigation, it is highly unlikely that additional measures would be considered—delaying reforms by many years. Ultimately, if the legislation is struck down, it would leave the campaign for full representation in shambles.

The Problematic Basis for Awarding an At-Large Seat to Utah

The proposal of awarding an at-large seat to Utah is an admittedly novel question that would raise issues of first impression for the courts. However, I am highly skeptical of the legality of this approach, particularly under the ''one-man, one-vote'' doctrine established in Wesberry v. Sanders, 376 U.S. 1 (1964). This is a question that leads to some fairly metaphysical notions of overlapping representation and citizens with 1.4 representational status. On one level, the addition of an at-large seat would seem to benefit all Utah citizens equally since they would vote for two members. Given the deference to Congress under the ''necessary and proper'' clause, an obvious argument could be made that it does not contravene the ''one man, one vote'' standard.

However, there are various reasons why a federal court would be on good ground to strike down this portion of H.R. 5388. First, while the Supreme Court has not clearly addressed the interstate implications of ''one man, one vote,'' this bill would likely force it to do so. Awarding two representatives to each resident of Utah creates an obvious imbalance vis-a-vis other states. House members are expected to be advocates for this insular constituency. Here, residents of one state could look to two representatives to do their bidding while other citizens would limited to one. Given racial and cultural demographic differences between Utah and other states, this could be challenged as diluting the power of minority groups in Congress.

Second, while interstate groups challenge the increased representation for Utah citizens, the at-large seat could also be challenged by some intrastate groups as diluting their specific voting power. If Utah simply added an additional congressional district, the ratio of citizens to members would be reduced. The additional member would represent a defined group of people who have unique geographical and potentially racial or political characteristics. However, by making the seat at large, these citizens would now have to share two members with a much larger and more diffuse group—particularly in the constituency of the at-large member. It is likely that the member who is elected at large would be different from one who would have to run in a particular district such as a more liberal or diverse section of the Salt Lake City population.

Third, this approach would be used by a future majority of Congress to manipulate voting in Congress and to reduce representation for insular groups. Rather than creating a new district that may lean toward one party or have increased representation of one racial or religious group, Congress could use at-large seats under the theory of this legislation. Moreover, Congress could create new forms of represented districts for overseas Americans or for federal enclaves. The result would be to place Congress on a slippery slope where transient majorities tweak representational divisions for their own advantage.

Finally, while it would be difficult to predict how this plan would fare under a legal challenge, it is certain to be challenged. This creates the likelihood of Congress having at least one member (or two members if you count the District representative) who would continue to vote under a considerable cloud of questioned legitimacy. In close votes, this could produce great uncertainty as to the finality or legitimacy of federal legislation. This is entirely unnecessary. If a new representative is required, it is better to establish a fourth district not just a fourth at-large representative for legal and policy reasons.

A Modified Retrocession Proposal

One hundred and sixty years ago, Congress retroceded land back to Virginia under its Article I authority. Retrocession has always been the most direct way of securing a resumption of voting rights for District residents. Most of the District can be simply returned from whence it came: state of Maryland. The greatest barrier to retrocession has always been more symbolic rather than legal. Replacing Washington, DC with Washington, MD is a conceptual leap that many are simply not willing to make. However, it is the most logical resolution of this problem.

For a number of years, I have advocated the reduction of the District of Columbia to the small area that runs from the Capitol to the Lincoln Memorial. The only residents in this space would be the First Family. The remainder of the current District would then be retroceded to Maryland. However, I have also proposed a three-phase process for retrocession. In the first phase, a political transfer would occur immediately with the District securing a house seat as a Maryland district and residents voting in Maryland statewide elections. In the second phase, incorporation of public services from education to prisons to law enforcement would occur. In the third phase, any tax and revenue incorporation would occur.

These phases would occur over many years with only the first phase occurring immediately upon retrocession. Indeed, I recommend the creation of a three-commissioner body like the one that worked with George Washington in the establishment of the original federal district. These commissioners would recommend and oversee the incorporation process. Moreover, Maryland can agree to continue to treat the District as a special tax or governing zone until incorporation is completed. Indeed, Maryland may chose to allow the District to continue in a special status due to this unique position. The fact is that any incorporation is made easier, not more difficult, by the District's historic independence. Like most cities, it would continue to have its own law enforcement and local governing authority. However, it would also benefit from incorporation into Maryland educational system and other statewide programs related to prisons and other public needs.

In my view, this approach would be unassailable on a legal level and highly efficient on a practical level. I realize that there remains a fixation with the special status of the city, but much of this status would remain. While the city would not technically be the seat of government, it would obviously remain for all practical purposes our Capitol City.

Regardless of what proposal is adopted, I strongly encourage you not to move forward with H.R. 5388. It is an approach that achieves less representation than is deserved for the District by means that asserts more power than is held by the Congress. It is certainly time to right this historical wrong, but, in our constitutional system, it is often more important how we do something than what we do. This is the wrong means to a worthy end. However, it is not the only means and I encourage the members to direct these considerable energies toward a more lasting and complete resolution of the status of the District of Columbia in Congress.

JONATHAN TURLEY,
Shapiro Professor,
George Washington University Law School.

Mr. MCCONNELL. Mr. President, I commend to my fellow Senators the April 3, 1987 U.S. Justice Department Office of Legal Policy Report to the Attorney General entitled ''The Question of Statehood for the District of Columbia.'' I ask unanimous consent that the Executive Summary and section titled ''Proposals for Giving Representation in Congress to the District of Columbia, Voting Member in the House of Representatives'' be printed in the RECORD.

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

EXECUTIVE SUMMARY

Efforts to admit the District of Columbia to the Union as a state should be vigorously opposed. Granting the national capital statehood through statutory means raises numerous troubling constitutional questions. After careful consideration of these issues, we have concluded that an amendment to the Constitution would be required before the District of Columbia may be admitted to the Union as a state. Statehood for the Nation's capital is inconsistent with the language of the Constitution, as well as the intent of its Framers, and would work a basic change in the federal system as it has existed for the past two hundred years. Under our Constitution, power was divided between the states and the federal government in the hope, as Madison wrote, that ''[t]he different governments will control each other,'' thus securing self-government, individual liberty, and the rights of minorities. In order to serve its function in the federal structure a state must be independent of the federal government. However, the District of Columbia is not independent; it is a political and economic dependency of the national government.

At the same time, it is essential that the federal government maintain its independence of the states. If the District of Columbia were now admitted to statehood, it would not be one state among many. Because it is the national capital, the District would be primus inter pares, first among equals. The ''State of Columbia . . . could come perilously close to being the state whose sole business is to govern, to control all the other states. It would be the imperial state; it would be 'Rome on the Potomac.''' It was this very dilemma that prompted the Founders to establish the federal capital in a district located outside of the borders of any one of the states, under the exclusive jurisdiction of Congress. Their reasons for creating the District are still valid and militate against granting it statehood.

Many have recognized the fundamental flaws in plans to grant the District of Columbia statehood. For instance, while testifying in support of the proposed 1978 District amendment, which would have treated the District of Columbia ''as if it were a State'' for purposes of national elections, Senator Edward Kennedy dismissed what he called ''the statehood fallacy,'' and stated that, ''[t]he District is neither a city nor a State. In fact, statehood may well be an impossible alternative, given the practical and constitutional questions involved in changing the historical status of the Nation's Capital.'' A pamphlet entitled ''Democracy Denied'' circulated in support of the 1978 amendment, and fully endorsed by District Delegate Walter E. Fauntroy, plainly acknowledged that granting statehood to the District of Columbia ''would defeat the purpose of having a federal city, i.e., the creation of a district over which the Congress would have exclusive control.'' That pamphlet also recognized that statehood ''presents a troublesome problem with the 23rd Amendment if the federal district were to be wiped out by legislation.'' Indeed, Delegate Fauntroy has opposed statehood for the District in the past, correctly pointing out that ''this would be in direct defiance of the prescriptions of the Founding Fathers.'' As former Senator Mathias of Maryland stated, ''[i]t is not a State . . . it should not be a State.''

These points are well taken. The factors that mitigated against statehood for the District of Columbia in 1978 have not changed. The rejection of the District voting rights constitutional amendment by the states does not make statehood any more desirable, or any less constitutionally suspect, today than it was a decade ago. Granting statehood to the District of Columbia would defeat the purpose of having a federal city, would be in direct defiance of the intent of the Founders, and would require an amendment to the Constitution.

I. NEED FOR AN AMENDMENT TO THE CONSTITUTION BEFORE THE DISTRICT OF COLUMBIA MAY BE ADMITTED TO THE UNION AS A STATE

Even if statehood for the District of Columbia represented sound policy, we do not believe that it can be accomplished merely by a statute admitting the District to the Union. The Constitution contemplates a federal district as the seat of the general government, and would have to be amended. The Department of Justice has long taken this position. In 1978, Assistant Attorney General John M. Hannon concluded on behalf of the Carter Administration that, ''it was the intent of the Framers that the actual seat of the Federal Government, as opposed to its other installations, be outside any State and independent of the cooperation and consent of the State authorities . . . . If these reasons have lost validity, the appropriate response would be to provide statehood for the District by constitutional amendment rather than to ignore the Framers' intentions.''

The retention of federal authority over a truncated, federal service area would not answer this constitutional objection. The language of the Constitution grants Congress exclusive authority over the district that became the seat of government, not merely over the seat of the government. The district that became the seat of government is the District of Columbia. It does not appear that Congress may, consistent with the language of the Constitution, abandon its exclusive authority over any part of the District.

Further, the Twenty-third Amendment requires that ''[t]he District constituting the seat of Government of the United States'' appoint electors to participate in the Electoral College. The amendment was proposed, drafted and ratified with reference to the District of Columbia. When the states adopted this amendment, they confirmed the understanding that the District is a unique juridical entity with permanent status under the Constitution. Another amendment would be necessary to remake this entity.

Finally, we believe that Congress' ability to admit the District of Columbia into the Union as a new state would depend upon the consent of the legislature of the original ceding state. Article IV, section 3 of the Constitution provides that: ''no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the legislatures of the States concerned as well as of the Congress.'' Accordingly, the consent of Maryland would be necessary before the District of Columbia could be admitted to the Union. Should Maryland refuse to consent, the area that is now the District of Columbia could not be made a state without amendment of Article IV, section 3.

Thus, before the District of Columbia may be admitted to the Union as a state, the Constitution would have to be amended. Such an amendment, however, would be unwise.

II. THE SOUND HISTORICAL REASONS FOR A FEDERAL DISTRICT STILL OPERATE TODAY

In the Founders' view, a federal enclave where Congress could exercise complete authority, insulating itself from insult and securing its deliberations from interruption, was an ''indispensible necessity.'' They settled upon the device of a federal district as the means by which the federal government might remain independent of the influence of any single state, to avoid, in the words of Virginia's George Mason, ''a provincial tincture to ye Natl. deliberations.''

The passing years have, if anything, increased the need for ultimate congressional control of the federal city. The District is an integral part of the operations of the nation's government, which depends upon a much more complex array of services, utilities, transportation facilities, and communication networks than it did at the Founding. If the District were to become a state, its financial problems, labor troubles, and other concerns would still affect the federal government's operations. Congress, however, would be deprived of a direct, controlling voice in the resolution of such problems. In a very real sense, the federal government would be dependent upon the State of Columbia for its day to day existence.

The retention of congressional authority over a much reduced federal enclave would not solve this problem. The Founder's contemplated more than a cluster of buildings, however grand, and their surrounding parks and gardens as the national capital. The creation of a new ''federal town'' was intended, in large part so that Congress could independently control the basic services necessary to the operation of the federal government. As former Senator Birch Bayh pointed out in 1978, ''when our Founding Fathers established this as a capital city . . . they did not just establish a place that should be the Federal city and say this is where the Federal buildings are. But they envisioned this as a viable city, a capital city with people who work, have businesses, and have transportation lines, and homes. The essential establishment of the Nation's Capital was not an establishment of the Nation's Federal buildings but the Nation's city.''

Further, there remain virtually insurmountable practical problems with District statehood. The operations of the federal government sprawl over the District. As a result, the new ''state'' would be honeycombed with federal installations, its territory fragmented by competing jurisdictions. As Assistant Attorney General Patricia Wald asked while testifying on behalf of the Carter Administration, regarding the proposed 1978 District amendment, ''[w]ould the remaining non-Federal. area constitute in any real sense a geographically homogeneous entity that justifies statehood?'' It was for these very reasons that former Mayor Washington expressed doubts about statehood for the District. In 1975 he commented that the city of Washington is ''so physically, and economically and socially bound together that I would have problems with statehood in terms of exacting from it some enclaves, or little enclaves all around the city. Ultimately, it seems to me, that would erode the very fabric of the city itself, and the viability of the city.''

Finally, in a very real sense the District belongs not only to those who reside within its borders, but to the Nation as a whole. In opposing statehood for the District in 1978, Senator Bayh, an otherwise ardent proponent of direct District participation in congressional elections, eloquently summed up the objection: ''I guess as a Senator from Indiana I hate to see us taking the Nation's Capital from [5,000,000] Hoosiers. It is part ours. I do not see why the District should be a State because it is, indeed, the Nation's Capital.''

III. THE DISTRICT OF COLUMBIA IS NOT INDEPENDENT OF THE FEDERAL GOVERNMENT

A. Dependence on the Federal Establishment

The states of the American Union are more than merely geographic entities: Each is what has been termed ''a proper Madisonian society''—a society composed of a ''diversity of interests and financial independence.'' It is this diversity which guards the liberty of the individual and the rights of minorities. As Madison wrote, ''the security for civil rights . . . consists in the multiplicity of interests . . . The degree of security . . . will depend on the number of interests . . . and this may be presumed to depend on the extent of country and number of people comprehended under the same government.''

The District of Columbia lacks this essential political requisite for statehood. It has only one significant ''industry,'' government. As a result, the District has one monolithic interest group, those who work for, provide services to, or otherwise deal with, the federal government. The national government was, historically, the city's only reason for being. Close to two-thirds of the District's workforce is employed either directly or indirectly in the business of the federal government. Indeed, in 1982 the District government maintained that, in the Washington Metropolitan area, for every federal worker laid off as a result of government reductions in force, one person would be thrown out of work in the private sector.

The implications of this monolithic interest are far reaching. For instance, the Supreme Court, in Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985), has recently decided that the delicate balance between federal and state power is to be guarded primarily by the intrinsic role the states play in the structure of the national government and the political process. The congressional delegation from the District of Columbia, however, would have little interest in preserving the balance between federal and state authority entrusted to it by Garcia. The continued centralization of power in the hands of the national government would, in fact, be to the direct benefit of ''Columbia'' and its residents. Hence; the system of competing sovereignties-designed to preserve our fundamental liberties would be compromised.

B. Economic Dependence

In addition to political independence and diversity, a state must have ''sufficient population and resources to support a state government and to provide its share of the cost of the Federal Government.'' The District of Columbia simply lacks the resources both to support a state government and to provide its fair share of the cost of the federal government. The District is a federal dependency. Annually, in addition to all other federal aid programs, it receives a direct payment from the federal treasury of a half billion dollars; some $522 million was budgeted for the District in Fiscal 1987, $445 million to be paid directly to the District's local government. All in all, District residents outstrip the residents of the states in per capita federal aid by a wide margin. For instance, in 1983 the District received $2,177 per capita in federal aid, some five and one-half times the national average of $384.

Not surprisingly, Washington Mayor Marion Barry has plainly stated that the District would still ''require the support of the Federal Government'' if statehood were granted. The continuation of federal support is ordinarily justified because of the percentage of federal land in the District of Columbia that cannot be taxed by the local government. However, the federal government owns a greater percentage of the land area of 10 states, each of which bears the full burdens of statehood without the sort of massive federal support annually received by the District of Columbia. If the District aspires to statehood, it must be prepared to stand as an equal with the other states in its fiscal affairs.

CONCLUSION

The District of Columbia should not be granted statehood. In our considered opinion, an amendment to the Constitution would be needed before the District could be admitted as a state, and in any case, the reasons that led the Founder's to establish the national capital in a district outside the borders of any state are still valid. The District's special status is an integral part of our system of federalism, which itself was a compromise between pure democracy and the need to secure individual liberties and minority rights. The residents of the District enjoy all of the rights of other citizens, save the right to vote in congressional elections. They exchanged this right, as Mr. Justice Story wrote, for the benefits of living in the ''metropolis of a great and noble republic.'' Instead, ''their rights [are] under the immediate protection of the representatives of the whole Union.'' This was the price of the national capital, and District residents have enjoyed the fruits of this bargain for almost two centuries.

III. PROPOSALS FOR GIVING REPRESENTATION IN CONGRESS TO THE DISTRICT OF COLUMBIA

The numerous schemes proposed over the last two hundred years to give the residents of the federal district some sort of direct voting representation in Congress may be distilled into five basic proposals: (1) legislation to allow the District a voting member in the House of Representatives alone; (2) retrocession of the District of Columbia to Maryland, retaining a truncated federal district; (3) allowing District residents to vote as residents of Maryland in national elections; (4) an amendment to the Constitution to give the District full representation in both House and Senate as if it were a state; and (5) full statehood. None of these proposals offers a sound policy solution, and several appear to be fatally flawed when exposed to constitutional scrutiny.

A. Voting Member in the House of Representatives

From time to time it has'' been suggested that the District be granted, by simple legislation, a voting member in the House of Representatives. This proposal, however, runs into significant constitutional difficulties.

Those sections of the Constitution which define the political structure of the federal government speak uniformly in terms of the states and their citizens. Article I, section 2 provides that, ''[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States . . . . No person shall be a Representative . . . who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.'' Article I, section 3 provides that, ''[t]he Senate of the United States shall be composed of two Senators from each State . . . . No Person shall be a Senator. . . . who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.'' With respect to the election of the President, Article II, section 1 provides that, ''[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.'' The Seventeenth Amendment directs that ''[t]he Senate of the United States shall be composed of two Senators from each State, elected by the people thereof.'' In short, ''[d]irect representation in the Congress by a voting member has never been a right of United States citizenship. Instead, the right to be so represented has been a right of the citizens of the States.''

The word ''state'' as used in Article I may not be interpreted to include the District of Columbia, even though as a ''distinct political society'' it might qualify under a more general definition of that term. Consistent with the intent of the Framers, such arguments were properly dismissed long ago by Chief Justice Marshall in Hepburn v. Ellzey. In that case, plaintiffs, residents of the District, claimed that they were citizens of a state for purposes of diversity jurisdiction in the federal courts. The Court rejected this position. Marshall reasoned that Congress had adopted the definition of ''state'' as found in the Constitution in the act providing for diversity jurisdiction, and that the capital could not be considered such a ''state''. Citing Article I, sections 2 and 3, and Article II, section 1, he concluded that ''the members of the American confederacy only are the states contemplated.'' ''These clauses show that the word state is used in the constitution as designating a member of

the union, and excludes from the term the significance attached to it by writers on the law of nations.'' Congress, to be sure, has often treated the District of Columbia as a state for purposes of statutory benefit programs. It is customarily included in the major federal grant programs by the well-worn phrase ''for purposes of this legislation, the term 'State' shall include the District of Columbia.'' The courts, also, have occasionally interpreted the word ''state'' to include the District of Columbia. However, the District has never been automatically included under the term ''state'' even in federal statutes. In District of Columbia v. Carter, the Supreme Court held that it was not a ''State or Territory'' under 42 U.S.C. §1983, which creates a federal cause of action for civil rights violations under color of state law. Under the test articulated by Justice Brennan in that case, ''[w]hether the District of Columbia constitutes a ''State or Territory'' within the meaning of any particular statutory or constitutional provision depends upon the character and aim of the specific provision involved.'' In any event, allowing the District to participate on an equal footing with the states in federal statutory programs is different in kind from reading the language of the Constitution itself in such a way as to allow alteration of the very composition of the Congress by legislative fiat.

The Constitutional mandate is clear. Only United States citizens who are also citizens of a state are entitled to elect members of Congress. This is hardly a novel proposition. There are many different levels of rights recognized in our system. Aliens, for instance, enjoy certain basic rights, including the benefit of the Equal Protection Clause but are not citizens of the United States and have no vote. The residents of United States possessions overseas also enjoy the protection of the Constitution, but may not vote in federal elections. Many of them are United States citizens—the residents of Puerto Rico and Guam, for instance, fit this category. Like the residents of the District of Columbia, American citizens who are not also citizens of a state do not participate in congressional elections, and they never have enjoyed such participation. The residents of the District of Columbia may not participate directly in congressional elections without becoming citizens of a state, or without an amendment to the Constitution.

Mr. MCCONNELL. Mr. President, a few weeks ago, I had the honor of raising my right hand and reciting a solemn oath required by the Constitution itself. According to that oath, the first and last duty of a U.S. Senator is to support and defend the U.S. Constitution. By opposing the legislation before us, I believe I am doing both.

The Constitution is short because its authors wanted to be clear, and on the issue of congressional representation they could not have been more so. According to Article I, Section II, only States elect Members of Congress. And, according to the same article, the seat of the Federal Government is not to be considered a State. So the question before us is not whether the Framers meant for the seat of Government to have representation in Congress. They clearly did not. Rather, the question before us is why they didn't want the seat of Government to have representation. And, as a follow-up: What recourse did they leave those who might want to revise what they had written.

In answer to the first question, the Framers opposed statehood for a number of good reasons. First, they didn't want the Federal Government to be beholden to a single State, a situation that would of course unfairly benefit the residents of that State, either materially or through added prestige, at the expense of all the other States. Second, they wanted the Federal Government to have the freedom to relocate if the need arose.

This was not an easy issue for the Framers. But the plain text of the Constitution leaves no doubt as to how they came down on the question: In the end, they decided the interests of the whole were best served by carving out a Federal district that stood apart from the States. This way Federal officials would be able to protect the interests of the whole and give the Federal Government the freedom it would need to operate with complete independence and freedom of movement.

Clearly, not everyone is satisfied with the result. But there should be no doubt about what the words of the Constitution says—not just on the day it was ratified, but throughout our history.

The 23rd amendment, for instance, gave Washington, DC the same number of electoral votes that it would receive as ''if it were a state.'' What this means, of course, is that at the time this amendment was ratified in 1961, no one was under the illusion that DC was a State—or that it should be treated as one, short of a constitutional amendment.

Clearly, the Framers recognized the deficiencies of the final product. In creating a Federal district, they knew permanent residents of that district would lack representation in Congress. And this is why they left us a remedy within the Constitution itself. If and when the ''People of the United States'' wished to revise the U.S. Constitution, they could do so by amending it, just as they did in 1961.

The process of amendment is clearly outlined in article V, and it has served the American people well for more than two centuries. Over the years, we have amended our founding document 27 times. From eradicating slavery, to securing the right to vote for women, to putting a limit on the years a President can serve in office, the people of the United States have used the amendment process as the way to secure or expand rights.

So the surest way to honor the aspirations of DC residents is to pursue a remedy which respects the Constitution. One way is through a constitutional amendment that uses the same language as the bill before us. Another would be to allow the residents of the District to vote as if they were residents of a bordering State, or even to declare them residents of a bordering State.

As the Senate's greatest student and fiercest living guardian of the Constitution, the senior Senator from West Virginia, said just last year on the Senate floor:

If we wish to grant representatives of the citizens of the District of Columbia full voting rights, ''let us do so, once again, the proper way, by passing a resolution to amend the Constitution consistent with its own terms.''

The bottom line is this: Any proposal to secure the right to vote must honor the Constitution, which Lincoln called the ''only safeguard of our liberties.'' Anything less would violate the oath we have sworn to uphold, and would guarantee a challenge in the courts that would only further prolong this debate.

The better way is the surer way—and that's the constitutional way.

I will oppose this proposal. I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, in a few moments the Senator from California, Senator FEINSTEIN, is scheduled to be here to speak on the Ensign amendment and I will yield to her to vote at 3:45. But I say we are coming to a pivotal moment in a march that has gone on for years and years now. In some sense it goes back more than two centuries when—for reasons that are hard for historians let alone Senators to fathom, the District was established as a National Capital, separated from the State to which it had been attached before—an omission was made that was grave and inconsistent with the founding principles of this country. The residents of this National Capital of the greatest democracy of the world were left without a Representative here in Congress who could vote. In a government premised on the consent of the governed, the 600,000 residents of the District today do not have a voting Representative here in Congress.

If you step back, it is actually unbelievable. No one has argued that this is somehow a just result. The fact is that it is patently unjust and un-American, in the sense of a violation of the best principles of this country, of freedom, of democracy, of the Republic based on the votes of the people. So the argument against the proposal that has come out of the committee that I am privileged to chair, that enjoys bipartisan support, is nonetheless that this is not quite the right way to do it.

I understand those who have argued against our proposal have said that the Constitution does not allow us to do it quite this way; that it requires a constitutional amendment. The effect of this I think is to say to the residents of the District: Wait a little while longer. It has only been a couple of hundred years that you have been denied a voting Representative.

That is not fair. In fact, the preponderance of constitutional opinion is that the so-called District clause occupies the field and gives us the opportunity to right this historic wrong. Over and over again, notwithstanding the clause my colleagues rely on which says that the House shall be composed of Members chosen by the people of the

several States—they emphasize States—yet in decision after decision the Supreme Court of the United States has said that the District should be considered as a State or else its citizens will be denied equal protection; due process as a State for purposes of the interstate commerce clause; as I stated, for the purposes of diversity of jurisdiction, the opportunity for people to gain access to Federal courts for the right of trial by jury. So the Supreme Court of the United States has made very clear that the District, even when the Constitution refers to States, should be considered as a State. There may be a constitutional argument on the other side; I do not think it is a compelling argument. But if you accept the injustice of the status quo for the residents of the District, an unacceptable injustice that is an embarrassment to this great democracy of ours, then even if you think what S. 160 does is not constitutional, vote to end the injustice because the proposal, S. 160 itself, provides for expedited appeal to the court to determine the constitutionality.

After all, there is always debate. No one knowingly votes for something they think is unconstitutional. Yet there are so many times when we have to acknowledge, as powerful as this great deliberative body is, we are not the ultimate arbiter of constitutionality. That privilege, that power, was given by the Constitution to the judicial branch of our Government.

So I hope, my friends, as we draw close to the hour of decision, that my colleagues, whatever their conclusion about the constitutionality is, will vote to end the injustice imposed on residents of the District. I have always believed America is many things, but in this sense, is a journey. It is a journey historically to realize the extraordinary revolutionary principles adopted in our Declaration of Independence and Constitution that have been followed by so many other countries since the great statement in the Declaration of Independence, those self-evident truths, that all of us are created equal; we are endowed by our creator with these inalienable rights to life and liberty and the pursuit of happiness.

The Constitution enshrines a system of representative government, a great republic, government by the consent of the governed. But we must acknowledge that at the outset of our history, as lofty as the principles were embraced and expressed in the Deceleration and the Constitution, they were not fully realized at the outset of our history. People of color, African Americans, were not only denied the rights of citizenship but were only counted three-fifths the equal of Whites. Women did not have the right to vote. Many men did not have the right to vote because the vote in most States was limited to those who owned land.

So over our history, we have been on this extraordinary journey to realize, generation after generation, the ideals stated by our Founders. Of course, in many cases it took too long, but here we are in a country where voting, at least, has been extended fully to most people in our country—the right to vote, the right to have voting representation in Congress. Yet there is this growth remaining; 600,000 of our fellow Americans get taxed, get called to war, get regulated and supervised and everything else, and yet have no say here with a vote by a Representative in the House of Representatives. That is what this bill would do.

It is not a small step, it is a significant, historic step forward on the journey to realize the best principles of this great Republic. When the time comes, I hope and believe our colleagues in both parties will finally right this wrong and extend voting representation in the House to residents of the District.

I am pleased to see the Senator from California on the Senate floor, and I would yield to her at this time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the manager of the bill. I rise today to speak in strong opposition to amendment No. 575 offered by Senator ENSIGN.

I believe the amendment is reckless. I believe it is irresponsible. I believe it will lead to more weapons and more violence on the streets of our Nation's Capital. It will endanger the citizens of the District, the Government employees who work here, our elected officials, and those who visit this great American Capitol. And, of course, if successful, it will be the first new step in a march to remove all commonsense gun regulations all over this land.

The Ensign amendment repeals gun laws promoting public safety, including DC laws that the U.S. Supreme Court indicated were permissible under the second amendment in the Heller decision. I strongly disagree with the Supreme Court decision in Heller that the second amendment gives individuals a right to possess weapons for private purposes not related to State militias, and that the Constitution does not permit a general ban on handguns in the home. But that is the law. It has been adjudicated. It has gone up to the highest Court, and I am one who believes if we do not like the law, we should try to make changes through the proper legal channels.

However, it is important to note that Heller also stands for the proposition that reasonable, commonsense gun regulations are entirely permissible. As the author of the original assault weapons ban that was enacted in 1994, I know commonsense gun regulations do make our communities safer, while at the same time respecting the rights of sportsmen and others to keep and bear arms.

Justice Scalia wrote in the majority opinion on the Heller case that a wide variety of gun laws are ''presumptively lawful,'' including the laws ''forbidding the carrying of firearms in sensitive places'' and regulations governing ''the conditions and qualifications of the commercial sale of arms.''

I cannot think of any place more sensitive than the District of Columbia. Even bans on ''dangerous and unusual weapons'' are completely appropriate under the Heller decision. So it is interesting to me that you have this decision, and then you have the Senate moving even to obliterate what is allowable under the decision.

Senator ENSIGN's amendment completely ignores Heller's language and takes the approach that all guns for all people at all times is called for by Heller. It is not.

We have all seen the tragic consequences of gun violence: the massacre of students at Virginia Tech University in 2007, the murders at Columbine High School in Colorado, the North Hollywood shootout where bank robbers carrying automatic weapons and shooting armor-piercing bullets shot 10 Los Angeles Police Department SWAT officers and seven civilians before being stopped.

We have seen criminal street gangs able to buy weapons at gun shows and out of the back seats or the trunks of automobiles. We have seen their bullets kill hundreds, if not thousands of people across this great land, men, women, and children.

As Senator SCHUMER said, if this amendment becomes law, even if you cannot see, even if you cannot pass a sight test, you can have access to firearms. That is not what this Nation should encourage. Those incidents and the gun violence that occurs every day across this country show us that we should be doing more, not less, to keep guns out of the hands of criminals and the mentally ill and not give them unfettered access to firearms.

It is worth noting just how far this amendment goes in repealing DC law and just how unsafe it will make the streets of this capital. Here is what it would do: It would repeal DC's ban on semiautomatic weapons, including assault weapons.

If this amendment becomes law, military-style assault weapons with high-capacity magazines will be allowed to be stockpiled in homes and businesses in the District, even near Federal buildings such as the White House and the Capitol. Even the .50 caliber sniper rifle, with a range of over 1 mile, will be allowed in DC under this amendment. This is a weapon capable of firing rounds that can penetrate concrete and armor plating. And at least one model of the .50 caliber sniper rifle is easily concealed and transported. One gun manufacturer describes this model as a ''lightweight and tactical'' weapon and capable of being collapsed and carried in ''a very small inconspicuous package.''

Is this what we want to do? There is simply no good reason anyone needs semiautomatic, military-style assault weapons in an urban community. It is

unfathomable to me that the same high-powered sniper rifle used by our Armed Forces will be permitted in the Nation's Capitol. Yet this is exactly what the amendment would allow if passed by the Senate.

Next, the amendment would repeal existing Federal antigun trafficking laws. For years, Federal law has banned gun dealers from selling handguns directly to out-of-State buyers who are not licensed firearms dealers. This has helped substantially in the fight against illegal interstate gun trafficking, and it has prevented criminals from traveling to other States to buy guns.

Senator ENSIGN's amendment repeals this longstanding Federal law and allows DC residents to cross State lines to buy handguns in neighboring States. Illegal gun traffickers will be able to easily obtain large quantities of firearms outside of DC and then distribute those guns to criminals in DC and in surrounding States.

And no one should be so naive as to say that this amendment will not do this. It will. The amendment repeals DC law restricting the ability of dangerous and unqualified people to obtain guns. The amendment also repeals many of the gun regulations that the Supreme Court said were completely appropriate after Heller.

So all of those who will vote for this amendment should not do so thinking they are just complying with the Heller decision. This is part of a march forward by gun lobby interests in this country to begin to remove all commonsense regulations, and no one should think it is anything else.

This would repeal the DC prohibition on persons under the age of 21 from possessing firearms, and it repeals all age limits for the possession of long guns, including assault weapons.

Do we really want that? I think of the story of an 11-year-old who had a reduced barreled shotgun and just recently killed somebody with it. Is this what we want to see all over this country, the ability of virtually anyone to obtain a firearm regardless of their age? I don't think so.

The amendment even repeals the DC law prohibiting gun possession by people who have poor vision. I heard Senator SCHUMER speak about this yesterday afternoon. Unbelievably, under this amendment, the District would be barred from having any vision requirement for gun use, even if someone is blind. Is this the kind of public policy we want to make for our Nation? Is this how co-opted this body is to the National Rifle Association and others? I hope not.

The amendment before the Senate repeals all firearm registration requirements in the District, making it even more difficult for law enforcement to trace guns used in crimes and track down the registered owner. The amendment repeals all existing safe-storage laws and prohibits the District from enacting any additional safe-storage laws.

After the Heller decision, the District passed emergency legislation to allow guns to be unlocked for self-defense, but requiring that they otherwise be kept locked to keep guns out of the hands of children and criminals. We all ought to want that.

The Ensign amendment repeals even this modest limitation and prevents the District of Columbia City Council from enacting any law that discourages, whatever that means, gun ownership or requiring the safe storage of firearms. How can we, in the Capitol of the United States where we have had so many tragic events, possibly do this? This is simply ridiculous and goes well beyond the Supreme Court's ruling in Heller.

Think about what this means. Consider that every major gun manufacturer recommends that guns be kept unloaded, locked, and kept in a safe place. Under this amendment, the District could not enact any legislation requiring that guns be stored in a safe place, even in homes with children. How can anyone believe this broad-brush amendment is the right thing to do? How can any of us believe it provides protection for the people we represent?

Let me make one other point. The American people clearly do not agree with this amendment. Last fall, when a virtually identical bill was being considered in the House of Representatives, a national poll found that 69 percent of Americans opposed Congress passing a law to eliminate the District's gun laws, 69 percent. That is about as good as we get on any controversial issue. Additionally, 60 percent of Americans believe Washington will become less safe if Congress takes this step.

Is this what we want? Do we want the Capitol of the United States to become less safe? I don't think so. Today, if this amendment passes in the Senate, it will be directly against the wishes of the American people. It will not pass because it is good public policy, it will only be passed to placate the National Rifle Association. I say for shame.

As a former mayor who saw firsthand what happens when guns fall into the hands of criminals, juveniles, and the mentally ill, I believe this amendment places the families of the District of Columbia in great jeopardy. The amendment puts innocent lives at stake. It is an affront to the public safety of the District. It is an affront to local home rule. This isn't just a bad amendment; it is a very dangerous one. I very strongly urge Senators to join me in opposing it.

Mr. President, when this bill was tried in the House a year ago, a poll was done nationally in which 69 percent of the people were against it. I have to believe a dominant majority would still be against it. I urge a no vote on the amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 2 minutes.

Mr. ENSIGN. Mr. President, I wish to clear up a couple of misstatements made by the other side. First, they said that somebody who is mentally ill could get a gun under this provision. That is not the case. We basically take the Federal definition which does not allow people who are mentally ill to get guns because reasonable background checks can be required and should be required so that somebody who is mentally ill won't get a gun. We don't want to see a Virginia Tech type of a situation happen again. This amendment does not allow it.

The bottom line is, the District of Columbia has the highest murder rate. It has had the highest murder rate, and that rate has gone up as the District has enacted stricter and stricter gun control laws. As the Senator from California said, we want to protect citizens. Shouldn't we do what other places have done and allow law-abiding citizens to actually own guns? That is what the amendment provides. It says: Let's protect the second amendment rights for law-abiding District of Columbia residents so they can protect themselves against intruders coming into their homes.

Criminals are going to get their guns. We know that. Criminals get their guns in DC and around the country. They do it through the black market. In DC, they can go right across the border and get a gun pretty easily. We want to make sure that law-abiding citizens are able to get guns and to protect themselves. That is the basis for this amendment, to say: Let's uphold the Supreme Court. Let's make sure we protect the second amendment rights of citizens in the District of Columbia. We are exercising our constitutional duty both with oversight over the District of Columbia and by protecting the second amendment rights of our citizens.

I urge a yea vote on the amendment.

The PRESIDING OFFICER. All time has expired.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, Senator REID wishes to speak for 2 minutes before the vote. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENSIGN. I ask for the yeas and nays on amendment No. 575.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the vote commence upon completion of my statement.

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

Mr. REID. Mr. President, we have had a good debate on this bill. It has gone on all week. I thank my colleagues on both sides of the aisle for a very productive, intelligent conversation. The Senate today is moving to right a century's-old wrong. It is inexcusable and indefensible that nearly 600,000 people who live in the District of Columbia don't enjoy a voice in Congress as do other American citizens. We are the only democracy in the world that denies citizens of its capital—our capital, Washington, DC—the right to vote in a national legislature in any way. Residents of Washington, DC pay taxes. They sit on juries. They serve bravely in the armed services. Yet they are provided only a delegate in Congress who is not permitted to vote. This injustice has stood for far too long. Shadow representation is shadow citizenship and is offensive to our democracy.

I hope the bill will pass today. It is a bill that is fair, bipartisan, and long overdue. If we can send American soldiers to fight for democracy around the world and ensure citizens of other nations that they have a right to vote, the least we can do is give the same opportunity to fellow Americans in the shadow of this great Capitol. We will shortly vote on a bill that honors the residents of the District who responsibly meet every single expectation of American citizenship but are denied one of the most basic civil rights in return.

I commend Chairman LIEBERMAN, who has taken leadership on this issue for no reason or agenda other than he believes it is right to do this.

I urge all Senators to vote for this measure.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 575, offered by the Senator from Nevada, Mr. ENSIGN. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—62

Alexander	DeMint	McConnell
Barrasso	Dorgan	Murkowski
Baucus	Ensign	Nelson (NE)
Bayh	Enzi	Pryor
Begich	Feingold	Reid
Bennet	Graham	Risch
Bennett	Grassley	Roberts
Bond	Gregg	Sessions
Brownback	Hagan	Shelby
Bunning	Hatch	Snowe
Burr	Hutchison	Specter
Byrd	Inhofe	Tester
Casey	Isakson	Thune
Chambliss	Johanns	Udall (CO)
Coburn	Johnson	Udall (NM)
Cochran	Kyl	Vitter
Collins	Landrieu	Voinovich
Conrad	Lincoln	Warner
Corker	Martinez	Webb
Cornyn	McCain	Wicker
Crapo	McCaskill	

NAYS—36

Akaka	Harkin	Merkley
Bingaman	Inouye	Mikulski
Boxer	Kaufman	Murray
Brown	Kerry	Nelson (FL)
Burris	Klobuchar	Reed
Cantwell	Kohl	Rockefeller
Cardin	Lautenberg	Sanders
Carper	Leahy	Schumer
Dodd	Levin	Shaheen
Durbin	Lieberman	Stabenow
Feinstein	Lugar	Whitehouse
Gillibrand	Menendez	Wyden

NOT VOTING—1

Kennedy

The amendment (No. 575) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, this will be the last vote this week. We hope to be able to get to the omnibus on Monday. We are going to be on the omnibus one way or the other on Monday. I will file cloture on the matter if I have to, but I think we are going to move to that Monday. We have a lot of work to do. The CR expires on Friday. I have had conversations today with the Republican leader. We both understand the urgency of trying to get this done. We are going to try to have as many amendments as time will allow. People should be here ready to move on this bill as soon as we are able to get to it. I have already heard from a couple of Senators who have amendments ready to go. What we will try to do is alternate sides on amendments and hopefully finish it on Thursday. Next Friday is supposed to be a nonvoting day. We hope we can keep it that way, but this is an important piece of legislation we must complete.

This is the last vote for the day.

The PRESIDING OFFICER. The substitute amendment, as amended, is agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—61

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

NAYS—37

Alexander	Cornyn	Martinez
Barrasso	Crapo	McCain
Baucus	DeMint	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Byrd	Hutchison	Thune
Chambliss	Inhofe	Vitter
Coburn	Isakson	Wicker
Cochran	Johanns	
Corker	Kyl	

NOT VOTING—1

Kennedy

The bill (S. 160), as amended, was passed, as follows:

S. 160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2009

SECTION 1. SHORT TITLE.

This Act may be cited as the ''District of Columbia House Voting Rights Act of 2009''.

SEC. 2. TREATMENT OF DISTRICT OF COLUMBIA AS CONGRESSIONAL DISTRICT.

(a) CONGRESSIONAL DISTRICT AND NO SENATE REPRESENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the District of Columbia shall be considered a congressional district for purposes of representation in the House of Representatives.

(2) NO REPRESENTATION PROVIDED IN SENATE.—The District of Columbia shall not be considered a State for purposes of representation in the United States Senate.

(b) CONFORMING AMENDMENTS RELATING TO APPORTIONMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.—

(1) INCLUSION OF SINGLE DISTRICT OF COLUMBIA MEMBER IN REAPPORTIONMENT OF MEMBERS AMONG STATES.—Section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), is

amended by adding at the end the following new subsection:

''(d) This section shall apply with respect to the District of Columbia in the same manner as this section applies to a State, except that the District of Columbia may not receive more than one Member under any reapportionment of Members.''.

(2) CLARIFICATION OF DETERMINATION OF NUMBER OF PRESIDENTIAL ELECTORS ON BASIS OF 23RD AMENDMENT.—Section 3 of title 3, United States Code, is amended by striking ''come into office;'' and inserting ''come into office (subject to the twenty-third article of amendment to the Constitution of the United States in the case of the District of Columbia);''.

SEC. 3. INCREASE IN MEMBERSHIP OF HOUSE OF REPRESENTATIVES.

(a) PERMANENT INCREASE IN NUMBER OF MEMBERS.—Effective with respect to the 112th Congress, or the first Congress sworn in after the implementation of this Act, and each succeeding Congress, the House of Representatives shall be composed of 437 Members, including the Member representing the District of Columbia pursuant to section 2(a).

(b) REAPPORTIONMENT OF MEMBERS RESULTING FROM INCREASE.—

(1) IN GENERAL.—Section 22(a) of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a(a)), is amended by striking ''the then existing number of Representatives'' and inserting ''the number of Representatives established with respect to the 112th Congress, or the first Congress sworn in after implementation of the District of Columbia House Voting Rights Act of 2009''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the regular decennial census conducted for 2010 and each subsequent regular decennial census.

(c) TRANSMITTAL OF REVISED APPORTIONMENT INFORMATION BY PRESIDENT.—

(1) STATEMENT OF APPORTIONMENT BY PRESIDENT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress a revised version of the most recent statement of apportionment submitted under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), to take into account this Act and the amendments made by this Act. The statement shall reflect that the District of Columbia is entitled to one Representative and shall identify the other State entitled to one representative under this section. Pursuant to section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, and the regular decennial census conducted for 2000, the State entitled to the one additional representative is Utah.

(2) REPORT BY CLERK.—Not later than 15 calendar days after receiving the revised version of the statement of apportionment under paragraph (1), the Clerk of the House of Representatives shall submit a report to the Speaker of the House of Representatives indicating that the District of Columbia is entitled to one Representative and identifying the State which is entitled to one additional Representative pursuant to this section. Pursuant to section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, and the regular decennial census conducted for 2000, the State entitled to the one additional representative is Utah.

(3) ADDITIONAL STATEMENTS AND REPORTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and following the revised statement of apportionment and subsequent report under paragraphs (1) and (2), the Statement of Apportionment by the President and subsequent reports by the Clerk of the House of Representatives shall continue to be issued at the intervals and pursuant to the methodology specified under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act.

(B) FAILURE TO COMPLETE.—In the event that the revised statement of apportionment and subsequent report under paragraphs (1) and (2) can not be completed prior to the issuance of the regular statement of apportionment and subsequent report under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, the President and Clerk may disregard paragraphs (1) and (2).

SEC. 4. UTAH REDISTRICTING PLAN.

The general election for the additional Representative to which the State of Utah is entitled for the 112th Congress, pursuant to section 3(c), shall be elected pursuant to a redistricting plan enacted by the State, such as the plan the State of Utah signed into law on December 5, 2006, which—

(1) revises the boundaries of congressional districts in the State to take into account the additional Representative to which the State is entitled under section 3; and

(2) remains in effect until the taking effect of the first reapportionment occurring after the regular decennial census conducted for 2010.

SEC. 5. EFFECTIVE DATE.

The additional Representative other than the Representative from the District of Columbia, pursuant to section 3(c), and the Representative from the District of Columbia shall be sworn in and seated as Members of the House of Representatives on the same date as other Members of the 112th Congress or the first Congress sworn in after implementation of this Act.

SEC. 6. CONFORMING AMENDMENTS.

(a) REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.—

(1) REPEAL OF OFFICE.—

(A) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 91–405; sections 1–401 and 1–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(B) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(2) CONFORMING AMENDMENTS TO DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended as follows:

(A) In section 1 (sec. 1–1001.01, D.C. Official Code), by striking ''the Delegate to the House of Representatives,'' and inserting ''the Representative in Congress,''.

(B) In section 2 (sec. 1–1001.02, D.C. Official Code)—

(i) by striking paragraph (6); and

(ii) in paragraph (13), by striking ''the Delegate to Congress for the District of Columbia,'' and inserting ''the Representative in Congress,''.

(C) In section 8 (sec. 1–1001.08, D.C. Official Code)—

(i) in the heading, by striking ''Delegate'' and inserting ''Representative''; and

(ii) by striking ''Delegate,'' each place it appears in subsections (h)(1)(A), (i)(1), and (j)(1) and inserting ''Representative in Congress,''.

(D) In section 10 (sec. 1–1001.10, D.C. Official Code)—

(i) in subsection (a)(3)(A)—

(I) by striking ''or section 206(a) of the District of Columbia Delegate Act''; and

(II) by striking ''the office of Delegate to the House of Representatives'' and inserting ''the office of Representative in Congress'';

(ii) in subsection (d)(1), by striking ''Delegate,'' each place it appears; and

(iii) in subsection (d)(2)—

(I) by striking ''(A) In the event'' and all that follows through ''term of office,'' and inserting ''In the event that a vacancy occurs in the office of Representative in Congress before May 1 of the last year of the Representative's term of office,''; and

(II) by striking subparagraph (B).

(E) In section 11(a)(2) (sec. 1–1001.11(a)(2), D.C. Official Code), by striking ''Delegate to the House of Representatives,'' and inserting ''Representative in Congress,''.

(F) In section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking ''Delegate,'' and inserting ''Representative in Congress,''.

(G) In section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking ''the Delegate to Congress from the District of Columbia'' and inserting ''the Representative in Congress''.

(b) REPEAL OF OFFICE OF STATEHOOD REPRESENTATIVE.—

(1) IN GENERAL.—Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (sec. 1–123, D.C. Official Code) is amended as follows:

(A) By striking ''offices of Senator and Representative'' each place it appears in subsection (d) and inserting ''office of Senator''.

(B) In subsection (d)(2)—

(i) by striking ''a Representative or'';

(ii) by striking ''the Representative or''; and

(iii) by striking ''Representative shall be elected for a 2-year term and each''.

(C) In subsection (d)(3)(A), by striking ''and 1 United States Representative''.

(D) By striking ''Representative or'' each place it appears in subsections (e), (f), (g), and (h).

(E) By striking ''Representative's or'' each place it appears in subsections (g) and (h).

(2) CONFORMING AMENDMENTS.—

(A) STATEHOOD COMMISSION.—Section 6 of such Initiative (sec. 1–125, D.C. Official Code) is amended—

(i) in subsection (a)—

(I) by striking ''27 voting members'' and inserting ''26 voting members'';

(II) by adding ''and'' at the end of paragraph (5); and

(III) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6); and

(ii) in subsection (a–1)(1), by striking subparagraph (H).

(B) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Initiative (sec. 1–127, D.C. Official Code) is amended by striking ''and House''.

(C) APPLICATION OF HONORARIA LIMITATIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131, D.C. Official Code) is amended by striking ''or Representative'' each place it appears.

(D) APPLICATION OF CAMPAIGN FINANCE LAWS.—Section 3 of the Statehood Convention Procedural Amendments Act of 1982 (sec. 1–135, D.C. Official Code) is amended by

striking ''and United States Representative''.

(E) DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended—

(i) in section 2(13) (sec. 1–1001.02(13), D.C. Official Code), by striking ''United States Senator and Representative,'' and inserting ''United States Senator,''; and

(ii) in section 10(d) (sec. 1–1001.10(d)(3), D.C. Official Code), by striking ''United States Representative or''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(c) CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO SERVICE ACADEMIES.—

(1) UNITED STATES MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(2) UNITED STATES NAVAL ACADEMY.—Such title is amended—

(A) in section 6954(a), by striking paragraph (5); and

(B) in section 6958(b), by striking ''the District of Columbia,''.

(3) UNITED STATES AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

SEC. 7. NONSEVERABILITY OF PROVISIONS AND NONAPPLICABILITY.

(a) NONSEVERABILITY.—If any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Act or any amendment made by this Act shall be treated and deemed invalid and shall have no force or effect of law.

(b) NONAPPLICABILITY.—Nothing in the Act shall be construed to affect the first reapportionment occurring after the regular decennial census conducted for 2010 if this Act has not taken effect.

SEC. 8. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS.—If any action is brought to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS.—

(1) IN GENERAL.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is challenged (including an action described in subsection (a)), any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or the Senate shall have the right to intervene or file legal pleadings or briefs either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment.

(2) COURT EFFICIENCY.—To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any action described in paragraph (1) may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

SEC. 9. FCC AUTHORITIES.

(a) CLARIFICATION OF GENERAL POWERS.—Title III of the Communications Act of 1934 is amended by inserting after section 303 (47 U.S.C. 303) the following new section:

''SEC. 303B. CLARIFICATION OF GENERAL POWERS.

''(a) CERTAIN AFFIRMATIVE ACTIONS REQUIRED.—The Commission shall take actions to encourage and promote diversity in communication media ownership and to ensure that broadcast station licenses are used in the public interest.

''(b) CONSTRUCTION.—Nothing in section 303A shall be construed to limit the authority of the Commission regarding matters unrelated to a requirement that broadcasters present or ascertain opposing viewpoints on issues of public importance.''.

(b) SEVERABILITY.—Notwithstanding section 7(a), if any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the amendment made by subsection (a) and the application of such amendment to any other person or circumstance shall not be affected by such holding.

SEC. 10. FAIRNESS DOCTRINE PROHIBITED.

(a) LIMITATION ON GENERAL POWERS: FAIRNESS DOCTRINE.—Title III of the Communications Act of 1934 is amended by inserting after section 303 (47 U.S.C. 303) the following new section:

''SEC. 303A. LIMITATION ON GENERAL POWERS: FAIRNESS DOCTRINE.

''Notwithstanding section 303 or any other provision of this Act or any other Act authorizing the Commission to prescribe rules, regulations, policies, doctrines, standards, guidelines, or other requirements, the Commission shall not have the authority to prescribe any rule, regulation, policy, doctrine, standard, guideline, or other requirement that has the purpose or effect of reinstating or repromulgating (in whole or in part)—

''(1) the requirement that broadcasters present or ascertain opposing viewpoints on issues of public importance, commonly referred to as the 'Fairness Doctrine', as repealed in In re Complaint of Syracuse Peace Council against Television Station WTVH, Syracuse New York, 2 FCC Rcd. 5043 (1987); or

''(2) any similar requirement that broadcasters meet programming quotas or guidelines for issues of public importance.''.

(b) SEVERABILITY.—Notwithstanding section 7(a), if any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the amendment made by subsection (a) and the application of such amendment to any other person or circumstance shall not be affected by such holding.

TITLE II—SECOND AMENDMENT ENFORCEMENT ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Second Amendment Enforcement Act''.

SEC. 202. CONGRESSIONAL FINDINGS.

Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) As the Congress and the Supreme Court of the United States have recognized, the Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) The law-abiding citizens of the District of Columbia are deprived by local laws of handguns, rifles, and shotguns that are commonly kept by law-abiding persons throughout the United States for sporting use and for lawful defense of their persons, homes, businesses, and families.

(4) The District of Columbia has the highest per capita murder rate in the Nation, which may be attributed in part to local laws prohibiting possession of firearms by law-abiding persons who would otherwise be able to defend themselves and their loved ones in their own homes and businesses.

(5) The Federal Gun Control Act of 1968, as amended by the Firearms Owners' Protection Act of 1986, and the Brady Handgun Violence Prevention Act of 1993, provide comprehensive Federal regulations applicable in the District of Columbia as elsewhere. In addition, existing District of Columbia criminal laws punish possession and illegal use of firearms by violent criminals and felons. Consequently, there is no need for local laws which only affect and disarm law-abiding citizens.

(6) Officials of the District of Columbia have indicated their intention to continue to unduly restrict lawful firearm possession and use by citizens of the District.

(7) Legislation is required to correct the District of Columbia's law in order to restore the fundamental rights of its citizens under the Second Amendment to the United States Constitution and thereby enhance public safety.

SEC. 203. REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT FIREARMS.

Section 4 of the Act entitled ''An Act to prohibit the killing of wild birds and wild animals in the District of Columbia'', approved June 30, 1906 (34 Stat. 809; sec. 1–303.43, D.C. Official Code) is amended by adding at the end the following: ''Nothing in this section or any other provision of law shall authorize, or shall be construed to permit, the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons not prohibited from possessing firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor subject to the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms. Nothing in the previous two sentences shall be construed to prohibit the District of Columbia from regulating or prohibiting the carrying of firearms

by a person, either concealed or openly, other than at the person's dwelling place, place of business, or on other land possessed by the person.''.

SEC. 204. REPEAL D.C. SEMIAUTOMATIC BAN.

(a) IN GENERAL.—Section 101(10) of the Firearms Control Regulations Act of 1975 (sec. 7–2501.01(10), D.C. Official Code) is amended to read as follows:

''(10) 'Machine gun' means any firearm which shoots, is designed to shoot, or may be readily restored to shoot automatically, more than 1 shot without manual reloading by a single function of the trigger, and includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.''.

(b) CONFORMING AMENDMENT TO PROVISIONS SETTING FORTH CRIMINAL PENALTIES.—Section 1(c) of the Act of July 8, 1932 (47 Stat. 651; sec. 22–4501(c), D.C. Official Code) is amended to read as follows:

''(c) 'Machine gun', as used in this Act, has the meaning given such term in section 101(10) of the Firearms Control Regulations Act of 1975.''.

SEC. 205. REPEAL REGISTRATION REQUIREMENT.

(a) REPEAL OF REQUIREMENT.—

(1) IN GENERAL.—Section 201(a) of the Firearms Control Regulations Act of 1975 (sec. 7–2502.01(a), D.C. Official Code) is amended by striking ''any firearm, unless'' and all that follows through paragraph (3) and inserting the following: ''any firearm described in subsection (c).''.

(2) DESCRIPTION OF FIREARMS REMAINING ILLEGAL.—Section 201 of such Act (sec. 7–2502.01, D.C. Official Code) is amended by adding at the end the following new subsection:

''(c) A firearm described in this subsection is any of the following:

''(1) A sawed-off shotgun.

''(2) A machine gun.

''(3) A short-barreled rifle.''.

(3) CONFORMING AMENDMENT.—The heading of section 201 of such Act (sec. 7–2502.01, D.C. Official Code) is amended by striking ''Registration requirements'' and inserting ''Firearm Possession''.

(b) CONFORMING AMENDMENTS TO FIREARMS CONTROL REGULATIONS ACT.—The Firearms Control Regulations Act of 1975 is amended as follows:

(1) Sections 202 through 211 (secs. 7–2502.02 through 7–2502.11, D.C. Official Code) are repealed.

(2) Section 101 (sec. 7–2501.01, D.C. Official Code) is amended by striking paragraph (13).

(3) Section 401 (sec. 7–2504.01, D.C. Official Code) is amended—

(A) in subsection (a), by striking ''the District;'' and all that follows and inserting the following: ''the District, except that a person may engage in hand loading, reloading, or custom loading of ammunition for firearms lawfully possessed under this Act.''; and

(B) in subsection (b), by striking ''which are unregisterable under section 202'' and inserting ''which are prohibited under section 201''.

(4) Section 402 (sec. 7–2504.02, D.C. Official Code) is amended—

(A) in subsection (a), by striking ''Any person eligible to register a firearm'' and all that follows through ''such business,'' and inserting the following: ''Any person not otherwise prohibited from possessing or receiving a firearm under Federal or District law, or from being licensed under section 923 of title 18, United States Code,''; and

(B) in subsection (b), by amending paragraph (1) to read as follows:

''(1) The applicant's name;''.

(5) Section 403(b) (sec. 7–2504.03(b), D.C. Official Code) is amended by striking ''registration certificate'' and inserting ''dealer's license''.

(6) Section 404(a)(3) (sec. 7–2504.04(a)(3)), D.C. Official Code) is amended—

(A) in subparagraph (B)(i), by striking ''registration certificate number (if any) of the firearm,'';

(B) in subparagraph (B)(iv), by striking ''holding the registration certificate'' and inserting ''from whom it was received for repair'';

(C) in subparagraph (C)(i), by striking ''and registration certificate number (if any) of the firearm'';

(D) in subparagraph (C)(ii), by striking ''registration certificate number or''; and

(E) by striking subparagraphs (D) and (E).

(7) Section 406(c) (sec. 7–2504.06(c), D.C. Official Code) is amended to read as follows:

''(c) Within 45 days of a decision becoming effective which is unfavorable to a licensee or to an applicant for a dealer's license, the licensee or application shall—

''(1) lawfully remove from the District all destructive devices in his inventory, or peaceably surrender to the Chief all destructive devices in his inventory in the manner provided in section 705; and

''(2) lawfully dispose, to himself or to another, any firearms and ammunition in his inventory.''.

(8) Section 407(b) (sec. 7–2504.07(b), D.C. Official Code) is amended by striking ''would not be eligible'' and all that follows and inserting ''is prohibited from possessing or receiving a firearm under Federal or District law.''.

(9) Section 502 (sec. 7–2505.02, D.C. Official Code) is amended—

(A) by amending subsection (a) to read as follows:

''(a) Any person or organization not prohibited from possessing or receiving a firearm under Federal or District law may sell or otherwise transfer ammunition or any firearm, except those which are prohibited under section 201, to a licensed dealer.'';

(B) by amending subsection (c) to read as follows:

''(c) Any licensed dealer may sell or otherwise transfer a firearm to any person or organization not otherwise prohibited from possessing or receiving such firearm under Federal or District law.'';

(C) in subsection (d), by striking paragraphs (2) and (3); and

(D) by striking subsection (e).

(10) Section 704 (sec. 7–2507.04, D.C. Official Code) is amended—

(A) in subsection (a), by striking ''any registration certificate or'' and inserting ''a''; and

(B) in subsection (b), by striking ''registration certificate,''.

(c) OTHER CONFORMING AMENDMENTS.—Section 2(4) of the Illegal Firearm Sale and Distribution Strict Liability Act of 1992 (sec. 7–2531.01(4), D.C. Official Code) is amended—

(1) in subparagraph (A), by striking ''or ignoring proof of the purchaser's residence in the District of Columbia''; and

(2) in subparagraph (B), by striking ''registration and''.

SEC. 206. REPEAL HANDGUN AMMUNITION BAN.

Section 601(3) of the Firearms Control Regulations Act of 1975 (sec. 7–2506.01(3), D.C. Official Code) is amended by striking ''is the holder of the valid registration certificate for'' and inserting ''owns''.

SEC. 207. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.

Section 702 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.02, D.C. Official Code) is repealed.

SEC. 208. REMOVE CRIMINAL PENALTIES FOR POSSESSION OF UNREGISTERED FIREARMS.

(a) IN GENERAL.—Section 706 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.06, D.C. Official Code) is amended—

(1) by striking ''that:'' and all that follows through ''(1) A'' and inserting ''that a''; and

(2) by striking paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

SEC. 209. REMOVE CRIMINAL PENALTIES FOR CARRYING A FIREARM IN ONE'S DWELLING OR OTHER PREMISES.

(a) IN GENERAL.—Section 4(a) of the Act of July 8, 1932 (47 Stat. 651; sec. 22–4504(a), D.C. Official Code) is amended—

(1) in the matter before paragraph (1), by striking ''a pistol,'' and inserting the following: ''except in his dwelling house or place of business or on other land possessed by that person, whether loaded or unloaded, a firearm,''; and

(2) by striking ''except that:'' and all that follows through ''(2) If the violation'' and inserting ''except that if the violation''.

(b) CONFORMING AMENDMENT.—Section 5 of such Act (47 Stat. 651; sec. 22–4505, D.C. Official Code) is amended—

(1) by striking ''pistol'' each place it appears and inserting ''firearm''; and

(2) by striking ''pistols'' each place it appears and inserting ''firearms''.

SEC. 210. AUTHORIZING PURCHASES OF FIREARMS BY DISTRICT RESIDENTS.

Section 922 of title 18, United States Code, is amended in paragraph (b)(3) by inserting after ''other than a State in which the licensee's place of business is located'' the following: '', or to the sale or delivery of a handgun to a resident of the District of Columbia by a licensee whose place of business is located in Maryland or Virginia,''.

SEC. 211. REPEALS OF DISTRICT OF COLUMBIA ACTS.

The Firearms Registration Amendment Act of 2008 and the Firearms Registration Emergency Amendment Act of 2008, as passed by the District of Columbia, are repealed.

SEC. 212. SEVERABILITY.

Notwithstanding any other provision of this Act, if any provision of this Act, or any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this title and amendments made by this title, and the application of such provision or amendment to other persons or circumstances shall not be affected thereby.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Madam President, I rise today to thank my colleagues for voting to pass the historic District of Columbia House Voting Rights Act of 2009 and giving the citizens who live in the capital of the free world the right to exercise that most basic of freedoms—the right to choose who governs them.

Passage of this act is another step on our long march to make our democracy ever more inclusive.

Thomas Jefferson once wrote:

It is by their votes the people exercise their sovereignty.

But when Jefferson wrote those words only a small pool of white landowners got to choose who governed them.

Since then, through acts of state legislatures, the Congress and the courts the right to vote has been extended to men over 21—regardless of property ownership—to newly freed black men who, along with their families, had previously counted as just three fifths of a person, and then to women and to 18 year olds.

And after extending those rights we further decided that each of these votes should count equally—''one man, one vote,'' and that no one legally entitled to vote could be denied the franchise by a poll tax or voting test.

The men and women of the District—a city of nearly 600,000—fight in our wars and pay Federal taxes; yet, they have no say on issues of war and peace or how their money is spent.

Perhaps the ultimate slight of denying the right to vote to District residents was that if an American were to move abroad, their right to vote in their home State was guaranteed, regardless of how long they remained out of the country. The only way they could lose that right was if they were to either renounce their citizenship or return to the United States and live in Washington, DC.

Today we fixed this situation and we can all be proud of our work.

I want to thank Senator REID for bringing this to the floor and thank his outstanding floor staff—as well as other Democratic and Republican Senate staffers—for their hard work.

And finally, I would like to take a moment to thank Michael Alexander, Kevin Landy, Holly Idelson Deborah Parkinson, Leslie Phillips, Scott Campbell, David Rosenbaum and the rest of the staff of the Homeland Security and Governmental Affairs Committee staff for their hard work in bringing this bill successfully to the floor of the Senate.

I am proud to share this historic moment with them.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

CAPTIVE PRIMATE SAFETY ACT

Mrs. BOXER. Madam President, I rise to speak about a terrible thing that happened in his home State. I am going to be asking unanimous consent at the appropriate time to move a bill, H.R. 80, the Captive Primate Safety Act. I will preface it first by saying to my friend, Senator LIEBERMAN, that in his State there was a horrific attack.

Mr. LIEBERMAN. In my hometown.

Mrs. BOXER. Yes. It was an attack by a nonhuman primate—a chimpanzee in this case—that was a household pet, against a woman. Without going into the terrible details, I think the whole country was shocked at what occurred there.

Many of us have been saying for a long time that we need to fix this problem. In 1978, importing nonhuman primates to the U.S. for pet trade was banned by the CDC in regulations. But now you can still trade these primates in the pet trade and sell them for use as pets. We say it is time to end that.

I know Senator COBURN is going to object to our moving this bill which was passed by the House quickly and in a bipartisan way with just a handful of ''no'' votes. Can't we come together on this? The fact is, our bill says we are going to ban pet trading of these nonhuman primates, and we are going to get this done one way or another. We will not get it done today because Senator COBURN will object for his reasons. I believe it is important to state that our bill—and this is a Boxer-Vitter bill—has no impact on trade or transportation of animals for zoos or scientific research facilities or other federally licensed and regulated entities. All we are saying is that it is dangerous to keep as a pet a nonhuman primate. We saw this in Connecticut, but that was not the only time. There have been many examples. When we get this done, we will list those. We have been trying to get this passed for a long time. Senator COBURN objected. We will get around it at some point in time.

Primates can harbor many infectious diseases that can readily jump from species to humans. As a result, the CDC, back in 1975, said: No, no importation of those nonhuman primates unless it is for medical reasons or a zoo or to a Federal body that is going to oversee it. Listen to how many people have been injured. More than 150 people. How about children? Do you care about children? Forty children were injured by these nonhuman primates between 1995 and 2009. Nineteen States, including my own, have prohibited these animals as pets. Fourteen States restrict or partially ban their use as pets because many of these animals move in interstate commerce.

Federal legislation is needed. You would think this is a no-brainer—you would think. Who supports this legislation? Well, the House of Representatives just passed it overwhelmingly on suspension of the rules. It wasn't even a problem over there. The Humane Society of the United States supports it. The American Veterinary Medical Association supports it. The Association of Zoos and Aquariums supports it. The Jane Goodall Institute supports it. The Wildlife Conservation Society supports it. That is a very small portion. I cannot believe I actually had to come out here today.

With all due respect to my friend, he will have his reasons, but, honestly, I hoped that once in a while we could work together on a bill that is so obvious in its need.

We know these nonhuman primates have not been bred and domesticated over thousands of years like dogs or cats. It is a whole different world there. That is why the veterinarians support us. Nobody loves pets more than the Humane Society. Nobody loves pets more, but they know what can happen. A woman got her face ripped off.

So I am not going to go into the details of the attack at this time, but if I have to I will to get the votes of colleagues.

I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 80, the Captive Primate Safety Act, which was received from the House; and, further, that the bill be read the third time and passed and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? The Senator from Oklahoma is recognized.

Mr. COBURN. Reserving the right to object, and I do, I ask unanimous consent to be recognized for 5 minutes to make comments regarding what has just been said.

Mrs. BOXER. Madam President, I ask unanimous consent to have 5 minutes following my friend from Oklahoma, and then I ask unanimous consent that Senator SANDERS have 15 minutes on his subject.

The PRESIDING OFFICER. Objection is heard to proceeding to the measure.

Is there objection? Without objection, it is so ordered.

Mr. COBURN. Madam President, on February 16, 2009, a pet non-human primate, NHP, attacked Ms. Nash, a friend of the pet's owner—almost killing her. My thoughts and prayers are with Ms. Nash and I am sure I join all of my colleagues in wishing her a speedy and full recovery.

This unfortunate event has rushed consideration of the Captive Primate Safety Act, H.R. 80. H.R. 80 would make it illegal to import, export, transport, sell, receive, acquire, or purchase non-human primates, such as monkeys and apes, by amending the over 100-year old Lacey Act to include ''any nonhuman primate.''

H.R. 80 does not affect laboratory animals, zoos, and some veterinarian cases.

This bill does not address a national priority and should not be considered by Congress.

Last Congress, I held the similar Senate version of the Captive Primate Safety Act, S. 1498, because of concerns with its fiscal impact and because I did not believe it was appropriate for the Federal Government to be regulating pets.

Today the Senate is trying to pass the similar House version that still seeks to increase Federal regulation of pets in a fiscally irresponsible manner without amendments or debate.

Supporters of this bill hope that somehow creating a new Federal law to prohibit transporting pet primates across State lines, on top of the Federal laws and regulations that already make it illegal to import them and the dozens of State laws that outlaw owning non-human primates as pets, and

giving the Fish and Wildlife Service $5 million to hire extra ''law enforcement'' staff to pursue chimps will make Americans safer.

Supporters of this measure are using the tragedy that occurred this month to ram this bill through Congress with no debate. This attack occurred in Connecticut, where a State law already existed that outlawed the possession of NHP's weighing more than 50 pounds without a permit. The NHP weighed 200 pounds and should have not been allowed under state law to live with its owner as a pet, but passing the Captive Primate Safety Act last year would not have prevented this tragedy and is not a national priority.

The bill authorizes $5 million in fiscal year 2010 to hire additional United States Fish and Wildlife Service law enforcement personnel to enforce the new monkey provisions and CBO says the bill will cost taxpayers $17 million over 5 years. To enact such legislation without any offsets and therefore simply add to our national debt is extremely imprudent at this time in our nation.

There still have been no hearings and therefore no official statement or testimony available from the U.S. Fish and Wildlife Service as to whether or not this law is necessary and/or enforceable within the agency's current resources.

There is even a more basic question of whether or not a Federal wildlife agency should be regulating interstate pet transportation at all.

This law may be duplicative, unnecessary, and ineffective.

This matter of pet ownership may be more appropriately and effectively handled by local and State governments and agencies.

The UC does not allow an opportunity to amend this bill to address cost concerns.

This Bill spends money we don't have on something that is unnecessary.

CBO estimated last Congress that both the House and the Senate versions of the Captive Safety Act and last Congress's Senate bill, would cost $17 million over 5 years. H.R. 80 is almost identical to last Congress's House bill.

According to CBO, the cost of hiring four additional U.S. Fish and Wildlife Service, FWS, employees to conduct inspections and investigations and storing, transporting and boarding confiscated NHP's totals $17 million over 5 years.

The costs may in fact be even higher. According to one chimp sanctuary the annual cost to house two chimpanzees can exceed $35,000 a year. According to the Humane Society of the United States and various Members of Congress, there are an estimated 15,000 non-human primates in private hands. If the FWS were to try and confiscate and then house all 15,000 chimps, that could add up to a total cost of $262.5 million a year for the federal taxpayers, or $1.3 billion over 5 years.

The unanimous consent agreement would not allow anyone to offer amendments to offset the cost of this bill or perhaps cut back on other areas within the Fish and Wildlife's jurisdiction to pay for these new responsibilities.

Fourteen Monkey bites a year do not justify annual appropriations of $4 Million.

While the Humane Society of the United States said in a February 2009 press release that the Captive Primates Safety Act is an ''urgently needed public safety and animal welfare measure,'' other Americans may feel differently about prioritizing this issue above more pressing national issues.

The group justifies prioritizing H.R. 80 with American taxpayer resources because of recent captive primate incidents. An analysis of its list of ''recent incidents involving captive primates'' finds:

In 2008, 11 monkeys were reported as being involved in biting 14 people. One of the monkeys was in a university laboratory and another was in a wildlife sanctuary. Both of these types of monkeys are exempted and therefore would not be affected by the Captive Primates Safety Act.

In 2008, there were 39 non-human primates involved in 21 incidents, but 28 of the 39 monkeys involved in the reported incidents were not noted as having harmed humans.

Similarly, last Congress, the Humane Society and the Senate EPW committee justified the creation of a new Federal law by citing 132 reported incidents of human injury from captive or escaped captive primates over a 10-year period—which still averages out to only 13 a year.

In contrast, 4.7 million Americans are bitten by dogs each year, according to the Centers for Disease Control and Prevention.

Taking both the Humane Society and the CBO score together, the bill before us today, essentially calls for the Federal Government to spend the equivalent of over $444,000 per year to take nine biting monkeys out of their private owners' hands. Using another measurement, the FWS would spend the equivalent of over $285,000 per bite—$4 million divided by 14 people who were bitten by monkeys in 2008—if this bill passed.

Yet even these cost estimates may be understated because it is possible that none of the nine offending monkeys will ever cross State lines. In that case, unless State or local laws and officials caused their removal, these pets would remain with their owners.

While not seeking to diminish the physical or psychological effects of any monkey bites or attacks, taxpayers have a right to question if such a small number of incidents justify the large cost to the Federal Government of taking on additional animal control responsibilities.

In contrast, though some of the 4.7 million Americans bitten by dogs each year die as a result of these bites, Congress is not adding interstate dog transport to the lists of Federal wildlife responsibilities and prohibitions. If preventing human injuries caused by pets was a national priority, why aren't Senators and special interest groups pushing to outlaw the private ownership of dogs?

Passing the Captive Safety Act last Congress would not have prevented the recent attack.

Tragically, a 200-pound, 15-year-old chimpanzee named Travis—who was raised by the same owners since he was an infant—brutally attacked one of his owner's friends, Charla Nash, outside his house in Stamford, CT, in February 2009. The chimp, for still unknown reasons, attacked Ms. Nash, severely damaging her face and hands, according to news reports. She is in critical but stable condition. Travis died after being stabbed by his owner and being shot by a police officer after he charged the officer.

Following the recent chimp attack, the Humane Society has argued that if I had not held last year's bill, S. 1498, Ms. Nash would not have been attacked. This statement, however, is incorrect, because this bill would have only have removed Travis from his owner if the NHP crossed State lines.

Additionally, since 2004 under Connecticut State law it has been illegal to own an NHP weighing more than 50 pounds if the animal is not registered. Yet, State officials did not even require Travis—a 200 pound NHP—to be registered, even though he was well known. It appears Travis lived in Stamford, CT, for most of his life. His attack took place in front of his home. With the possible exception of an appearance on the Maury Povich show, which may or may not have been filmed in the New York City studio, nothing indicates that Travis was crossing state lines on a regular basis, nor did his unprovoked attack have any interstate aspect to it. The fact that he might have been born in another State 15 years ago, would not have affected Travis's private ownership 2 weeks ago if this bill had been signed into law last year.

What if Travis or his siblings grew up in the same State where they were born? The bill does nothing to address this situation; they have to cross State lines to fall under Federal jurisdiction. Why is a chimp native to and living in Missouri ok, but one moving to Connecticut, for example should suddenly become the business of the Federal Government? It is very unlikely that Travis' trip 15 years ago across a few State lines led to his attack in February. This is yet another reason why this bill is a misplaced priority and misguided effort.

If people are saying all chimps are dangerous and are against private ownership of nonhuman primates, why doesn't this bill simply make it a Federal crime to own them and take away the estimated 15,000 animals in private hands? Instead, to justify questionable Federal involvement, Congress is using the interstate commerce clause even

though this approach is both inappropriate and ineffective.

In a recent Boston Herald article April Truitt, director of the Primate Rescue Center in Kentucky, had the following to say regarding H.R. 80:

''It's better than nothing, which is what approximately 30 states have right now,'' she said. But if the bill becomes law, it will affect few dealers in exotic animals.

''Dealers are not one bit concerned about this,'' Truitt said. ''They know that they still can continue to do what they were doing. Most dealers are USDA licensed, and the USDA licensing has been and is used by private owners rampantly to circumvent state and local legislation.''

Others, such as Sian Evans, the director of the DuMond Conservancy for Primates and Tropical Forests, contend that in general, NHPs do not carry disease and should not be considered a threat to the safety of others.

While the recent attack is tragic, this bill is not an appropriate or responsible use of taxpayer funds and Congressional resources.

Federal law already exists banning non-human primate imports.

It has also already been illegal for the past 30 years to import non-human primates, such as monkeys, for pets. According to the Centers for Disease Control and Prevention: ''Since 1975, the Federal Quarantine Regulations, (42CFR71.53), have restricted the importation of NHP . . . Importation of NHP for use as pets is not permitted under any circumstances.''

The Humane Society of the United States previously acknowledged, ''Most states regulate keeping primates as pets, and the trend is for states to prohibit the practice altogether.'' Yet the group also claims, ''federal legislation is needed to complement state laws'' because ''many of these animals move in interstate commerce.''

In conclusion, Congress recently justified swift passage of a massive spending bill that increases the national debt by more than $1 trillion to more than $10 billion in the midst of a struggling national economy. In January, the national unemployment rate was 7.6 percent—the highest it has been in more than 15 years. In December, national home prices plunged at the fastest pace on record, leading to predictions of 6 million foreclosures over the next four years. Consumer confidence levels have dropped to a new low of 25 in February from 37.4 a month earlier as people worry about losing their jobs, earning less, and deteriorating prospects.

Yet the Humane Society and certain Members of Congress are seeking to make this pet regulation bill a national priority and are pushing to have it enacted quickly. How is potentially preventing a few monkey bites a bigger national priority than trying to address the weakening economy and collapsing consumer and business environment?

These ''little'' bills add up and once privately owned monkeys are added to the Department of Interior's jurisdiction, they will likely be there forever, not just for the 5 years authorized in this bill.

This bill would not have stopped the attack on Ms. Nash. My objection does not question the seriousness of her attack but lies in moving an inappropriate, ineffective, and irresponsible bill in the midst of a time of real need in our country for strong leadership. Congress cannot afford to continue to misprioritize scarce resources and must focus on truly national priorities—not on monkey bites and inappropriate special-interest legislation.

Madam President, not once have I had a call from my colleague asking: Will you work with me on this issue? Will you protect people as a result of this issue? Will you help us pass this? What it has been is: Take it or leave it.

I note for the record that 90 Members in the House voted against the bill. It was not a smattering few. A fourth of the House did not agree with this legislation.

I have never been asked: Would you care if we eliminated the ownership of these pets? I don't have any problem with that, but I have never been asked that. That has never been offered.

The question in the case that brings this back up is Connecticut has a law and the law says you can hold and register a nonhuman primate if it weighs under 50 pounds. What happened in Connecticut is they violated their own law. They had a restriction on it.

I am not opposed to commonsense eliminating the risk from nonhuman primates, but I have never been approached in how I would work with that to try to accomplish what the Senator from California would like to accomplish and still meet the needs of individual Americans and their civil liberties.

The second point I note, if we are going to do this, look, there were 4.6 million dog bites last year that caused hundreds of thousands of serious injuries. Are we going to stop the interstate transport of dogs that caused thousands and thousands more injuries, some even deaths, to individuals? Nobody is proposing that.

What I ask my colleague is reach out. I would gladly work with Senator BOXER in a way so we eliminate any future ownership of these types of animals in a way that does not violate those who presently have them and encourages the States to enforce their laws that they have today and enforce them in the future.

We can start at a time certain tomorrow and say: You can't have new ownership of any nonhuman primate. That stops all interstate commerce. That stops it completely. But our problem is we have about 30 States that have regulations in regard to this issue.

The incident that happened in Connecticut is very unfortunate, I agree. But what happened was you had the law broken. So instead of enforcing a law that is on the books, we are going to create another new law, and it is not going to accomplish the very purpose. We are still going to have nonhuman primate bites if we do not have some way to ultimately end this type of pet selection.

I reach out to my colleague. I am sorry I had to object. I will gladly work with her in the future to come to some accommodation.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, while my friend was speaking, I went back to my staff because this is not the first time we have had a problem on it. We had it in the big Coburn package of bills, and I remember my friend at that time made it the centerpiece of his objection. My staff has talked with his staff over and over again. The Republican staff on my committee, from where this bill came, has talked to the Senator over and over again.

I am happy to sit down with my friend. Maybe we can work this out. But here is the point. My friend says that what happened to this woman is unfortunate. No, what happened to this woman is a tragedy.

We do not go in and take away pets from anybody, if you read this bill. If you have a pet, you have a pet as long as you are living within the laws of your State. We ban the interstate trade because that is how this thing is moving forward. People get these pets, and they sell them across State lines. That is how we ban a lot of bad in this country. It is the way we have done it for a long time.

I just want to say to my friend, I didn't know this rose to the level where he and I should speak. I am delighted to sit down and talk with him. But the fact is, our staffs have been working with his staff for a very long time on this issue. Senator VITTER's staff and Senator INHOFE's staff have been working with the Senator's staff to try to get a breakthrough.

I hope the two of us can sit down, and maybe without our staffs—maybe the problem is our staffs. I have a great staff. I am sure Senator COBURN does too. But maybe there is something that got in the way of their being able to resolve it. But I think he and I should sit down, and I will try to see if I can move this again, maybe with some kind of way we can fix it that doesn't give the Senator heartburn.

Honest to God, I say to my friend, we have made sure nobody is going to be invaded by a police force and lose their pet. That is not in here. Only if you try to move it across State lines, you wouldn't be allowed to sell your pet so that pet can injure somebody. Nobody is taking away anybody's pets. Nobody is stopping the zoos from getting these pets. Nobody is stopping research facilities from getting these pets. That is why we have such strong support for this legislation.

I am not a person who says my way or the highway, believe me. I have been here too long. I have gotten too many

bills passed. I will sit down with my friend. He is right that 90-some people on the other side voted no, but 300-some people voted aye. So we must have done something right here when we got over 300 votes in a body that has a hard time getting bipartisanship.

I say what we did right is we have a balanced bill. We allow these pets to be used for that which helps humanity, but we will, in effect, stop the interstate trade, the profitable pet trade which is leading us into a situation where we have seen so many injuries of children—40 children, about 100 adults injured between 1995 and 2009.

I am encouraged that my friend wants to work with me. I am going to go right over there as soon as I finish these remarks and figure out a way we can work on this issue because we do not want to wake up another day and read about somebody having an injury that is so horrific and horrible that they will never have a normal life when it is in our power to do what is right here and move forward.

I will not renew my request, but I will another day at a date, hopefully, when I have the support of my friend.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

(The remarks of Mr. SANDERS are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

NATIONAL PEACE CORPS WEEK

Mr. BOND. Mr. President, I come to the floor today to recognize an organization that serves on the frontline of our Nation's most important international and humanitarian efforts—the U.S. Peace Corps. This week, the Peace Corps celebrates its 48th anniversary, and this is National Peace Corps Week.

Since the early 1960s, more than 195,000 Peace Corps volunteers have fostered positive relationships between the United States and nations across the globe through its grassroots efforts.

At present, 7,500 or more Peace Corps volunteers are active in over 75 countries around the world. These volunteers are exposed to a diverse array of cultures and languages during their time abroad. Approximately 22 percent of the Peace Corps volunteers are currently working in 16 predominantly Muslim countries. It is in these countries, in particular, where I believe the efforts of the volunteers are positively shaping and improving the much beleaguered and much misunderstood image of America within the Muslim world.

But there is still much work to be done. I urge my colleagues to join me in supporting an expansion of the Peace Corps and all of our Nation's smart power assets.

Smart power initiatives build upon our successful defense efforts and add economic and educational efforts, diplomatic efforts, including educational exchanges, free trade, public diplomacy, fostering private sector investments, agricultural development, humanitarian assistance, and English language teaching, just to name a few.

All of these smart power initiatives contribute not only to a better life for so many in need, but they also help create conditions for a more stable and peaceful world.

America and the developing world will benefit together from a greater investment in these initiatives and in particular in a revitalized and enlarged Peace Corps.

Over the past few years, the Peace Corps has received numerous inquiries about entering or reentering the countries where volunteers once served. I made similar inquiries, particularly with respect to friendly Muslim countries in Southeast Asia, such as Indonesia. Engaging moderate mainstream countries such as Indonesia with our Nation's smart power initiatives will enhance the conditions for lasting peace and stability.

Or as I like to say, putting more sandals and sneakers on the ground will prevent us from having to put more boots and bayonets on the ground in the future.

The work undertaken by Peace Corps volunteers serves as a fine example of the United States reaching out to foreign neighbors to foster a greater understanding and dialog. The willingness of Peace Corps volunteers to engage people at the local, community level is exactly how we ought to be providing effective and sustainable development assistance.

We need to get back out among the very people we are trying to help, which is why I also believe we need more USAID Foreign Service officers as well. Providing practical, hands-on assistance that is based on listening to the needs of the local population is a recipe for sustainable and lasting development. I believe that by having these kinds of contacts, we can do a great deal to improve the conditions of the countries themselves as well as the people in them. The stronger, more stable these countries are, the better our relations are in the world and the more we foster world peace.

We offer our hardy congratulations to all members, current and past, associated with the Peace Corps on its 48th anniversary. We thank you for improving the lives of so many and for helping America be a good neighbor to those in need. Your country is grateful for your service. Your country is grateful for the good will and the seeds of peace you have sown or are sowing. Your country is grateful for your contributions to the safety and long-term security of our Nation. Your efforts and the efforts of other volunteers are needed now more than ever. I will continue to work in supporting your important missions and expanding your ranks.

I can't stress enough the importance of our Smart Power initiatives and the importance of investing in efforts such as the Peace Corps. I am very glad to see the Obama administration, particularly Secretary of State Clinton, our former colleague, giving these initiatives an important public boost. And more important, I would say to young people and old—the young people who work with us here and any who may be listening in—that this is a wonderful opportunity to make a significant contribution to other countries, to the cause of peace in the world, and to provide yourself with an education you cannot get in any institution.

I look forward to partnering with the new administration and will work with those and others in Congress to lead the effort to make Smart Power initiatives a cornerstone in our foreign policy and in our efforts to combat extremism and terrorism around the world.

PRESIDENT OBAMA'S FIRST BUDGET

Mr. GRASSLEY. Mr. President, today our President sent his budget to the Hill. On Tuesday night, in a joint address, our new President, with his usual eloquence, sketched out his fiscal policy goals.

First off, as ranking Republican on the Finance Committee—and I am a senior Budget Committee member—I wish to point out that Republicans were happy to hear the President make deficit reduction a very high priority. If I heard correctly, the loudest bipartisan applause, in terms of responses to the President's policy proposals, greeted that policy point. We Republicans want deficit reduction on our future fiscal path. As we come out of the recession—hopefully sooner rather than later—we need to get the deficit down.

While we Republicans agree with the President on that goal, we disagree on the degree to which the Democratic leadership has dramatically expanded the deficit and added to the debt. A couple of weeks ago, Republicans and Democrats disagreed on what is referred to as a stimulus bill. In both bodies, only three Republican Members supported that conference report. We parted ways on the stimulus bill for many reasons. Most on our side disagreed that we should put $1 trillion of

taxpayers' money into an effort to grow the economy by priming the Government pump. We also would have shut off that spending spree once the recovery occurred, as opposed to half of the spending money in that bill being spent in years beyond 2010—supposedly the end of the stimulus effort to the economy.

But what disturbed most of us on this side was the hidden fiscal burden built into the bill—in other words, that period of time of spending beyond 2010. Although advocated as a $787 billion bill, the real cost—the real cost—is much higher. Unfortunately, many in the media accepted the $787 billion score on its face. By contrast, most in the media looked much deeper when the bipartisan tax relief bill of 2001 to 2006 was scored. Of course, I remember that because during that period of time, or most of it, I was chairman of the Finance Committee and involved in that tax relief. So they looked very deeply into what we did in tax relief, and in a bipartisan way, but they seem not to be as concerned about the impact on the deficit of that $787 billion score that is in the stimulus bill. So I would encourage the punditry and other opinion makers to apply the same tough fiscal standards to the hidden spending in the stimulus bill as they applied to the tax relief packages in an earlier part of this decade.

Soon, I am going to have some charts that will demonstrate this difference between tax issues versus the spending issues of the stimulus bill.

According to the nonpartisan Congressional Budget Office, if popular new programs in the stimulus bill are made permanent, the cost will be $3.3 trillion. I have a chart here that lays out what the Congressional Budget Office says the total cost of the bill is—this column right here. Let's move from the left to the right of the chart. First, we have the basic cost of the bill—$820 billion. If the making work pay refundable tax credit is extended, there is $571 billion—the second column here. If the new entitlement spending is made permanent, then the cost of the bill more than doubles; that is, there is almost $1 trillion in new hidden entitlement spending right here—the third column. Over here in the fourth column, if the appropriations increases are baked in the cake, then there is $276 billion in new nondefense discretionary appropriations in the bill. That is the fourth column. And finally, CBO tells us that the interest cost on the overt new spending and the hidden new spending totals $744 billion. Total it all up, and you come out right here at $3.3 trillion. You don't come out at $787 billion; it is $3.3 trillion. And these are Congressional Budget Office figures. They are not from some conservative think tank. They are not from Senate Republican sources. CBO estimated this hidden spending.

There is one way, and only one way, for stimulus bill supporters to dispute what I have said. The Democratic leadership in the House and Senate could pledge to keep temporary spending temporary—basically, the money spent in 2009 and 2010 is the end of it. If the Democratic leaders pledge to support leaving the bill as written and would not push to extend the new entitlements and new appropriations spending, then we could go back to the figure many in the press are reporting on the cost of the bill. If the Democratic leadership makes a pledge to keep temporary spending really temporary—in other words, for the 2 years of jumpstarting the economy—we on this side would agree that the bill does not cost this $3.3 trillion. Otherwise, as Members of the loyal opposition—with emphasis on ''loyal''—it is our duty to let the taxpayers know the true cost of the stimulus bill.

Unfortunately, stuffing all of that understated new spending into the stimulus bill will make it harder for Democrats as well as Republicans to reach the bipartisan goal of fiscal discipline, and I have another chart which shows how hard it will be.

This chart shows the trendline from President Clinton's era through George W. Bush's era and for the current fiscal year of the deficit as a percentage of gross national product. As this chart shows, President Clinton's era saw deficits decline in the early years. Once Republicans won control of the Congress and entered the scene, making fiscal discipline a priority, the deficits turned into surpluses during those years. In the George W. Bush era, deficits occurred during the economic downturn of 2000, with the tech bubble burst, the corporate scandals of 2001, and, of course, the economic shock of the terrorist attacks of 9/11. So we have a downturn, or we have an increase in the deficit is the easiest way to say it.

Now, fortunately, during 2001 to 2003, we had bipartisan tax relief that kicked in, the economy recovered, and deficits started to come down during this period of time right here.

Now we find ourselves dealing with the housing and financial sector problems. Those problems matured during the period of divided government—the last Congress—for the years 2007 to 2008. During that 2-year period, Democrats controlled Congress and, obviously, we had a Republican President. The response of the Republican White House and Democratic Congress was the Troubled Asset Relief Program, TARP, and other stimulus legislation. Those bipartisan actions led to the large deficit here in 2009, and that was the deficit that awaited President Obama. That is over $1 trillion.

Two nights ago—Tuesday night—President Obama pointed this fact out, and Democrats lustily cheered. I found the partisan cheering just a bit odd. I saw people leading that cheer vigorously clapping their hands. This enthusiastic applause from the other side would make you think President Obama was somehow predicting we would have a Mets-Yankees Subway Series in 2009. But, no, the President wasn't making a sports prediction; President Obama was noting that he had inherited a record deficit. Not many on our side find much to cheer about a record deficit, and I doubt that many taxpayers find much to cheer in it either. That is why you didn't see much applause from the Republican side of the aisle Tuesday night as the President was speaking to us. Big deficits aren't anything to applaud about. I was scratching my head on that one. Maybe the Democratic leadership forgot they were running the show here the last Congress. Maybe they looked at some polling data and inferred from that polling data that voters didn't realize Democrats ran the Congress in the last couple of years and were authors of the budgets for that period and last year's stimulus and the TARP deal. Maybe they figured that the President was taking a sharp and effective political shot, but you must be careful because history says otherwise. The TARP legislation was cut by Democratic congressional leaders, ably led by Chairman BARNEY FRANK in the House and our able chairman from Connecticut, CHRIS DODD in the Senate. In the key negotiations on one fateful fall Saturday night, there was only one Republican Senator in the room. There were at least four Democratic Senators in the room. I find it curious that Democrats lustily cheered when President Obama, Tuesday night, rightly pointed out that he inherited a $1.2 trillion deficit. There is no doubt he did inherit such a deficit. We on our side do not dispute that. But for the congressional Democratic leadership to pretend that they did not play a key role in creating the deficit, at least from the standpoint of 2 years of their budgets as well as the TARP legislation and other stimulus things, is beyond being absurd. To be giddy about the record deficits is almost Kafkaesque.

Yet that incorrect partisan assertion is, like this $787 billion figure I am referring to, somehow accepted as fact by opinion makers and pundits. If we go to the last column of this chart, the one with the red line, we see the real fiscal damage of the stimulus bill. In the first few weeks of this Congress the inherited deficit, which was bad enough at 8.3 percent of GDP, was made much worse. It is now 13.5 percent of GDP. We have not had deficits that high since the World War II era.

If you go back over the debate in committee, on the floor and on the conference agreement, you will find that Republicans opposed the bill because, in general, we believed the bill failed National Economic Council Director Summers'—Dr. Summers of Harvard University—three ''t'' tests: that it needed to be timely, it needed to be targeted, and it needed to be temporary. Those are words directly from, I think, a December 28 Post article that Dr. Summers wrote. It was failure in that third ''t,'' the ''temporary''

test, that was most troubling to those of us who voted against it. I have laid out the degree of that failure in the comments today.

The response from many on the other side is that Republicans are in no position to criticize of because the deficits of the years 2001 through 2006. I put this chart back up here again. As I have shown, while briefly rising in 2004, the deficits consistently came down for budgets produced and implemented in the period 2004, 2005, and 2006. Most often the critics from the other side make the widespread bipartisan tax relief of this era the culprit for our deficit. Let's take a minute to put that characterization in context.

I have a chart that compares the revenue loss of the bipartisan tax relief with the full effect of spending in the stimulus bill. On the left side of this chart, over here, you will see all the tax relief enacted in various bills in the period 2001 through 2006. There were quite a few major tax relief bills in this period of time. They yielded tax relief for virtually every American taxpayer. We cut marginal tax rates, we doubled the child tax credit, we greatly expanded education tax incentives, we created the largest retirement savings incentives in a generation and provided significant relief from the confiscatory reach of the death tax, and we protected tens of millions of families from the alternative minimum tax.

In this major tax relief program we made the Tax Code—now everybody is saying this is counterintuitive—but we made the Tax Code more progressive in those pieces of legislation. But, as would be expected, the Joint Committee on Taxation assigned significant revenue loss to these packages. That is up here on this side of the chart where you see what the Joint Tax Committee says. It scores at $2.2 trillion. As I understand it, for some folks that figure raises their blood pressure. It would raise mine too if I liked to hike taxes and keep taxes high. You can understand it from the perspective of those critics—those taxes represent $2.1 trillion that folks in this body and the other body would rather spend. But we all know that tax relief did a lot of good.

I have another chart about tax relief doing a lot of good. For a family of four at $50,000 a year of income, we have $2,300 more for that family budget to operate under. For a single mom with two kids it means she keeps $1,100 for her to spend instead of 535 Members of Congress spending.

From what we heard on the campaign trail a few months ago, and we heard a couple of days ago here in the Capitol building, President Obama agrees with most of this tax relief program. He said his first budget will retain most of that tax relief that is in those various bills.

For purposes of this discussion, let's assume the merits—I want to assume the merits of the arguments of the critics of the bipartisan tax relief program; that is, let's assume all of the $2.2 trillion was policy that, despite what President Obama will propose, is policy these critics disagree with. For a fiscal damage assessment, let's compare the revenue loss of this widespread tax relief, leaving money of $1,100 in the pockets of a single mom or $2,200 in the pockets of a family of four—let's assume the real cost. So, for fiscal damage assessments let's compare the revenue loss of this widespread tax relief with the real cost of the stimulus bill signed last week by the President.

I am going to go back to the chart that makes the comparison. So here it is. On the right side you will see that CBO estimates the 10-year cost of the bill if the temporary proposals are made permanent. Guess what, it is higher than it is over here. The total is $2.5 trillion. This one stimulus bill costs about 10 percent more than the full effect of the tax relief bills passed between 2001 and 2006. For a lot of those bipartisan tax relief bills, again, virtually every American taxpayer benefits from these tax relief bills. On average, the American taxpayer's tax bills would be 10 percent higher today if this bipartisan tax relief plan were not in effect. We heard a lot from the critics of tax relief about fiscal discipline. Where are those same people today? Why are they not applying the same standard to the one partisan spending bill that they applied to the widespread bipartisan tax relief bill?

It was good to hear my President, President Obama, raise the important goal of deficit reduction Tuesday night. He got applause from our side of the aisle. He was right that he inherited a serious budget deficit. The Democratic leadership applauded that line because they falsely claim that only Republicans bequeathed the deficit to President Obama. The reality is that a Democratic Congress as well as a Republican President bequeathed the deficit from bipartisan policies they jointly developed. To those who claim Republicans have no right to discuss deficits, they need look no further than their own actions. They need to take a look at the fiscal effects of the stimulus that was crafted early in this new Congress and compare the costs in that bill with all of the bipartisan tax relief that they criticize.

In other words, compare this here, what happened in 2 weeks, with what happened over a period of 5 or 6 years of deficit reduction. The partisan stimulus bill's costs exceed that of the bipartisan tax relief.

As we examine President Obama's first budget, let's take a cue from his speech Tuesday night. Let's make deficit reduction a priority and let's do it in an intellectually honest fashion. A lot of fiscal damage was done in the stimulus bill enacted a few days ago. That is not so of what was assigned to the years 2009 and 2010, but what was assigned way out into the future years, as if somehow the stimulus bill were a platform for the subterfuge of getting things done in 2 weeks that ought to have the very crafty look-see that goes on in the very sophisticated appropriation process between April and September, weighing one priority against another priority.

As we proceed, then, to write a budget in a couple of weeks, let's do it in an intellectually honest manner. Let's take off the political blinders and deal with the cold, hard fiscal facts. Let's be realistic about expiring tax relief, its merits, its economic growth effect. That is shown by that one chart where the deficit went down an extreme amount, even though we had cut taxes, which I know to most people sounds as though it can't happen. If you reduce tax rates, you have to reduce revenue. If you raise tax rates, you are going to bring more in. But I think our history over the last 6 years shows that you can reduce taxes and still reduce deficits.

Let's take off the political blinders and deal with cold, hard fiscal facts. Let's be realistic about expiring tax relief, its merits, its economic growth effect and its political popularity. Let's sharpen our pencils, get out our yellow notepads and rev up our calculators as we consider new nominally temporary spending or tax cuts. We owe it to the American people who send us here.

COMMEMORATING THE ROLE OF ENSLAVED AFRICAN AMERICANS IN CONSTRUCTION OF THE CAPITOL

Mrs. LINCOLN. Mr. President, I come to the floor to speak on an issue I have certainly followed for many years now in the Senate and one I am proud to have brought to some conclusion along the way, particularly last evening.

Many people look at history and see that when the Capitol was first built in the late 1700s to early 1800s, enslaved African Americans worked in all facets of its construction—carpentry, masonry, carting, rafting, roofing, plastering, glazing, painting, and sawing. But for almost 200 years, the story of these slave laborers was not told and was basically unknown, I would imagine to almost everyone who visited and worked in the Capitol every day.

In July of 2000, I sponsored a resolution to establish a special task force to recommend an appropriate recognition for the slave laborers who worked on the construction of this great building—the U.S. Capitol—our symbol of freedom in this country. My cosponsor on this effort was then Senator Spencer Abraham from Michigan, and so the resolution became known as the Abraham-Lincoln resolution back then.

The bicameral, bipartisan Slave Labor Task Force brought together historians and interested officials to work on this issue. One of those was Curtis Sykes, an educator and native of North Little Rock, AR, and an original member of Arkansas' Black History Advisory Committee. Mr. Sykes passed away before our work was complete, but he made so many important contributions to the task force before his

passing. He was then ably succeeded by Ms. Sarah Jean Davidson, founder and president of the Association for the Preservation of North Little Rock, Arkansas African American History.

I am so very grateful to these two individuals who have offered their insight and their expertise and their input to make sure that what we did here was done in a very special way in great recognition.

In 2007, the task force presented the congressional leadership with recommendations on how to best recognize the contribution of these enslaved workers. The recommendations were developed with the invaluable assistance of a working group that included the historians and curators of the Senate, House, and Office of the Architect of the Capitol, representatives from the AOC Project Management Division, and representatives from the Capitol Visitor Center.

Since then, we have been working so very hard to see that these recommendations are all realized. We have developed a history of slave laborers in the construction of the Capitol and put it online. We have ensured that the story of these slave laborers was incorporated into the CVC orientation video and Capitol tour guide training. We have seen the publication of a book on Black Americans in Congress, and we have seen the reception area of the CVC named Emancipation Hall.

On Monday, I, along with my good friend and colleague Senator CHAMBLISS, introduced a resolution to bring another recommendation to fruition. This resolution, which was approved by the Senate last night, authorizes a plaque to be placed in the Capitol, a plaque that identifies a very special feature of the Capitol. The original exterior wall of the Capitol was constructed between 1793 and 1807. The stones for that wall were mined by slave laborers in a sandstone quarry in Aquia Creek in Stafford County, VA.

Quarrying stone was among the most difficult and backbreaking tasks in the building business. First, the land had to be cleared, then the top of the stone chipped away to reach the parts that had not been damaged by frost or vegetation. Then the stone would be further chipped to create a small cavity, just large enough for one man to work in. The men would work in these small cavities to cut grooves and hammer in iron wedges to split the stone to free it from the larger block. To make matters worse, the quarries were located on an isolated, snake-infested island that swarmed with mosquitoes in the blazing summer and froze under snow in winter.

Much of the original Capitol no longer stands, due to the fires of war and renovations to create more space. The original East exterior wall still exists, however, and is now part of the East Front Corridor. It is one of the few places where that original slave-quarried sandstone is still in evidence. The plaque would be placed near that wall, and would bear an inscription identifying the wall as having been built of sandstone quarried by enslaved African Americans who were an important part, a vital part of the labor force that built our great U.S. Capitol.

Thanks to my Slave Labor Task Force colleague Congressman JOHN LEWIS, there will be a similar plaque on the House side of the East Front Corridor. These locations are important for another reason. They are on the route that visitors take to the Senate and House galleries. Mr. Sykes, as I mentioned earlier, the Arkansas historian with whom I worked, focused on the need to ensure that as many citizens as possible be made aware of this contribution of enslaved African Americans in the building of this great building, our Capitol. I wholeheartedly agree with Mr. Sykes. To me, education is at the heart of this effort. It would do no good to have a plaque that was hidden in a corner where no one would see it. It would do no good if we told the story of enslaved African Americans building the Capitol and no one heard it.

A critical part of recognizing the work of the slaves is to make their story visible and accessible, so that future generations know and understand the sacrifices that have been made for the many blessings that we enjoy today, that those blessings that are capsulized in the very building in which we all work, that the freedoms and the rights that we enjoy, are capsulized in a building that had tremendous input from enslaved African Americans.

I was recently in the new CVC and I hope, for those Members who have not been, they will go visit and certainly for those of our constituents who visit this great Capitol of the Nation, that they get a chance to visit the Visitors Center. I watched the faces of dozens of schoolchildren as their mouths opened up, dropped in awe at the sight of this vast and beautiful Emancipation Hall. Their eyes popped open wide as they looked through the skylight and saw this gorgeous view of the dome of the Capitol that represents who they are and the great Nation to which they belong.

They were so excited about being there, and that excitement opened their minds to the lessons that would be taught to them, there in that visitors center—like the Statue of Freedom that was designed by an Italian and sent over here and yet could not be reconstructed until the ingenuity and the dedicated focus of, yes, an enslaved African American by the name of Philip Reid could figure out how to unhook the model that the Italians had sent us, cast it, and put it piece by piece back together. No one else could figure it out.

As you walk into Emancipation Hall and you see this huge statue, the caste of the Statue of Freedom, what an unbelievable feeling it gives, not just to schoolchildren, but to any American who walks in there. How important for them to know of the ingenuity, the hard work, the labor that went into this incredible building.

Through this effort I wanted to make sure that everyone who visits the Capitol leaves knowing the story of the people who helped to build it, a true symbol of freedom, at a time when they themselves were not free.

I want to close, first, by saying again a very special thanks to my friend and colleague Senator CHAMBLISS from Georgia who has worked with us on this resolution—we were so excited and pleased to see it pass last night—as well as the chairman of the Rules Committee, Senator SCHUMER, and the distinguished ranking member of the committee, Senator BENNETT, for also sponsoring the legislation with Senator CHAMBLISS and myself. They were all so good to work with on this resolution. I appreciate their efforts and emphasis on something I believe is very important, not just for the Capitol but for our entire Nation.

I also want to publicly thank and recognize my good friend and former colleague Congressman JOHN LEWIS for his leadership on this project. He is an extraordinary human being. I have been grateful for the opportunity to work with him on this very important issue.

I never will forget, when I arrived in the House of Representatives as a young single woman in 1993, Congressman LEWIS invited a small group of us freshmen—it was the largest freshman class since the 1940s, I believe—anyway, he invited us to come view some of his footage and film from days during the 1960s, and all of what he endured before that. It was amazing—the freedom ride, all of what he had experienced. It was a tremendous opportunity for me to get to know him better. I am grateful, again, for his extraordinary leadership.

I hope everyone, as I said, will take the opportunity to go to the CVC if they have not already and take a look and hopefully burn in each of our hearts how important it is to remember every day when we come to this unbelievable building what it stands for; hopefully relighting and rekindling our ability to unite, to work together for the great things this wonderful Nation stands for. I appreciate so much everyone working together to make this possibility a reality. I am very excited.

I thank my colleagues for their attention. I yield the floor to my good friend and colleague from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise to speak in favor of S. Res. 53 which commemorates the role of slaves in constructing the U.S. Capitol. What a great historical revelation and statement my colleague from Arkansas has made. This is one of those moments when the Senate has an opportunity to shine, because we have a chance to look back at historical facts that may

not have been pretty, as we look back on it, but are a part of our history. I want to tell her how much I appreciate her leadership on this—not just this particular resolution, but on this overall issue. She has been a true champion. Her leadership in her caucus has meant an awful lot to a number of people, particularly those of us who come from the South.

She mentioned my good friend JOHN LEWIS, my colleague, the dean of our delegation. What a great American JOHN LEWIS is. I have the opportunity every year at the Martin Luther King birthday celebration to take the podium with JOHN LEWIS at Ebenezer Baptist Church and to recollect and reminisce about some of those times that may not have been pleasant but, again, they are part of our history. JOHN LEWIS certainly lived that history and the great story of his contribution to America—his having gone through what he went through—is why we all have such admiration for him.

It is one of the great, sad ironies of American history that the very foundation of this building in which we have debated essential questions of liberty and even decided who was free and who was not, was laid by those who wore shackles. We do not know that much about them. In the scant records that were kept, only a few first names survive next to those of their owners, and the sums paid for their backbreaking work. But we do know this. They toiled in the hot Sun and the cold wind in the quarries of Virginia and Maryland to unearth the stone upon which rests this temple of liberty.

From 1793 to 1826, as many as 800 slaves at any one time painted, roofed, sawed, glazed, and perfected a building that represented a freedom that was never to be theirs and, in an irony of ironies, as the Civil War tore this country asunder over the very issue of human liberty, a slave laborer named Philip Reid cast the Statue of Freedom that now crowns this very building.

Uncredited and unsung, slaves carved and polished the three-story-high marble columns that grace Statuary Hall, a soaring backdrop where so many of us earlier this week debated and discussed the first congressional speech of this Nation's first Black President. How far we have come in this period of history in our country.

We can never pay these laborers their due but we can, even belatedly, recognize their significant contributions.

This resolution authorizes a plaque to be placed near the original East Front wall of the Capitol, one of the few places their handiwork is still visible, to acknowledge the role and contributions enslaved African-American laborers played in the evolution of this building and, by extension, this democracy.

Again, I thank my colleague from Arkansas and commend her once again for her leadership. She and I have worked on so many issues in a strong and bipartisan way. Without her leadership we would not be here now.

I thank all my colleagues for their unanimous approval of this resolution.

Mr. SCHUMER. Mr. President, I rise today in support of Senator LINCOLN's legislation to recognize the role of enslaved African Americans in the construction of the Capitol. Every day, America's lawmakers walk the marble halls of the U.S. Capitol, but we seldom reflect upon the struggles of those who constructed this esteemed building. America was founded on the idea that all of its people should be free, yet throughout our history, we have struggled against the influence of racism and ignorance. We cannot brush over the impact of slavery on the history of our Nation. By acknowledging the role of enslaved African Americans in the construction of the U.S. Capitol, we are one step closer to healing the racial wounds that remain in our society.

Throughout America, children's textbooks are filled with information about the Founders of our Republic, but they mention little or nothing about the enslaved African Americans who helped build the Capitol. Many facts about the lives of these people are lost in history, but documents from the time help us put together a partial picture of what their lives were like. The enslaved African Americans who constructed this building were rented by the Government from their owners. Between 1795 and 1801, more than 380 payments were made to slave owners for the use of their slaves in the construction of the Capitol. Slaves performed a variety of tasks, including mining, stone and timber sawing, bricklaying, and carpentry. They mined the stone used in constructing the section of the Capitol where this plaque will be displayed in the Aquia Creek sandstone quarry in Stafford County, VA, and the Montgomery County marble quarry in Maryland.

Our Nation has made tremendous progress since the days when a slave was valued as three-fifths of a person, but though the days of slave auctions and forced servitude are behind us, our work is not finished. To date, only six African Americans have served in the U.S. Senate. America's first two African American Senators, Hiram Revels and Blanche Bruce, served the State of Mississippi in the 1870s. It was not until 1967, nearly a century later, that America's third African American Senator, Edward Brooke of Massachusetts, came to Washington. Carol Moseley Braun of Illinois made history in 1993 when she became the first and only African American woman to serve in the Senate. In 2005, Barack Obama, also of Illinois, became the fifth African American to serve in the Senate, followed by ROLAND BURRIS.

President Obama's inauguration this year stands as one of the greatest achievements in the history of civil rights in this country. Many doubted that the United States would ever elect an African American President, but I am certain that while President Obama is the first African American to win the Presidency, he will not be the last.

Recognizing the role of enslaved African Americans in the building of the U.S. Capitol is important to coming to terms with our past and overcoming the tragic history of slavery in our Nation. This plaque stands as a reminder of how far we have come since the days of slavery and how far we still need to go.

TRIBUTE TO MANNY ROSSMAN

Mr. KYL. Mr. President, I wish to take a few minutes to say farewell to the head of my whip office staff, Manny Rossman.

By some standards, Manny has had a relatively brief career in Congress. But anyone who knows Manny knows that he has been an indispensable staff member from the very beginning.

Manny started his career on the Hill as an intern, like so many others. He was lucky his internship was with then-Congressman Bill Archer, chairman of the House Ways and Means Committee. Manny was not any ordinary intern, however. He quickly moved from opening mail and answering phones to working on substantive legislative issues. Clearly, Bill Archer saw the promise of this very special intern.

Following his internship, Manny went off to law school at the University of Pennsylvania. Manny was president of the Penn Law Republicans and a member of the Federalist Society. He graduated in 1999.

His time in law school was very successful, and he could have easily made his way to Wall Street for a career there or elsewhere. But the pull of public policy and public service brought him to Washington, DC. After he graduated from law school, Manny accepted a job with then-Congressman Phil Crane.

Congressman Crane was a senior member of the Ways and Means Committee, which gave Manny the opportunity to work on the leading tax and trade issues of the day. These issues are central to our economic health as a nation, and Manny made them a top priority. Manny quickly became a trusted adviser to Congressman Crane, working on such landmark issues as the law that repealed the FSC/ETI tax benefit and replaced it with a deduction designed to encourage domestic manufacturing activity. He also worked on enactment of trade promotion authority and multiple free trade agreements.

After Phil Crane left the House, Manny made his way across Capitol Hill to the Senate, where he became Senator Trent Lott's key staff person on the Finance Committee. That is where I first met Manny and, more importantly, where Manny met his future bride. At that time, Jennifer Vesey was handling health care issues on the Finance Committee for our then-colleague Senator Rick Santorum of Pennsylvania. Who knew that the Deficit Reduction Act could be so romantic?

While working on Finance Committee issues, Manny helped the Senate enact a landmark pension reform bill, the Central American Free Trade Agreement, and the extension of the 15-percent tax rate for capital gains and dividends through the end of 2010. Following the devastation of Hurricane Katrina, Manny worked night and day to help Mississippi and the entire gulf coast region begin the long road to recovery through the establishment of the Gulf Opportunity Zone, or so-called GO Zone.

Trent Lott was elected the Republican whip in late 2006, and to no one's surprise, he asked Manny to become his whip office chief of staff. Working with Trent Lott, Manny built a highly effective whip organization. At the same time, he developed countless relationships with other Senate leadership offices, with House leadership offices, and with the administration that to this day facilitate the smooth operation of the entire legislative process.

When Trent Lott retired at the end of 2007 and I was elected whip by my colleagues, I knew the key to an effortless transition was Manny Rossman. I am grateful that Manny agreed to stay with the whip operation through my first year. I very much appreciate the advice and the counsel he has given me during this time. I agree with Trent Lott that there is something about ''the magic of Manny'' that makes him such an effective and delightful addition to our whip team.

We will all miss him very much. We thank him for his service to the Senate, to the Congress, and to the country, and we wish him farewell and Godspeed.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I wish to echo the remarks of my good friend from Arizona, Senator KYL, about our friend Manny Rossman, who has never worked directly for me, but I say to the Senator from Arizona, he has such a great sense of teamwork that even though Manny was working first for Senator Lott and then for Senator KYL, you had the feeling that the two offices were sort of a seamless web. The credit for that, in addition to the principal, I think goes to Manny, who had a great sense of the importance of cooperating, working together, making the leader's office and the whip's office really one. His personality, his brilliance, his ability to interact with people is really unsurpassed.

So I join my friend from Arizona and congratulate Manny for his great service to America in the Senate. I know he will have a hugely successful post-Senate career. We are going to miss him, but we wish him well.

TRIBUTE TO FIRST LIEUTENANT JOHN V. SCANLAN

Mr. MCCONNELL. Mr. President, I would like to share with my colleagues a letter I have written to a family in Kentucky that is going to have a very special ceremony. Tomorrow, February 27, in Louisville, KY, the family of 1LT John V. Scanlan will receive on his behalf the Prisoner of War Medal.

Lieutenant Scanlan, of Louisville, served in the U.S. Army Air Corps in World War II and was lost in 1945 when he was shot down over Japan. Now, more than 60 years later, he will be honored for the full extent of his valiant service to this Nation.

So I ask my colleagues to join me in sending our thoughts and prayers to the family of 1LT John V. Scanlan on their very important day. We must let them know that their sacrifice will always be revered by our Nation.

Mr. President, the letter reads as follows:

Dear Catherine Wiggins and members of the Scanlan family,

It is never too late to honor bravery and sacrifice. That's why you have my respect and gratitude today as you accept the Prisoner of War Medal for First Lieutenant John V. Scanlan.

On June 23, 1945, Lieutenant Scanlan climbed aboard his P–51 Mustang aircraft and set out from Iwo Jima for what would be his final mission. Only later would his family learn about that mission's terrible end. I cannot imagine your family's horror at learning what happened to a good and brave man at the hands of the enemy.

And yet that was not the end of your family's service to America. John's two brothers also wore their country's uniform. One of them, Colonel Joseph William Scanlan of the U.S. Air Force, was a career officer who raised his family all over the world. And his daughter Catherine remembers the trips to Arlington Cemetery on Veterans Day, when her father would tell her about the Uncle Jack she never knew.

Those who receive the Prisoner of War Medal set an example of courage and patriotism that inspires us all. Through unspeakable conditions, they uphold their oath to defend America with honor and dignity. You have always known of Lieutenant Scanlan's heroism from stories passed down through generations. With this ceremony, his fellow citizens will know it too.

First Lieutenant John V. Scanlan flies a different mission now. He served his country with pride, and has earned his well-deserved peace. Our nation cannot be grateful enough for his immense sacrifice. May God bless him, and may He continue to bless your wonderful family.

Sincerely,

MITCH MCCONNELL,
United States Senate.

COMMITTEE ON THE JUDICIARY, RULES OF PROCEDURE

Mr. LEAHY. Mr. President, the Committee on the Judiciary has adopted rules governing its procedures for the 111th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules for the Senate, I ask unanimous consent that a copy of the committee rules be printed in the RECORD.

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

RULES—UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

I. MEETINGS OF THE COMMITTEE

1. Meetings of the Committee may be called by the Chairman as he may deem necessary on three days' notice of the date, time, place and subject matter of the meeting, or in the alternative with the consent of the Ranking Minority Member, or pursuant to the provision of the Standing Rules of the Senate, as amended.

2. Unless a different date and time are set by the Chairman pursuant to (1) of this section, Committee meetings shall be held beginning at 10:00 a.m. on Thursdays the Senate is in session, which shall be the regular meeting day for the transaction of business.

3. At the request of any member, or by action of the Chairman, a bill, matter, or nomination on the agenda of the Committee may be held over until the next meeting of the Committee or for one week, whichever occurs later.

II. HEARINGS OF THE COMMITTEE

1. The Committee shall provide a public announcement of the date, time, place and subject matter of any hearing to be conducted by the Committee or any Subcommittee at least seven calendar days prior to the commencement of that hearing, unless the Chairman with the consent of the Ranking Minority Member determines that good cause exists to begin such hearing at an earlier date. Witnesses shall provide a written statement of their testimony and curriculum vitae to the Committee at least 24 hours preceding the hearings in as many copies as the Chairman of the Committee or Subcommittee prescribes.

2. In the event 14 calendar days' notice of a hearing has been made, witnesses appearing before the Committee, including any witness representing a Government agency, must file with the Committee at least 48 hours preceding appearance written statements of their testimony and curriculum vitae in as many copies as the Chairman of the Committee or Subcommittee prescribes.

3. In the event a witness fails timely to file the written statement in accordance with this rule, the Chairman may permit the witness to testify, or deny the witness the privilege of testifying before the Committee, or permit the witness to testify in response to questions from Senators without the benefit of giving an opening statement.

III. QUORUMS

1. Six Members of the Committee, actually present, shall constitute a quorum for the purpose of discussing business. Eight Members of the Committee, including at least two Members of the minority, shall constitute a quorum for the purpose of transacting business. No bill, matter, or nomination shall be ordered reported from the Committee, however, unless a majority of the Committee is actually present at the time such action is taken and a majority of those present support the action taken.

2. For the purpose of taking down sworn testimony, a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

IV. BRINGING A MATTER TO A VOTE

The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a roll call vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the minority.

V. AMENDMENTS

1. Provided at least seven calendars days' notice of the agenda is given, and the text of the proposed bill or resolution has been made available at least seven calendar days in advance, it shall not be in order for the Committee to consider any amendment in the

first degree proposed to any measure under consideration by the Committee unless such amendment has been delivered to the office of the Committee and circulated via e-mail to each of the offices by at least 5:00 p.m. the day prior to the scheduled start of the meeting.

2. It shall be in order, without prior notice, for a Member to offer a motion to strike a single section of any bill, resolution, or amendment under consideration.

3. The time limit imposed on the filing of amendments shall apply to no more than three bill identified by the Chairman and included on the Committee's legislative agenda.

4. This section of the rule may be waived by agreement of the Chairman and the Ranking Minority Member.

VI. PROXY VOTING

When a recorded vote is taken in the Committee on any bill, resolution, amendment, or any other question, a quorum being present, Members who are unable to attend the meeting may submit votes by proxy, in writing or by telephone, or through personal instructions. A proxy must be specific with respect to the matters it addresses.

VII. SUBCOMMITTEES

1. Any Member of the Committee may sit with any Subcommittee during its hearings or any other meeting, but shall not have the authority to vote on any matter before the Subcommittee unless a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the Subcommittee chairmanship and seniority on the particular Subcommittee shall not necessarily apply.

3. Except for matters retained at the full Committee, matters shall be referred to the appropriate Subcommittee or Subcommittees by the Chairman, except as agreed by a majority vote of the Committee or by the agreement of the Chairman and the Ranking Minority Member.

4. Provided all members of the Subcommittee consent, a bill or other matter may be polled out of the Subcommittee. In order to be polled out of a Subcommittee, a majority of the members of the Subcommittee who vote must vote in favor of reporting the bill or matter to the Committee.

VIII. ATTENDANCE RULES

1. Official attendance at all Committee business meetings of the Committee shall be kept by the Committee Clerk. Official attendance at all Subcommittee business meetings shall be kept by the Subcommittee Clerk.

2. Official attendance at all hearings shall be kept, provided that Senators are notified by the Committee Chairman and Ranking Minority Member, in the case of Committee hearings, and by the Subcommittee Chairman and Ranking Minority Member, in the case of Subcommittee Hearings, 48 hours in advance of the hearing that attendance will be taken; otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

COMMITTEE ON ENERGY AND NATURAL RESOURCES RULES OF PROCEDURE

Mr. BINGAMAN. Mr. President, in accordance with rule XXVI, paragraph 2, of the Standing Rules of the Senate, I submit the rules governing the procedure of the Committee on Energy and Natural Resources for publication in the CONGRESSIONAL RECORD.

I ask unanimous consent that they be printed in the RECORD.

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

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate, as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Hearings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) All hearings and business meetings of the Committee and all the hearings of any of its Subcommittees shall be open to the public unless the Committee or Subcommittee involved, by majority vote of all the Members of the Committee or such Subcommittee, orders the hearing or meeting to be closed in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee unless a majority of all the Members of the Committee agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of all the Members of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice. Any document or report that is the subject of a hearing shall be provided to every Member of the Committee or Subcommittee involved at least 72 hours before the hearing unless the Chairman and Ranking Member determine otherwise.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each Member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and Ranking Minority Member of the Committee or Subcommittee or the Ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the Ranking Majority and Minority Members present may agree. No staff member may question a witness in the absence of a quorum for the taking of testimony.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure, nomination, or other matter shall be included on the agenda of the next following business meeting of the full Committee if a written request for such inclusion has been filed with the Chairman of the Committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee to include a legislative measure, nomination, or other matter on the Committee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of all the Members of the Committee on matters not included on the public agenda. The Staff Director shall promptly notify absent Members of any action taken by the Committee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b) and (c), eight Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless twelve Members of the Committee are actually present at the time such action is taken.

(c) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request of any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the Ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will

receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

NOMINATIONS

Rule 9. At any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made available to the public on a form approved by the Committee unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule.

INVESTIGATIONS

Rule 10. (a) Neither the Committee nor any of its Subcommittees may undertake an investigation or preliminary inquiry unless specifically authorized by a majority of all the Members of the Committee.

(b) A witness called to testify in an investigation or inquiry shall be informed of the matter or matters under investigation, given a copy of these rules, given the opportunity to make a brief and relevant oral statement before or after questioning, and be permitted to have counsel of his or her choosing present during his or her testimony at any public or closed hearing, or at any unsworn interview, to advise the witness of his or her legal rights.

(c) For purposes of this rule, the terms ''investigation'' and ''preliminary inquiry'' shall not include a review or study undertaken pursuant to paragraph 8 of Rule XXVI of the Standing Rules of the Senate or an initial review of any allegation of wrongdoing intended to determine whether there is substantial credible evidence that would warrant a preliminary inquiry or an investigation.

SWORN TESTIMONY

Rule 11. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or Ranking Minority Member of the Committee or Subcommittee deems such to be necessary. If one or more witnesses at a hearing are required to testify under oath, all witnesses at such hearing shall be required to testify under oath.

SUBPOENAS

Rule 12. No subpoena for the attendance of a witness or for the production of any document, memorandum, record, or other material may be issued unless authorized by a majority of all the Members of the Committee, except that a resolution adopted pursuant to Rule 10(a) may authorize the Chairman, with the concurrence of the Ranking Minority Member, to issue subpoenas within the scope of the authorized investigation.

CONFIDENTIAL TESTIMONY

Rule 13. No confidential testimony taken by or any report of the proceedings of a closed Committee or Subcommittee meeting shall be made public, in whole or in part or by way of summary, unless authorized by a majority of all the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 14. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 15. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 16. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.

COMMITTEE ON ARMED SERVICES RULES OF PROCEDURE

Mr. LEVIN. Mr. President, in compliance with rule XXVI of the Standing Rules of the Senate, I ask unanimous consent to have printed in the RECORD a copy of the rules of procedure of the Committee on Armed Services, as approved by the committee on February 26, 2009.

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

RULES OF PROCEDURE OF THE COMMITTEE ON ARMED SERVICES

1. Regular Meeting Day.—The Committee shall meet at least once a month when Congress is in session. The regular meeting days of the Committee shall be Tuesday and Thursday, unless the Chairman, after consultation with the Ranking Minority Member, directs otherwise.

2. Additional Meetings.—The Chairman, after consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

3. Special Meetings.—Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. Open Meetings.—Each meeting of the Committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. Presiding Officer.—The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the Ranking Majority Member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. Quorum.—(a) A majority of the members of the Committee are required to be actually present to report a matter or measure from the Committee. (See Standing Rules of the Senate 26.7(a)(1)).

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, nine members of the Committee, including one member of the minority party; or a majority of the members of the Committee, shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. Proxy Voting.—Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which the member is being recorded and has affirmatively requested that he or she be so recorded. Proxy must be given in writing.

8. Announcement of Votes.—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting. The Chairman, after consultation with the Ranking Minority Member,

may hold open a rollcall vote on any measure or matter which is before the Committee until no later than midnight of the day on which the Committee votes on such measure or matter.

9. Subpoenas.—Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued, after consultation with the Ranking Minority Member, by the Chairman or any other member designated by the Chairman, but only when authorized by a majority of the members of the Committee. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. Hearings.—(a) Public notice shall be given of the date, place and subject matter of any hearing to be held by the Committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the Committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the Committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or subcommittee conducting such hearings.

(d) The Chairman of the Committee or subcommittee shall consult with the Ranking Minority Member thereof before naming witnesses for a hearing.

(e) Witnesses appearing before the Committee shall file with the clerk of the Committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the Chairman and the Ranking Minority Member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(f) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

(g) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(h) Witnesses providing unsworn testimony to the Committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the Chairman.

11. Nominations.—Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven (7) days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

12. Real Property Transactions.—Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within thirty (30) days from the date of submission.

13. Legislative Calendar.—(a) The clerk of the Committee shall keep a printed calendar for the information of each Committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each new revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the Committee. Each subcommittee of the Committee is part of the Committee, and is therefore subject to the Committee's rules so far as applicable.

15. Powers and Duties of Subcommittees.—Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen, after consultation with Ranking Minority Members of the subcommittees, shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

TRIBUTE TO HIRAM RHODES REVELS

Mr. COCHRAN. Mr. President, yesterday marked the 139th anniversary of the seating of Hiram Rhodes Revels, as a United States Senator from the State of Mississippi. He was the first African-American to serve as a U.S. Senator.

Senator Revels was born in Fayetteville, NC. His father was a Baptist preacher, his mother was of Scottish descent. He moved north to complete his education at Beech Grove Quaker Seminary in Liberty, IN. In 1862, Hiram Revels recruited soldiers to serve in the Union Army and became Chaplain for a Black regiment in Mississippi.

Senator Revels began his political career after the war as an alderman in Natchez, MS. In 1869, he won a seat in the reconstructed Mississippi State Senate. One of the primary tasks of the newly elected State senate was to fill U.S. Senate seats in preparation for the State's return to the Union. In 1870, the new Mississippi State Legislature elected Hiram Revels to fill a term due to expire in 1871.

During his service in the United States Senate he worked on education issues. Upon his return to Mississippi, he became the first president of Alcorn State University.

During Black History Month it is appropriate that Hiram Rhodes Revels be remembered for his leadership and significant contributions to Mississippi and our Nation.

Mr. President, I ask unanimous consent that the Biographical history of Mr. Revels and a New York Times article be printed in the RECORD.

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

Revels, Hiram Rhodes, a Senator from Mississippi; born in Fayetteville, Cumberland County, NC, on September 27, 1827; attended Beech Grove Quaker Seminary in Liberty, Ind., Darke County Seminary in Ohio, and Knox College, Galesburg, Ill.; barber; ordained a minister in the African Methodist Episcopal Church at Baltimore, Md., in 1845; carried on religious work in Indiana, Illinois, Kansas, Kentucky, Tennessee, and Missouri; accepted a pastorate in Baltimore, Md., in 1860; at the outbreak of the Civil War assisted in recruiting two regiments of African American troops in Maryland; served in Vicksburg, Miss., as chaplain of a Negro regiment, and organized African American churches in that State; established a school for freedmen in St. Louis, Mo., in 1863; after the war, served in churches in Kansas, Kentucky and Louisiana before settling in Natchez, Miss., in 1866; elected alderman in 1868; member, Mississippi State senate 1870; elected as a Republican to the United States Senate; presented his credentials upon the readmission of Mississippi to representation on February 23, 1870; took the oath of office on February 25, 1870, after the Senate resolved a challenge to his credentials, and served from February 23, 1870 until March 3, 1871; first African American Senator; secretary of State ad interim of Mississippi in 1873; president of Alcorn University (formerly Oakland College), Rodney, Miss., 1871–1874, 1876–1882; moved to Holly Springs, Marshall County, Miss., and continued his religious work; editor, Southwestern Christian Advocate, official newspaper of A.M.E. Church 1876–1882; in retirement after 1882, taught theology at Shaw University, Holly Springs, Miss.; died from a paralytic stroke in Aberdeen, Miss., January 16, 1901; interment in Hill Crest Cemetery, Holly Springs, Miss.

[From the New York Times, Feb. 25, 1870]

THE COLORED MEMBER ADMITTED TO HIS SEAT IN THE SENATE

WASHINGTON, Feb. 25—. Mr. Revels, the colored Senator from Mississippi, was sworn in and admitted to his seat this afternoon at 4:40 o'clock. There was not an inch of standing or sitting room in the galleries, so densely were they packed; and to say that the interest was intense gives but a faint idea of the feeling which prevailed throughout the entire proceeding. Mr. Vickers, of Maryland, opened the debate to-day, arguing against the admission, on the ground that Revels had not been a citizen for nine years, and therefore was not eligible. Mr. Wilson followed on the other side, and was succeeded by Mr. Casserly, who took a new departure and arraigned the entire reconstruction policy, charging that all the Southern Senators were put in their seats by the force of the bayonets of the regular army. This aroused Mr. Drake to a white heat, and provoked him to utter remarks and to make personal allusions to Mr. Casserly which were certainly in bad taste, and in no way pertinent to the subject before the body. Mr. Sumner made the closing speech for the Republican side of the question. It was brief, pithy and eloquent. Then came Mr. Stockton in deference of his party. He was boisterous and commonplace, and his speech was much better suited to the stump than to the Senate. He argued

in favor of his motion to refer the credentials to the Judiciary Committee, which was promptly negatived by a party vote. The question was then put on the admission, which was passed by the same strict drawing of the party lines. Only one thing remained, which was that the first colored Senator elect should advance to the Speaker's desk and be sworn. The Vice-President made the announcement to the galleries that all demonstrations of approval or disapproval would be promptly suppressed. There had been through the debate one or two such demonstrations, once from the Republican side, when Mr. Scott, in reply to Mr. Bayard, declared that he abandoned the Democratic Party when it raised its hand in rebellion, and again when Mr. Stockton prophesied that the Democracy would soon control national affairs. In view of these facts, Mr. Colfax's announcement was somewhat necessary. When the Vice-President uttered the words, ''The Senator elect will now advance and take the oath,'' a pin might have been heard drop. But as Senator Wilson rose in his seat and stepped to the lounge immediately behind his desk, where Mr. Revels was sitting, to escort that gentleman to the Speaker's desk, the galleries rose to their feet, that they might miss no word or lose no glimpse of what was being enacted below. The ceremony was short. Mr. Revels showed no embarrassment whatever, and his demeanor was as dignified as could be expected under the circumstances. The abuse which had been poured upon him and on his race during the last two days might well have shaken the nerves of any one. The vast throng in the galleries showed no sign of feeling one way or the other, and left very quietly.

TRIBUTE TO LARRY H. MILLER

Mr. HATCH. Mr. President, when the lights were dimmed and the spotlight shone on the empty seat at the end of Row A on the edge of the Utah Jazz basketball court last Saturday night, it symbolized so much more than the absence of its usual occupant. It demonstrated in very poignant, solemn terms the loss Utah experienced a few days ago with the death of one of its most beloved and prolific citizens, Larry H. Miller.

On Friday, February 20, 2009, Larry H. Miller quietly passed away in his home with his beloved wife and family by his side. At the age of 64, by all estimates, Larry left this earth way too early. His body had been ravaged over the past year with various medical maladies resulting from complications of Type 2 Diabetes. Yet, even though his body was physically depleted, his fighting spirit and pragmatic wisdom continued until his very last breath. I do not think anyone was really prepared to lose this mighty man.

Larry came from humble beginnings. His life story exemplified from start to finish the true American dream. By all accounts his education and intelligence was not honed in a classroom, but in the workplace of our nation. Through odd jobs and a beginning career as an auto parts stock boy, he quickly graduated to owning his first car dealership with a business deal struck in an afternoon visit with an old acquaintance.

Larry's business acumen was legendary. The risks he took were enormous and the decisions he made on a daily basis would stifle even the most experienced business leader. However, because of the risks he was willing to take and the business decisions he had the courage to make, the impact he left in every corner of our State cannot be overstated.

From the days of his first car enterprise, his empire grew to include many car dealerships, movie theaters, restaurants, television and radio stations, a first-class sports arena, a race track, sports memorabilia and apparel stores, a professional baseball team, and of course, our cherished Utah Jazz.

His professional life was punctuated by hard work, ingenuity, and good old-fashioned common sense. He was a man who wore many hats, and wore them well. He was plain spoken, and very direct in sharing his thoughts and opinions. He did not live a life of flash, but one of more humble trappings. I cannot think of Larry without picturing him at so many events, no matter the importance, in his trademark casual pants and golf shirt. He was a man who lived by his own creed, and never let anyone else define him.

The relationships he developed, and consequently shared with Utah, have brushed our community with great color. Karl Malone, John Stockton, Jerry Sloan, Deron Williams, Thurl Bailey, Mark Eaton, and Jeff Hornacek are only a few people Larry befriended, hired, and mentored who have provided many hours of great sports entertainment to fans across the country. I know that personalities from time to time would clash, but at the end of the day Larry, and those who worked for or played for him, shared a mutual respect and love not often found in professional sports today.

Larry not only contributed mightily to Utah's business climate, he also served in so many ways to improve the lives of people from all walks of life. His sense of community, and love for our State, were felt by all who came into contact with him. He did so many generous acts of service for his fellow man, quietly and behind the scenes, which most will never know occurred. He believed in people, and he loved helping many find the right path to follow.

Larry Miller will forever be remembered for his business empire and leadership skills, but perhaps his greatest contribution was in the walls of his own home. He loved and cherished his wife of 48 years, Gail, as well as his five children, 21 grandchildren, and one great-grandchild. He tutored them in the ways of business, but more importantly, in the love of family. As he began facing later years, Larry was quoted on many occasions stating his renewed desire to be the kind of husband, father, and grandfather he wanted to be. Within hours of Larry passing away, Gail and their children held a news conference praising the man they had known and loved. Their strength in his passing, I believe came from the love and care Larry had bestowed on each of them throughout his life.

Utah lost a great man, and I lost a treasured friend. Throughout the years of my service in the United States Senate I would often look to Larry Miller for his wisdom and strength. He was a rare person to find in the political world, someone who worked for the good of our State and its people, instead of furthering his own ambitions. He wanted to be remembered for his ''love of Utah.'' And anyone who crossed paths with Larry can attest to his passion and love for our great State.

Perhaps Larry H. Miller's life can best be summarized in his own words quoted in the Deseret News this week. He said, ''You know, I don't want this to sound boastful, but I really have had an extraordinary life.'' Yes, Larry did live an extraordinary life and I honor him for the contributions he made to Utah, its citizens, and most importantly to his family. His influence will never be forgotten, and his example will be followed by generations to come.

NATIONAL EYE DONOR MONTH

Mr. CHAMBLISS. Mr. President, I rise today in support of the Eye Bank Association of America, the Georgia Eye Bank, and the recognition of March as National Eye Donor Month.

Eye banks today provide for more than 50,000 corneal grafts for transplantation each year. In Georgia alone, citizens donated enough ocular tissue to provide over 1,200 corneas to their fellow Georgians. The generosity of these donors allows for better eye care and the gift of improved sight for those lucky enough to receive transplants.

The Eye Bank Association of America is the oldest transplant association in the United States and has restored sight to nearly 1 million individuals. The association was created in 1955 when 12 eye banks formed with the American Academy of Ophthalmology and Otolaryngology. Since 1961, more than 600,000 corneal transplants have been performed, restoring the sight of men, women, and children ranging from 9 days to 107 years old. This year, I am proud to commend Dr. Bruce Varnum, chair of the Eye Bank Association of America, from my home State of Georgia, for his excellent service and commitment to advancing eye transplantation and donation.

Corneal blindness can develop from a variety of diseases, injuries, or infections. These transplants have over a 90 percent success rate and give renewed hope for those in need of a new beginning.

Despite these encouraging numbers, many Americans are still left waiting in the dark. I urge my colleagues and all Americans to consider becoming eye donors to allow for the miracle of sight that so many of us take for granted. By working with the National Eye Banks Association and local eye

banks, we involve ourselves in the selfless and kindhearted spirit that defines the American people. The role of eye donors is paramount in assisting those who have tragically lost the ability to see.

Mr. President, lawmakers have recognized March as National Eye Donor Month since President Reagan proclaimed the first one in 1983 and I am honored on behalf of the residents of Georgia and those throughout the country to recognize March as National Eye Donor Month.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

My fiance and I bought a home in Caldwell in May and we moved out of his parents' home. While living with his parents, we paid rent and part of the bills. We knew, when we moved, we would be fine. Unlike many people, we know how to live within our means and stay below that mark in case of an emergency—like the cost of gas increasing at such an astronomical rate. His parents are a different story. They are in the group that overextended themselves, got the big house loan that any banker with common sense should have said no to but gave them the loan anyway with an adjustable rate. At the time, we knew if they gave up a couple of things (like cable tv) they would make ends meet. That is far from the truth now. In just a couple of months, gas has gone up and affected every end of life. Food is now more expensive. Other items like shampoo, cleaners, clothing, and medications have increased too with no end in sight. Even if they gave up the cable tv, drinking, smoking and anything extra, they can barely make it now. Sometimes I feel guilty for moving out and trying to create our own household and family. A child should be able to move out, make it with a supposedly 'living wage job' (which is rare and far in-between in the state of Idaho) and not have to either run back to the parents because the economy has sunk to the black hole of doom or have the parents move in with them because they are not capable of supporting themselves in the same economy.

Congress needs to stop bickering and aggravating each other and be adults—work together; otherwise those states they are supposedly working for are going to crash and burn. I know it is an election year and each party is trying to get their person elected. I also know the economy goes into a dive during said election year due to uncertainty about the next president and possible outcome of policies and bills. I am all for increasing domestic oil production if regulations are put in affect to help 'guide' the sales and thus restricting gas and fuel from skyrocketing like it is. OPEC said it would increase production yet oil futures increase on the stock markets. This is getting out of hand and a small group of people are profiting greatly while draining the hard earned money from everyone. It will backfire and it will not be pretty. Instead of fighting with the oil companies, tell them fine, thanks for all the fish. Get new technology and alternative fuel sources reved up. Stop the oil companies from bullying smaller companies from developing new fuel sources. Take the tax breaks from the oil companies and give them to the companies who have proven examples of alternative fuels and technology to work with said alternative fuels. Give people who do not own one of those massive Hummers or SUVs a tax break. Because those who bought the massive Hummers and SUVs did not help the situation and they knew it. I know it is unfair, but punishing those who used common sense and chose the practical Ford Fusion over the Hummer because they thought and realized that the Hummer was overkill on the road is unfair too. I would say we need more public transportation, but Idaho is not 'public transportation' friendly. What works in Seattle and Portland would be a cosmic joke in this state. Our communities are spread out to the point a public transportation system would only work with the Star Trek shuttles or transporter. In other words, it is not realistic. These are just my opinions and a small drop of concern in a huge lake.

KRISTA.

The price of gasoline is the cause of my debt going up. With a family of 5, it is hard to cut back anymore than I already have. My wife and I use our vehicles less than we have in the past, but we still are finding it hard to make ends meet due to the fact that when the price of gasoline goes up so does the price of food, clothes, electricity, and many other everyday necessities.

For a solution I cannot understand why the only car company (that I know of) making a natural gas-fueled car is Honda (Honda GX) and the only hydrogen car (that I know of) is made by Honda (Honda FCX). I believe if there were easy access to natural gas gas stations and easy access to hydrogen fuel stations that the cost of the natural gas car and the hydrogen car would be equal to the price that gasoline-powered cars are. I keep hearing about how we need to start drilling offshore for oil, but if we would use vehicles not powered by gasoline, we would not need to do any offshore drilling. I am sure there are inventors out there with ideas for cars powered by something other than gasoline, besides the natural gas and hydrogen, that are not being given the opportunity to mass market their ideas. It looks to me like we have chosen to be dependent on oil and that car companies refuse to look for alternatives to gasoline powered cars. Honda may be making the alternative fuel cars, but they are not making the cars available to the masses, although Honda does not build hydrogen or natural gas gas stations. Without easy access to the fuel need for the hydrogen, natural gas, and even the electric car then you are not truly giving the consumer the opportunity to choose any car powered by anything but gasoline.

Thanks for your time.

JEFF.

I applaud your efforts to communicate with Idahoans in an effort to gain an understanding of what we see on a daily basis. Perhaps there are some politicians that still want to feel the pulse of those who elect them. I am not an Idaho resident, but spent most of my 30 years growing up and living in the state. I now reside in Washington and more specifically in the northern Puget Sound system.

When the increase in fuel prices became more than I could justify I was faced with a decision to use our mass transit system. I could not be more pleased with the level of service offered. In comparison, many local areas in Southern Idaho do not have a public transportation system that carries a similar weight. With the increase in traffic in the treasure valley one would think that a mass transit system would be a logical solution. It benefits both economically and environmentally make it a decision I believe is a must. What future planning is in the works to create a suitable mass transit system that would be utilized if any? I encourage the use of a committee to explore more efforts for carpooling, expanded bus systems, and light rail for a county connect system. If you want to see a system that works, check out Seattle, I believe we offer a very good solution for transportation all around this region.

I encourage your continuing goal of thinking outside the box for solutions to meeting the ever increasing energy crisis facing Idaho. This should be a task all politicians should be working together on.

Warm regards,

NATE, *Marysville WA.*

I do appreciate the opportunity to ''sound off'' on the energy issue. I am of the belief that Congress has been delinquent in its responsibility to the United States citizens. I agree that we need to work hard on sources of energy that are less harmful to our environment; however, in the short run, we need to provide for our needs.

I am not aware of any solution that will provide immediate relief to the price of gasoline and diesel; however, it will not get any better by talking about it for another 5 years. If we had faced the problem 10 years ago, we would not have the problem today.

We need to drill now and we need to do it everywhere there are known deposits of oil. We need to be good stewards of the land in the process (we do know how to do that) but we need to provide for our own domestic needs.

Oil is a commodity, and like all commodities, the price will fall as the supply increases. Whether it is Alaska, off shore or the Rocky Mountain Shale oil, I believe we need to pursue the development of these deposits, and the construction of sufficient pipelines and refineries to deliver the products to our citizens.

Thank you again for your request for input. I look forward to seeing the Senate and House take positive long term steps for the ''every day'' citizens of our nation.

PETE, *Ontario, Oregon.*

Not too long ago (2½ years), I remember buying gasoline for less than $2 a gallon. I drive a Honda Civic and also have a Dodge Dakota that I use during the winter months when four-wheel drive is needed to get up and down my mountain road. I put the most miles on my Honda by far.

Buying gasoline at $4 a gallon has now become a major monthly expense, requiring me to cut back spending in other areas such as

eating out, vacations, purchasing household goods and home improvements. While it is easy to blame the oil companies, I do not feel that is fair. I believe a combination of environmentalists, the media and [the] global warming myth are more to blame. 31,000 scientists have gone on the record to debunk the global warming myth yet it is still very much alive in the media and being crammed into grade school children's minds. The EPA has forced oil companies to produce something like 19 different grades of unleaded gas. This is ludicrous.

There is no significant manmade global warming. There has not been any in the past, there is none now and there is no reason to fear any in the future. The climate of Earth is changing. It has always changed. But mankind's activities have not overwhelmed or significantly modified the natural forces. I believe there is a direct connection between global warming and four dollar a gallon gas. Ethanol is not the answer—it is just screwing up our food supply chain.

ANTHONY, *Sandpoint.*

Energy costs have resulted in our doing without or not going to some of the places we use to frequent. My wife and I are on Social Security and therefore have a set income. We are just not able to buy food and buy fuel for our vehicles. We are hoping Congress will do the common sense thing and ''drill here, drill now and pay less''. They simply must stop catering to the environmentalists and do what is right for America. As a senior member of the United States Senate, we are asking you to not only do the things you say you are going to do for the people of Idaho but be a leader and get the Senate back to Conservatism.

JERRY and TEDDI, *Homedale.*

I was born and raised in Idaho and I live here still. It is amazing how this state has changed in just the last 10 years.

The cost of fuel is insane. Raising the prices is not going to replenish the world's natural resources. We need to utilize the wind that blows nearly constantly through our state, we need to open more ethanol plants in Idaho and ship that fuel within Idaho. We need to give tax breaks to people who add solar power to their homes/businesses. All government buildings need to be solar powered.

The only way people are going to slow the destruction of our planet is by changing to using hydro power, wind power, solar power.

My family has resorted to sharing hot water to bathe and not using the air conditioning unless absolutely necessary. We have begun to ride bicycles to the grocery store to pick up milk and bread because the fuel is too precious for a small trip for the ever-necessary milk.

Idaho needs more 5 lane roads to get across the Treasure Valley. Idaho needs better public transit. Idaho needs a passenger train with stops from Caldwell, to Nampa, Kuna, Star, Eagle, Meridian, Boise * * * and numerous stops in each of those towns. Imagine with me for a moment * * * a train system with branches and stops criss-crossing the Treasure Valley, and then public buses with routes that cover the areas that the train cannot go. You, Senator, could take the train to a bus stop and catch a bus to the Statehouse! Just think about the jobs that the buses would create, and the trains * * * the traffic would be lighter on the interstate.

Treasure Valley also needs a belt route that take big trucks out of the way. A route that starts south of Eiseman Rd and travels west but stays south of Kuna and then heads north to reconnect with I84 west of Caldwell. That would make I84 through Ada and Canyon county safer to travel and again reducing tons of congestion and traffic.

These are dreams that only you and your fellow elected officials can make a reality! We voted for you so that you will hear the voice of the people and do what we ask. You are there working for the people that voted for you. Make a difference. Make Idaho a self-sufficient, self-reliant state.

S.L.

I am an independent small business owner. Since my profit margins are tiny the high price of gas and diesel are causing me to consider closing my business.

Drill here, drill now, build refineries now. Build nuclear power plants now.

VAL, *Council.*

I think it is about time that Americans became aware of their energy usage and excessive waste of a limited resource. We should have been paying high fuel prices for many years with a tax being used for research and support of alternative technologies. Enhanced domestic production and expanded refinery capacity is not the answer to a long term problem.

BILL, *Hailey.*

Please do not vote in favor of lifting the offshore drilling ban nor in favor of drilling in any wildlife refuge. Supply is not the problem in this price run-up. New drilling will only benefit those in a position to profit from the further exclusive use of petroleum, not the average consumer.

We cannot undevelop wildlife areas, and it is impossible to unspill oil. I grew up on the California coast, where offshore drilling was underway. Certain beaches were continually contaminated. We had to use, ironically, gasoline to get the oil off our feet at the end of the day.

Again, please do not vote in favor of further drilling. Please do encourage development of alternatives to petroleum. Thank you.

NANCY, *Boise.*

What I cannot understand is why our government is so blind to how the price of fuel is affecting all of America. And still the big oil companies are making huge profits, actually obscene profits. I know their stockholders want to make a profit—but at the expense of the entire economy?

Can you name one thing that you get that does not come by truck? The airlines are dropping like flies. The average driver can hardly afford to drive to work and essential places, let alone extra driving. Cannot you see how this is a huge hurt to the American family?

KATHIE, *Melba.*

BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2009—PM 9

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on the Budget; and Appropriations:

PRESIDENT'S MESSAGE

Throughout America's history, there have been some years that appeared to roll into the next without much notice or fanfare. Budgets are proposed that offer some new programs or eliminate an initiative, but by and large continuity reigns.

Then there are the years that come along once in a generation, when we look at where the country has been and recognize that we need a break from a troubled past, that the problems we face demand that we begin charting a new path. This is one of those years.

We start 2009 in the midst of a crisis unlike any we have seen in our lifetimes. Our economy is in a deep recession that threatens to be deeper and longer than any since the Great Depression. More than three and a half million jobs were lost over the past 13 months, more jobs than at any time since World War II. In addition, another 8.8 million Americans who want and need full-time work have had to settle for part-time jobs. Manufacturing employment has hit a 60-year low. Our capital markets are virtually frozen, making it difficult for businesses to grow and for families to borrow money to afford a home, car, or college education for their kids. Many families cannot pay their bills or their mortgage payments. Trillions of dollars of wealth have been wiped out, leaving many workers with little or nothing as they approach retirement. And millions of Americans are unsure about the future—if their job will be there tomorrow, if their children will be able to go to college, and if their grandchildren will be able to realize the full promise of America.

This crisis is neither the result of a normal turn of the business cycle nor an accident of history. We arrived at this point as a result of an era of profound irresponsibility that engulfed both private and public institutions from some of our largest companies' executive suites to the seats of power in Washington, D.C. For decades, too many on Wall Street threw caution to the wind, chased profits with blind optimism and little regard for serious risks—and with even less regard for the public good. Lenders made loans without concern for whether borrowers could repay them. Inadequately informed of the risks and overwhelmed by fine print, many borrowers took on debt they could not really afford. And those in authority turned a blind eye to this risk-taking; they forgot that markets work best when there is transparency and accountability and when the rules of the road are both fair and vigorously enforced. For years, a lack of transparency created a situation in which serious economic dangers were visible to all too few.

This irresponsibility precipitated the interlocking housing and financial crises that triggered this recession. But the roots of the problems we face run deeper. Government has failed to fully confront the deep, systemic problems that year after year have only become a larger and larger drag on our economy. From the rising costs of health care to the state of our schools, from the need to revolutionize how we power our economy to our crumbling infrastructure, policymakers in Washington

have chosen temporary fixes over lasting solutions.

The time has come to usher in a new era—a new era of responsibility in which we act not only to save and create new jobs, but also to lay a new foundation of growth upon which we can renew the promise of America.

This Budget is a first step in that journey. It lays out for the American people the extent of the crisis we inherited, the steps we will take to jumpstart our economy to create new jobs, and our plans to transform our economy for the 21st Century to give our children and grandchildren the fruits of many years of economic growth.

It is true that we cannot depend on government alone to create jobs or to generate long-term growth. Ours is a market economy, and the Nation depends on the energy and initiative of private institutions and individuals. But at this particular moment, government must lead the way in providing the short-term boost necessary to lift us from a recession this severe and lay the foundation for future prosperity. That's why immediately upon taking office, my Administration worked with the Congress to pass the American Recovery and Reinvestment Act. This plan's provisions will put money in the pockets of the American people, save or create at least three and a half million jobs, and help to revive our economy.

This moment is one of great paradox and promise: while there are millions of Americans trying to find work, there is also so much work to be done. That's why the Recovery Act and our Budget will make long overdue investments in priorities—like clean energy, education, health care, and a new infrastructure—that are necessary to keep us strong and competitive in the 21st Century.

To finally spark the creation of a clean energy economy, we will make the investments in the next three years to double our Nation's renewable energy capacity. We will modernize Federal buildings and improve the energy efficiency of millions of American homes, saving consumers and taxpayers billions on our energy bills. In the process, we will put Americans to work in new jobs that pay well—jobs installing solar panels and wind turbines; constructing energy efficient buildings; manufacturing fuel efficient vehicles; and developing the new energy technologies that will lead to even more jobs and more savings, putting us on the path toward energy independence for our Nation and a cleaner, safer planet in the process.

To improve the quality of our health care while lowering its cost, we will make the immediate investments needed to computerize all of America's medical records within five years while protecting the privacy of patients. This is a necessary step to reducing waste, eliminating red tape, and avoiding the need to repeat expensive medical tests. We also will fundamentally reform our health care system, delivering quality care to more Americans while reducing costs for us all. This will make our businesses more competitive and ease a significant and growing burden middle-class families are bearing.

To give our children a fair shot to thrive in a global, information-age economy, we will equip thousands of schools, community colleges, and universities with 21st Century classrooms, labs, and libraries. We'll provide new technology and new training for teachers so that students in Chicago and Boston can compete with kids in Beijing for the high-tech, high-wage jobs of the future. We will invest in innovation, and open the doors of college to millions of students. We will pursue new reforms—lifting standards in our schools and recruiting, training, and rewarding a new generation of teachers. And in an era of skyrocketing college tuitions, we will make sure that the doors of college remain open to children from all walks of life.

To create a platform for our entrepreneurs and workers to build an economy that can lead this future, we will begin to rebuild America for the demands of the 21st Century. We will repair crumbling roads, bridges, and schools as well as expand broadband lines across America, so that a small business in a rural town can connect and compete with its counterparts anywhere in the world. And we will invest in the science, research, and technology that will lead to new medical breakthroughs, new discoveries, and entire new industries.

Regaining our economic strength also is critical to our national security. It is a major source of our global leadership, and we must not let it waver. That's why this Budget makes critical investments in rebuilding our military, securing our homeland, and expanding our diplomatic efforts because to provide for the security of the United States we need to use all elements of our power. Moreover, to honor the service of those who have worn our military's uniform, we will make the investments necessary to take care of our veterans.

For these initiatives to lay a foundation for long-term economic growth, it's important that we not only change what Washington invests in, but how Washington does business. We must usher in a new era of responsibility in which we empower citizens with the information they need to hold their elected representatives accountable for the decisions they make. We need to put tired ideologies aside, and ask not whether our Government is too big or too small, or whether it is the problem or the solution, but whether it is working for the American people. Where it does not, we will stop spending taxpayer dollars; where it has proven to be effective, we will invest. This is the approach, for example, we have begun in allocating funds to education, health care, and national security. And as we continue the budgetary process, we will identify more cuts and reallocations for the full Budget presented this spring, and undertake efforts to reform how the programs you fund are managed so that overruns are avoided, waste is cut, and you get the most effective and efficient Government possible.

In the little more than a month my Administration has had in office, we have not had the time to fully execute all the budget reforms that are needed, and to which I am fully committed. Those will come in the months ahead, and next year's budget process will look much different.

But this Budget does begin the hard work of bringing new levels of honesty and fairness to your Government. It looks ahead a full 10 years, making good-faith estimates about what costs we would incur; and it accounts for items that under the old rules could have been left out, making it appear that we had billions more to spend than we really do. The Budget also begins to restore a basic sense of fairness to the tax code, eliminating incentives for companies that ship jobs overseas and giving a generous package of tax cuts to 95 percent of working families.

Finally, while we have inherited record budget deficits and needed to pass a massive recovery and reinvestment plan to try to jump-start our economy out of recession, we cannot lose sight of the long-run challenges that our country faces and that threaten our economic health—specifically, the trillions of dollars of debt that we inherited, the rising costs of health care, and the growing obligations of Social Security. Therefore, while our Budget will run deficits, we must begin the process of making the tough choices necessary to restore fiscal discipline, cut the deficit in half by the end of my first term in office, and put our Nation on sound fiscal footing.

Some may look at what faces our Nation and believe that America's greatest days are behind it. They are wrong.

Our problems are rooted in past mistakes, not our capacity for future greatness. We should never forget that our workers are more innovative and industrious than any on earth. Our universities are still the envy of the world. We are still home to the most brilliant minds, the most creative entrepreneurs, and the most advanced technology and innovation that history has ever known. And we are still the Nation that has overcome great fears and improbable odds. It will take time, but we can bring change to America. We can rebuild that lost trust and confidence. We can restore opportunity and prosperity. And we can bring about a new sense of responsibility among Americans from every walk of life and from every corner of the country.

BARACK OBAMA.

THE WHITE HOUSE, *February 26, 2009*.

MESSAGES FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), amended by Public Law 107–117, and the order of the House of January 6, 2009, the Speaker appoints the following members of the House of Representatives to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Mr. KENNEDY of Rhode Island, Ms. DELAURO of Connecticut, Mr. BLUNT of Missouri.

ENROLLED BILL SIGNED

At 2:58 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 234. An act to designate the facility of the United States Postal Service located at 2105 East Cook Street in Springfield, Illinois, as the ''Colonel John H. Wilson, Jr. Post Office Building''.

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

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 478. A bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

S. 482. A bill to require Senate candidates to file designations, statements, and reports in electronic form.

H.R. 1105. An act making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on February 26, 2009, she had presented to the President of the United States the following enrolled bill:

S. 234. An act to designate the facility of the United States Postal Service located at 2105 East Cook Street in Springfield, Illinois, as the ''Colonel John H. Wilson, Jr. Post Office Building''.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. LEAHY for the Committee on the Judiciary.

David W. Ogden, of Virginia, to be Deputy Attorney General.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BURR (for himself and Mr. KENNEDY):

S. 485. A bill to reauthorize the Select Agent Program by amending the Public Health Service Act and the Agriculture Bioterrorism Protection Act of 2002 and to improve oversight of high containment laboratories; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANDERS (for himself, Mr. BEGICH, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN, Mr. BURRIS, Mr. CARDIN, Mr. CASEY, Mr. DURBIN, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. KERRY, Mr. JOHNSON, Mr. LEAHY, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. SCHUMER, Ms. STABENOW, Mr. TESTER, and Mr. WYDEN):

S. 486. A bill to achieve access to comprehensive primary health care services for all Americans and to reform the organization of primary care delivery through an expansion of the Community Health Center and National Health Service Corps programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. HATCH, Mrs. FEINSTEIN, and Mr. REID):

S. 487. A bill to amend the Public Health Service Act to provide for human embryonic stem cell research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN:

S. 488. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide coverage for individuals participating in approved cancer clinical trials; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 489. A bill to amend the Migratory Bird Treaty Act to authorize hunting under certain circumstances; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON:

S. 490. A bill to amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Finance.

By Mr. WEBB (for himself, Mr. BURR, Ms. COLLINS, Mr. WARNER, Mr. DURBIN, Mr. CARDIN, Mr. ROCKEFELLER, Mr. AKAKA, Mr. DODD, Mr. BUNNING, and Mr. KERRY):

S. 491. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 492. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to exempt certain employment as a member of a local governing board, commission, or committee from social security tax coverage; to the Committee on Finance.

By Mr. CASEY (for himself, Mr. HATCH, Mr. DODD, Mr. BURR, Mr. KENNEDY, and Mr. BROWNBACK):

S. 493. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 494. A bill for the relief of Salah Naji Sujaa; to the Committee on the Judiciary.

By Mr. CARDIN (for himself and Mr. SPECTER):

S. 495. A bill to increase public confidence in the justice system and address any unwarranted racial and ethnic disparities in the criminal process; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself, Mr. HATCH, and Mr. CASEY):

S. 496. A bill to provide duty-free treatment for certain goods from designated Reconstruction Opportunity Zones in Afghanistan and Pakistan, and for other purposes; to the Committee on Finance.

By Mr. DURBIN:

S. 497. A bill to amend the Public Health Service Act to authorize capitation grants to increase the number of nursing faculty and students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURR:

S. 498. A bill to amend title 38, United States Code, to authorize dental insurance for veterans and survivors and dependents of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WYDEN:

S. 499. A bill to amend the Energy Policy Act of 2005 to repeal the ultra-deepwater and unconventional onshore natural gas and other petroleum research and development program; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 500. A bill to amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER (for himself, Mr. SCHUMER, Mr. KOHL, Mr. LEAHY, Mr. BROWN, and Mr. INOUYE):

S. 501. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the marketing of authorized generic drugs; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BAUCUS (for himself, Mr. LEAHY, Mr. ISAKSON, Mr. TESTER, Mr. KENNEDY, Mr. DURBIN, Mr. REID, Mrs. FEINSTEIN, and Mrs. MURRAY):

S. Res. 57. A resolution designating the first week of April 2009 as ''National Asbestos Awareness Week''; to the Committee on the Judiciary.

By Mr. WHITEHOUSE (for himself, Mr. COCHRAN, Mr. KERRY, Ms. LANDRIEU, Mr. BROWN, Mr. LAUTENBERG, Mrs. MURRAY, Mrs. LINCOLN, Mr. KENNEDY, and Mr. FEINGOLD):

S. Res. 58. A resolution designating the week of March 1 through March 8, 2009, as ''School Social Work Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 245

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr.

WYDEN) was added as a cosponsor of S. 245, a bill to expand, train, and support all sectors of the health care workforce to care for the growing population of older individuals in the United States.

S. 345

At the request of Mr. LUGAR, the names of the Senator from Florida (Mr. NELSON) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 345, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2009'', and for other purposes.

S. 371

At the request of Mr. THUNE, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 371, a bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

S. 422

At the request of Ms. STABENOW, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 422, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 428

At the request of Mr. DORGAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 428, a bill to allow travel between the United States and Cuba.

S. 454

At the request of Mr. LEVIN, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 454, a bill to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

S. 456

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 462

At the request of Mrs. BOXER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 462, a bill to amend the Lacey Act Amendments of 1981 to prohibit the importation, exportation, transportation, and sale, receipt, acquisition, or purchase in interstate or foreign commerce, of any live animal of any prohibited wildlife species, and for other purposes.

S. 473

At the request of Mr. DURBIN, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 473, a bill to establish the Senator Paul Simon Study Abroad Foundation.

S. 482

At the request of Mr. FEINGOLD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 482, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. RES. 49

At the request of Mr. LUGAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 49, a resolution to express the sense of the Senate regarding the importance of public diplomacy.

AMENDMENT NO. 573

At the request of Mr. DEMINT, the names of the Senator from Louisiana (Mr. VITTER), the Senator from Oklahoma (Mr. INHOFE), the Senator from Mississippi (Mr. WICKER), the Senator from Missouri (Mr. BOND), the Senator from Utah (Mr. BENNETT), the Senator from Wyoming (Mr. ENZI), the Senator from Wyoming (Mr. BARRASSO), the Senator from Kansas (Mr. BROWNBACK) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 573 proposed to S. 160, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

AMENDMENT NO. 575

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of amendment No. 575 proposed to S. 160, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

AMENDMENT NO. 579

At the request of Mr. THUNE, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of amendment No. 579 proposed to S. 160, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

AMENDMENT NO. 587

At the request of Mr. ENSIGN, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of amendment No. 587 proposed to S. 160, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURR (for himself and Mr. KENNEDY):

S. 485. A bill to reauthorize the Select Agent Program by amending the Public Health Service Act and the Agriculture Bioterrorism Protection Act of 2002 and to improve oversight of high containment laboratories; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURR. Mr. President, I rise today in support of S. 485, the Select Agent Program and Biosafety Improvement Act of 2009. Today, I reintroduced this important legislation with my friend Senator TED KENNEDY. We first introduced this bill in June 2008. I thank my colleague from Massachusetts for his partnership. I enjoyed working closely with him in the 109th Congress on the Pandemic and All-Hazards Preparedness Act, which was signed into law in December 2006. He continues to be one of the great leaders in the United States Senate, and I look forward to continuing to work with him to ensure our laws protect the American people from health threats of all kinds.

This bill will enhance our nation's biosecurity and improve the biosafety of our most secure laboratories. We must do everything we can to make sure that biological agents and toxins that could present a serious threat to public health are kept safe and secure in containment laboratories and out of the hands of terrorists.

In December 2008; 6 months after we introduced this legislation for the first time, the bipartisan Commission on the Prevention of WMD Proliferation and Terrorism reported it is ''more likely than not'' that a weapon of mass destruction will be used in a terrorist attack by the end of 2013. The Commission's report, World at Risk, found that terrorists are more likely to obtain and use a biological weapon than a nuclear weapon and, therefore, the U.S. government should make bioterrorism a higher priority. According to the report, ''Only by elevating the priority of the biological weapons threat will it be possible to bring about substantial improvements in global biosecurity.'' Many of the specific recommendations contained in that report are reflected in this legislation.

S. 485 achieves two overarching goals. First, it reauthorizes and improves the Select Agent Program. This program was created in the 1990s to control the transfer of certain dangerous biological agents and toxins that could be used for bioterrorism. The program expanded after the anthrax attacks in 2001; however, the authorization expired at the end of September 2007.

Second, the bill evaluates and enhances the safety and oversight of high containment laboratories. These laboratories are used by scientists to study select agents and other infectious materials. Labs are categorized

by their safety level. There are four levels, termed Biosafety Level—BSL—1 through 4, with 4 being the highest level. The number of these labs has grown, both domestically and internationally, in the last several years.

The Select Agent Program is jointly administered by the U.S. Department of Health and Human Services HHS Centers for Disease Control and Prevention—CDC—and the U.S. Department of Agriculture's—USDA—Animal and Plant Health Inspection Service—APHIS. The program was intended to prevent terrorism, and protect public and animal health and safety, while not hampering important life-saving research. This is an obvious struggle that requires careful consideration, particularly when science is rapidly advancing around the globe.

Under the USA PATRIOT Act, it is illegal to possess ''select agents'' for reasons other than legitimate research. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 further required laboratories and laboratory personnel to undergo background checks by the FBI prior to approval for possession of select agents. As of February 2009, there are 82 select agents, meaning the agents pose a severe threat to public or animal health and safety. Thirteen of these agents are found naturally in the United States. There are 336 entities and 10,463 individuals registered with the CDC to work with select agents and toxins, and 64 entities and 4,149 individuals registered with APHIS.

We take four key actions in S. 485 to strengthen the Select Agent Program.

First, our legislation reauthorizes the program through 2014 and calls for a comprehensive evaluation of the program. The review, to be conducted by the National Academy of Sciences, will look at the effects of the program on international scientific collaboration and domestic scientific advances. This is timely because the WMD Commission recently suggested the need for an interagency review of the Select Agent Program and its impact on biological security and legitimate scientific research. Historically, the United States has been an international leader in biosecurity. In fact, last year Canada proposed legislation to tighten safety and access to pathogens and toxins of concern for bioterrorism. Canada's legislation, which was reintroduced earlier this month, would establish a mandatory licensing system to track human pathogens, similar to our Select Agent Program. It also ensures compliance with the country's Laboratory Biosafety Guidelines across the country.

Second, the bill ensures a comprehensive list of select agents. Currently, CDC and APHIS develop a list of agents and toxins to which the program regulations apply. However, we believe some additional factors should be considered in revising the list. For example, scientific developments now make it possible to create agents from scratch or to modify them and make them more deadly. Highly infectious viruses or bacteria that are otherwise difficult to obtain can now be created by scientists using ''synthetic genomics.'' In addition, we now have more information from the Department of Homeland Security—DHS—about the threat posed by certain bioterrorism agents.

In 2002, U.S. researchers assembled the first synthetic virus using the genome sequence for polio. Later, in 2005 scientists reconstructed the 1918 Pandemic Influenza virus. Then in January 2008, ''safe'' form of Ebola was created synthetically. While this ''safe'' Ebola can be used for legitimate research to develop drugs and vaccines to protect against it, a scientist could also change it back to its lethal form. Also, earlier this year, advancements in technology yielded the first synthetic bacterial genome.

We must consider these scientific advances, including genetically modified organisms and agents created synthetically, if we are to address all agents of concern. In addition, DHS's recent bioterrorism risk assessments provide new information for our assessment of biological threats. This information should also be considered when determining which agents and toxins should be regulated.

Next, the bill encourages sharing information with state officials to enable more effective emergency state planning. State health officials are currently not made aware of which agents are being studied within their state. This leaves medical responders, public health personnel, and animal health officials unprepared for a potential release, whether accidental or intentional.

Lastly, S. 485 clarifies the statutory definition of smallpox. The Intelligence and Terrorism Prevention Act of 2004 criminalized the use of variola virus, the agent that causes smallpox. The statutory definition of the virus includes agents that are 85 percent identical to the causative strain. Researchers are worried this could be interpreted to also include the safer strain used to develop the smallpox vaccine, as well as less harmful naturally occurring viruses. This sort of ambiguity could be detrimental to necessary medical countermeasure research and development. Our bill requires the Attorney General to issue guidance clarifying the interpretation of this definition.

In addition, in this legislation we take three key actions to evaluate and enhance the safety and oversight of high containment laboratories.

First, our bill evaluates existing oversight of BSL 3 and 4, or high containment, labs. The bill requires an assessment of whether current guidance on infrastructure, commissioning, operation, and maintenance of these labs is adequate. As I mentioned, the number of these labs is increasing around the globe. As these new facilities age, we need to make sure they are appropriately maintained. It is essential that laboratory workers and the public can be assured that these facilities are as safe as possible. If the guidance we currently have in place is not adequate, then we need to know how to improve it. In addition, the recent report by the WMD Commission called for HHS and DHS to lead an interagency effort to tighten government oversight of high-containment labs.

Second, the bill improves training for laboratory workers. The WMD Commission report also called for standard biosafety and biosecurity training for all personnel who work in high-containment labs and funding the development of such educational materials. As the number of laboratories and personnel increases, we must ensure workers are appropriately trained. Accidents and injuries in the lab, such as chemical burns and flask explosions, may result from improper use of equipment. Our bill develops a set of minimum standards for training laboratory personnel in biosafety and biosecurity, and encourages HHS and USDA to disseminate these training standards for voluntary use in other countries.

Finally, the bill establishes a voluntary Biological Laboratory Incident Reporting System. This system will encourage personnel to report biosafety and biosecurity incidents of concern and thereby allow us to learn from one another. Similar to the Aviation Safety Reporting System, which gathers information on aviation accidents, this system will help identify trends in biosafety and biosecurity incidents of concern and develop new protocols for safety and security improvements. Lab exposures to pathogens not on the select agent list will also be captured through this type of voluntary reporting system. The WMD Commission recommended promoting a culture of security awareness in the life sciences community and establishing whistleblower mechanisms within the life sciences community so that scientists can report their concerns about safety and security without risk of retaliation. We believe such a reporting system would help fulfill this recommendation.

In closing, I encourage my Senate colleagues to join Senator KENNEDY and me as we work to improve our nation's biosecurity and biosafety systems by passing S. 485, the Select Agent and Biosafety Improvement Act of 2009. I want to thank the many researchers, scientists, and state health officials from across the country who shared with me and my staff their ideas, experiences, and recommendations. In this time of exciting scientific advances, we must ensure our laws and prevention programs are updated to reflect current conditions. In addition, we must remain vigilant in our efforts to protect the American people from bioterrorism. The Select Agent Program is an important part of ensuring the nation's safety and security, and I

look forward to working with my colleagues to reauthorize and improve the program.

By Mr. SANDERS (for himself, Mr. BEGICH, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN, Mr. BURRIS, Mr. CARDIN, Mr. CASEY, Mr. DURBIN, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. KERRY, Mr. JOHNSON, Mr. LEAHY, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. SCHUMER, Ms. STABENOW, Mr. TESTER, and Mr. WYDEN):

S. 486. A bill to achieve access to comprehensive primary health care services for all Americans and to reform the organization of primary care delivery through an expansion of the Community Health Center and National Health Service Corps programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANDERS. Madam President, I think everybody recognizes that our current health care system is in very serious crisis. We have 46 million Americans who lack any health insurance. We have even more than that who are underinsured. The cost of health care is soaring. And we end up spending twice as much per person on health care as do the people of any other nation, despite having so many people uninsured and underinsured.

While a lot of the discussion regarding the health care crisis focuses on insurance coverage, there is another crisis equally severe that we do not talk enough about; that is, the crisis in access to doctors and dentists—in fact, the crisis in terms of primary health care.

The truth is that in our country today, we have some 56 million Americans, including Americans who have health insurance, who simply cannot find a doctor and, even more, cannot find a nurse. The absurdity of that is that when somebody cannot find a doctor, that person will end up going to the emergency room at great cost to our Nation or, equally likely, that person may not go to the doctor at all, gets sick, and ends up in the hospital, and we are spending tens of thousands of dollars treating that person when we could have spent far less if that man, woman, or child had access to a doctor when the illness first developed.

I am very gratified, and I thank President Obama, I thank Senator INOUYE and Senator HARKIN, Congressman OBEY, the Democratic leadership in the House for taking this Nation a giant step forward in terms of addressing the crisis in primary health care in the stimulus package.

What happened in the stimulus package is that $2 billion was allocated for community health centers, to help those community health centers expand, to help in the growth of new community health centers. On top of that, another $300 million was appropriated for the National Health Service Corps. The National Health Service Corps is one of the important health programs we have in this country because it provides debt forgiveness and scholarships for young physicians so they can go out and serve in underserved areas.

Many medical school graduates are leaving school $100,000, $150,000 in debt, and they have no choice but to end up becoming specialists, making a whole lot of money in order to pay back those debts. What we have done in the stimulus package is almost triple the amount of money going into the National Health Service Corps, which means that we are going to be able to enable thousands of young physicians and dentists to go out and work in underserved areas, which is a huge step forward for primary health care. That was a very important part of the stimulus package.

In fact, on top of all of that, this sum of money is going to create 44,000 sustainable jobs as we create a primary health care infrastructure and as we provide health care to an additional 4 million Americans.

As significant as what we did in the stimulus package is, it is only a downpayment for what we have to do to address the crisis in terms of primary health care. Therefore, I am very proud to announce that today I introduced, along with 21 of my Senate colleagues—and they are in alphabetical order—Senators BEGICH, BINGAMAN, BOXER, BROWN, BURRIS, CARDIN, CASEY, DURBIN, HARKIN, INOUYE, KENNEDY, KERRY, JOHNSON, LEAHY, MENENDEZ, MERKLEY, MIKULSKI, SCHUMER, STABENOW, TESTER, and WYDEN—all of those Senators join with me in new legislation which, in fact, is going to revolutionize primary health care in America.

Also today, the majority whip in the House, JIM CLYBURN of South Carolina, introduced a similar bill which I believe has 78 cosponsors. That legislation is called the Access for All America Act. Its goal is to significantly expand community health centers all over this country, as well as the National Health Service Corps.

The community health center concept was developed by Senator TED KENNEDY over 40 years ago. The truth is that the concept of community health centers has been long supported in a bipartisan manner. President Bush was supportive of the concept. Senator MCCAIN certainly mentioned it in his campaign for President, and Senator HATCH—many Republicans have supported it, as well as many people on our side of the aisle.

The reason for that bipartisan support is that everybody here understands that community health centers provide quality health care in a cost-effective manner. What community health centers do is provide comprehensive health care in terms of access to doctors and dentists. I point out that there is a major dental crisis all over this country. Community health centers by law have to provide mental health counseling. On top of that, community health centers provide the lowest cost of prescription drugs in the United States of America.

Today, there are approximately 1,100 community health centers all over America. In my State of Vermont, we have gone from 2 to 7 in the last 5 years, and they are now providing health care to over 80,000 Vermonters.

We have 1,100 in this country today. What this legislation will do is go from 1,100 community health centers to 4,800 community health centers, quadrupling the number of health centers in America. By doing that, we will provide comprehensive, high-quality primary health care in every underserved area in this country—a giant step forward in terms of making primary health care accessible to every man, woman, and child in this Nation.

In my view, we need to move toward a national health care program which guarantees health care for all people, but we can take this important step forward in terms of primary health care quite soon.

Here is one of the very wonderful aspects of what this legislation does. Right now, we spend about $2.1 billion a year for community health centers. This legislation, over a 5-year period, will take that number up to $8 billion. It will go from $2 billion to $8 billion as we quadruple the number of community health centers.

What study after study suggests is that in fact this investment will end up saving us money. This investment in primary health care will save us money because those people who get sick will now be able to go to a community health center—perhaps the most cost-effective primary health care in America—rather than walking into an emergency room, which is one of the most expensive health care providers in the country. In addition, when people have access to health care and get treatment when they need it, they are not going to get very sick and end up in a hospital, where it will cost tens of thousands of dollars to deal with their illness.

So what this legislation does is quadruple the number of community health centers, and it very substantially increases the amount of money that goes to the National Health Service Corps so we can provide debt relief and scholarships to young physicians who will then go out and serve us in underserved areas.

In my view, this legislation, if passed—and I think we have a good chance to pass it because there is a whole lot of bipartisan support here in the Senate for this concept, a lot of support in the House as well—will revolutionize primary health care in America. It will bring us to the day when virtually every American will have access to a doctor, a dentist, mental health counseling, and low-cost prescription drugs. It will enable us to produce the doctors, the dentists, the nurses, and the other health care providers we desperately need to get out

into rural, urban America, and underserved areas. It will be a major step forward in providing the primary health care infrastructure we need as we in fact move to a national health care program.

This is important legislation, and I thank all of the 21 Members of the Senate who have already come on as original cosponsors. We hope that many more will come on in the coming weeks and months. My hope is we can get this bill out of committee and see it passed as a stand-alone piece of legislation.

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

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. HATCH, Mrs. FEINSTEIN, and Mr. REID):

S. 487. A bill to amend the Public Health Service Act to provide for human embryonic stem cell research; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I have spoken many times in this Chamber about the promise of stem cell research. For more than a decade, ever since scientists first succeeded in deriving human embryonic stem cells, I have done my utmost to promote this exciting field, which offers so much hope for so many people.

President Obama has promised to lift the restrictions on embryonic stem cell research that were put in place by President Bush, and I hope and expect that he will do so soon. But we have to make sure that the freedom to pursue this research is also protected by Federal law, not merely by an executive order that can be reversed during a future administration.

That is why Senator SPECTER and I, along with Senators KENNEDY, HATCH, and FEINSTEIN, are introducing the Stem Cell Research Enhancement Act of 2009. This is the exact same bipartisan bill that both houses of Congress approved in 2007, but was vetoed by President Bush. I urge Congress to pass this law again, and for President Obama to sign it, so our scientists can move forward with this research posthaste, without fear of further political interference.

Let me spend just a moment reviewing what this bill will accomplish. More than 7 years ago, the President announced that federally funded scientists could conduct research on embryonic stem cells only if the cells had been derived before August 9, 2001, at 9 p.m.

I never understood that. Why 9 p.m.? Why not 9:30? If stem cell research is morally acceptable at 8:59 p.m., why isn't it OK at 9:01? It's totally arbitrary.

When the President announced his policy, he said that 78 stem cell lines were eligible for federally funded research. But, today, only 21 of those 78 lines are eligible—not nearly enough to reflect the genetic diversity of this Nation. Many of those 21 lines are showing their age, and all were grown with mouse feeder cells, an outdated method that raises concerns about contamination.

Meanwhile, hundreds of new stem cell lines have been derived since the President's arbitrary deadline. Many of those lines are uncontaminated and healthy. But they're totally off-limits to federally funded scientists.

That is a shame. If we are serious about realizing the promise of stem cell research—about helping people with Parkinson's, cancer, juvenile diabetes, and so many other diseases—our scientists need access to the best stem cell lines available. We need a stem cell policy that offers credible, meaningful hope. And that's what this bill would provide.

Under this bill, Federally funded researchers could study any stem cell line, regardless of the date that it was derived, as long as strict ethical guidelines are met.

Most importantly, the only way a stem cell line could be eligible for federally funded research is if it were derived from an embryo that was otherwise going to be discarded.

There are more than 400,000 embryos in the United States that are left over from fertility treatments and are currently sitting frozen in storage. Most of those embryos will eventually be thrown away. All we are saying is, instead of discarding all 400,000 of those leftover embryos, let's allow couples to donate a few of them, if they wish, to create stem cell lines that could cure diseases and save lives.

Mr. President, it is time to lift the restrictions that have handcuffed stem cell research for more than 7 years. I urge the Senate to pass this bill as soon as possible and send it to the President for his signature.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stem Cell Research Enhancement Act of 2009''.

SEC. 2. HUMAN EMBRYONIC STEM CELL RESEARCH.

Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 498C the following:

''SEC. 498D. HUMAN EMBRYONIC STEM CELL RESEARCH.

''(a) IN GENERAL.—Notwithstanding any other provision of law (including any regulation or guidance), the Secretary shall conduct and support research that utilizes human embryonic stem cells in accordance with this section (regardless of the date on which the stem cells were derived from a human embryo).

''(b) ETHICAL REQUIREMENTS.—Human embryonic stem cells shall be eligible for use in any research conducted or supported by the Secretary if the cells meet each of the following:

''(1) The stem cells were derived from human embryos that have been donated from in vitro fertilization clinics, were created for the purposes of fertility treatment, and were in excess of the clinical need of the individuals seeking such treatment.

''(2) Prior to the consideration of embryo donation and through consultation with the individuals seeking fertility treatment, it was determined that the embryos would never be implanted in a woman and would otherwise be discarded.

''(3) The individuals seeking fertility treatment donated the embryos with written informed consent and without receiving any financial or other inducements to make the donation.

''(c) GUIDELINES.—Not later than 60 days after the date of the enactment of this section, the Secretary, in consultation with the Director of NIH, shall issue final guidelines to carry out this section.

''(d) REPORTING REQUIREMENTS.—The Secretary shall annually prepare and submit to the appropriate committees of the Congress a report describing the activities carried out under this section during the preceding fiscal year, and including a description of whether and to what extent research under subsection (a) has been conducted in accordance with this section.''.

SEC. 3. ALTERNATIVE HUMAN PLURIPOTENT STEM CELL RESEARCH.

Part H of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.), as amended by section 2, is further amended by inserting after section 498D the following:

''SEC. 498E. ALTERNATIVE HUMAN PLURIPOTENT STEM CELL RESEARCH.

''(a) IN GENERAL.—In accordance with section 492, the Secretary shall conduct and support basic and applied research to develop techniques for the isolation, derivation, production, or testing of stem cells that, like embryonic stem cells, are capable of producing all or almost all of the cell types of the developing body and may result in improved understanding of or treatments for diseases and other adverse health conditions, but are not derived from a human embryo.

''(b) GUIDELINES.—Not later than 90 days after the date of the enactment of this section, the Secretary, after consultation with the Director of NIH, shall issue final guidelines to implement subsection (a), that—

''(1) provide guidance concerning the next steps required for additional research, which shall include a determination of the extent to which specific techniques may require additional basic or animal research to ensure that any research involving human cells using these techniques would clearly be consistent with the standards established under this section;

''(2) prioritize research with the greatest potential for near-term clinical benefit; and

''(3) consistent with subsection (a), take into account techniques outlined by the President's Council on Bioethics and any other appropriate techniques and research.

''(c) REPORTING REQUIREMENTS.—Not later than January 1 of each year, the Secretary shall prepare and submit to the appropriate committees of the Congress a report describing the activities carried out under this section during the fiscal year, including a description of the research conducted under this section.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any policy, guideline, or regulation regarding embryonic stem cell research, human cloning by somatic cell nuclear transfer, or any other research not specifically authorized by this section.

''(e) DEFINITION.—

''(1) IN GENERAL.—In this section, the term 'human embryo' shall have the meaning given such term in the applicable appropriations Act.

''(2) APPLICABLE ACT.—For purposes of paragraph (1), the term 'applicable appropriations Act' means, with respect to the fiscal year in which research is to be conducted or supported under this section, the Act making appropriations for the Department of Health and Human Services for such fiscal year, except that if the Act for such fiscal year does not contain the term referred to in paragraph (1), the Act for the previous fiscal year shall be deemed to be the applicable appropriations Act.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2012, to carry out this section.''.

Mr. SPECTER. Mr. President, I rise to introduce—the ''Stem Cell Research Enhancement Act similar to legislation that I have sponsored in the last two Congresses with Senators HARKIN, HATCH, KENNEDY, FEINSTEIN, and SMITH.

I believe medical research should be pursued with all possible haste to cure the diseases and maladies affecting Americans. In my capacity as ranking member and at times chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I have backed up this belief by supporting increases in funding for the National Institutes of Health. I have said many times that the NIH is the crown jewel of the Federal Government—perhaps the only jewel of the Federal Government. When I came to the Senate in 1981, NIH spending totaled $3.6 billion. In fiscal year 2009, NIH will receive approximately $29 billion to fund its pursuit of lifesaving research. The successes realized by this investment in NIH have spawned revolutionary advances in our knowledge and treatment for diseases such as cancer, Alzheimer's disease, Parkinson's disease, mental illnesses, diabetes, osteoporosis, heart disease, ALS, and many others. It is clear to me that Congress's commitment to the NIH is paying off. This is the time to seize the scientific opportunities that lie before us and to ensure that all avenues of research toward cures—including stem cell research—are open for investigation.

I first learned of the potential of human embryonic stem cells in November of 1998 upon the announcement of the work by Dr. Jamie Thomson at the University of Wisconsin and Dr. John Gearhart at Johns Hopkins University. I took an immediate interest and held the first congressional hearing on the subject of stem cells on December 2, 1998. These cells have the ability to become any type of cell in the human body. Another way of saying this is that the cells are pluripotent. The consequences of this unique his legislation is property of stem cells are far reaching and are key to their potential use in therapies. Scientists and doctors with whom I have spoken—and that have since testified before the Labor-HHS Appropriations Subcommittee at 20 stem cell-related hearings—were excited by this discovery. They believed that these cells could be used to replace damaged or malfunctioning cells in patients with a wide range of diseases. This could lead to cures and treatments for maladies such as juvenile diabetes, Parkinson's disease, Alzheimer's disease, cardiovascular diseases, and spinal cord injury. In all, well over 100 million Americans could benefit from stem cell research.

Embryonic stem cells are derived from embryos that would otherwise have been discarded. During the course of in vitro fertilization, IVF, therapies, sperm, and several eggs are combined in a laboratory to create 4 to 16 embryos for a couple having difficulty becoming pregnant. The embryos grow in an incubator for 5 to 7 days until they contain approximately 100 cells. To maximize the chances of success, several embryos are implanted into the woman. The remaining embryos are frozen for future use. If the woman becomes pregnant after the first implantation, and does not want to have more pregnancies, the remaining frozen embryos are in excess of clinical need and can be donated for research. Embryonic stem cells are derived from these embryos. The stem cells form what are called ''lines'' and continue to divide indefinitely in a laboratory dish. In this way, the 21 lines currently available for Federal researchers were obtained from 21 embryos. The stem cells contained in these lines can then be made into almost any type of cell in the body—with the potential to replace cells damaged by disease or accident. At no point in the derivation process are the embryos or the derived cells implanted in a woman, which would be required for them to develop further. The process of deriving stem cell lines results in the disruption of the embryo and I know that this raises some concerns.

During the course of our hearings in this subject, we have learned that over 400,000 embryos are stored in fertility clinics around the country. If these frozen embryos were going to be used for in vitro fertilization, I would be the first to support it. In fact, I have included $2,000,000 in the HHS budget each year since 2002 to create and continue an embryo adoption awareness campaign. But the truth is that most of these embryos will be discarded. I believe that instead of just throwing these embryos away, they hold the key to curing and treating diseases that cause suffering for millions of people.

President Bush opened the door to stem cell research on August 9, 2001. His policy statement allowed limited Federal funding of human embryonic stem cell research for the first time. There is a real question as to whether the door is open sufficiently.

A key statement by the President related to the existence of approximately 60 eligible stem cell lines—then expanded to 78. In the intervening 5 years, it has become apparent that many of the lines cited are not really viable, robust, or available to federally funded researchers. The fact is there are only 21 lines now available for research. Perhaps, most fundamental is the issue of therapy. It was not addressed in the President's statement, but it came to light in the first weeks after the President's announcement that all of the stem cell lines have had nutrients from mouse feeder cells and bovine serum. Under FDA regulations, these lines will face intense regulatory hurdles before being useful in human therapies. In the intervening years, new technology has been developed so that mouse feeder cells are no longer necessary for the growth of stem cells. It only makes sense that our Nation's scientists should have access to the latest technology.

Since August 9, 2001, new facts have come to light and the technology has moved forward to the extent that the policy is holding back our scientists and physicians in their search for cures. I have a friend and constituent in Pittsburgh named Jim Cordy who suffers from Parkinson's. Whenever I see Jim, he carries an hourglass, to remind me that the sands of time are passing and that the days of his life are slipping away. That is a pretty emphatic message from the hourglass. So it seems to me that this is the kind of sense of urgency which ought to motivate Congress and the biomedical research community.

On March 19, 2007, Dr. Elias Zerhouni, President Bush's appointee to lead the National Institutes of Health, testified before the Senate Labor-HHS-Education Appropriations Subcommittee regarding the NIH budget and stem cells. At that time he stated, ''It is clear today that American science would be better served and the nation would be better served if we let our scientists have access to more cell lines . . . To sideline NIH in such an issue of importance, in my view, is shortsighted. I think it wouldn't serve the nation well in the long run.'' His testimony clearly shows that the time has come to move forward.

The Stem Cell Research Enhancement Act lifts the August 9, 2001, date restriction, thus making stem cell lines eligible for federally funded research regardless of the date on which they were derived. Expanding the number of stem cell lines would accelerate scientific progress towards cures and treatments for a wide range of diseases and debilitating health conditions. The bill puts in place strong ethical requirements on stem cell lines that are funded with Federal dollars. In fact, several stem cell lines currently funded with Federal dollars would not be eligible under the policies put in place by this bill. The requirements include: embryos used to derive stem cells were originally created for fertility treatment purposes and are in excess of clinical need; the individuals seeking fertility treatments for whom the embryos were created have determined that the embryos will not be implanted in a woman and will otherwise be discarded; the individuals for whom the

embryos were created have provided written consent for embryo donation; and the donors can not receive any financial or other inducements to make the donation.

When President Bush's Council on Bioethics reported on several theoretical methods for deriving stem cells without destroying embryos, I immediately scheduled a hearing to investigate these ideas. On July 12, 2005, the Labor-HHS Subcommittee heard testimony from five witnesses describing several theoretical techniques for deriving stem cells without destroying embryos. The stem cells would theoretically have the key ability to become any type of cell. The techniques discussed included single cell derivation of stem cells; altered nuclear transfer; deriving stem cells from so-called ''dead'' embryos; and, perhaps the most promising, turning adult cells back into stem cells.

Legislation, which I first introduced with Senator Rick Santorum in the 109th Congress, was meant to encourage these alternative methods for deriving stem cells without harming human embryos. That legislation has been incorporated into the current bill, which amends the Public Health Service Act by inserting a section that:

1, Mandates that the Secretary of Health & Human Services shall support meritorious peer-reviewed research to develop techniques for the derivation of stem cells without creating or destroying human embryos.

2, Requires the Secretary to issue guidelines within 90 days to implement this research and to identify and prioritize the next research steps.

3, Requires the Secretary to consider techniques outlined by the President's Council on Bioethics—such as altered nuclear transfer and single cell derivation.

4, Requires the Secretary to report yearly on the activities carried out under this authorization.

5, Includes a ''Rule of Construction'' stating: Nothing in this section shall be construed to affect any policy, guideline, or regulation regarding embryonic stem cell research, human cloning by somatic cell nuclear transfer, or any other research not specifically authorized by this section.

6, Define ''human embryo'' by reference to the latest definition contained in the appropriations act for the Department of Health & Human Services.

7, Authorizes ''such sums as may be necessary'' for fiscal year 2010 through 2012.

Knowing that scientists are never certain exactly which research will lead to the next great cure; I have always supported opening as many avenues of research as possible. Based on that line of reasoning, I have always supported human embryonic, adult, and cord blood stem cell research. My goal is to see cures for the various afflictions that lower the quality of life—or end the lives—of Americans. I believe this bill implements this philosophy by opening of embryonic stem cell research and encouraging alternatives.

Importantly, the bill does not allow Federal funds to be used for the derivation of stem cell lines—the step in the process where the embryo is destroyed. Also, the bill does not address the subject of cloning, which continues to be banned in the appropriations bills for Health & Human Services.

President Barack Obama has indicated that he will overturn the current restrictions. I feel it is important to codify this important policy change so that the policy does not ping-pong back and forth with each successive President. This uncertainty slows the progress of science. Young scientists rightly avoid fields of science for which funding may come and go due to political whim rather than scientific and medical merit. A temporary end to the current restrictions is an incomplete and ultimately self-defeating solution.

I strongly believe that the funding provided by Congress should be invested in the best research to address diseases based on medical need and scientific opportunity. Politics has no place in the equation. Throughout history there are numerous examples of politics stifling science in the name of ideology. Galileo was imprisoned for his theory that the planets revolve around the Sun. The Institute of Genetics of the Soviet Academy of Sciences opposed the use of hybrid varieties of wheat because it was based on the science of the West. Instead, they supported a doctrine called ''acquired characteristics,'' which was made the official Soviet position. This resulted in lower yields for Soviet wheat throughout the former Soviet Union in the first half of the 20th century. These historical examples teach us that we must make these decisions based on sound science, not politics. I urge this body to support the Stem Cell Research Enhancement Act so that this Congress does not look as foolish in hindsight as these examples.

By Mr. BROWN:

S. 488. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide coverage for individuals participating in approved cancer clinical trials; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN. Mr. President, today I am introducing a bill to help cancer patients and bring us closer to finding a cure for that devastating and deadly disease.

Clinical trials are one of the most effective weapons in our nation's ongoing fight against cancer. Experimental treatments both save lives and advance research.

However, many health insurance policies discourage enrollment in these trials by refusing to cover trial participants' routine health care, even as patients continue to pay monthly premiums.

Take, for example, Sheryl Freeman from Dayton, OH. Sheryl and her husband Craig visited my office in Washington, DC 2 years ago to tell their story:

Sheryl was a retired school teacher and was covered under Craig's insurance plan. Craig has been a Federal employee for 20 years and has one of the best health plans in the country.

Yet they found that when Sheryl—who had been diagnosed with multiple myloma—tried to enroll in a clinical trial to save her life, their insurance company would not cover routine costs that would have been covered had she not enrolled in the clinical trial.

For instance, in addition to participating in the clinical trial at Ohio State's James Cancer Hospital, Sheryl needed to visit her oncologist in Dayton at least once a week for standard cancer monitoring, which included scans and blood tests. But her insurance company would not cover these services if she enrolled in a clinical trial.

Sheryl wanted to take part in a clinical trial because she hoped it would help her. She hoped that it might save her life, give her more time, or help future patients with the same type of cancer.

But rather than devoting her energy toward combating cancer, Sheryl spent the last months of her life haggling with her insurance company. By the time her insurer finally agreed to cover costs they never should have denied, it was too late. The delays and denials from Sheryl's insurance company affected her treatment and, likely, her survival.

Sheryl died on December 9, 2007.

Sadly, this is not an isolated case. Across Ohio and the Nation, insurers are using patients' participation in clinical trials as an excuse to deny health benefits that would otherwise be covered.

In fact, about 20 percent of patients who try to enroll in clinical trials are denied coverage by their insurers. This statistic doesn't capture those patients who refrain from entering a trial because they have been forewarned of coverage barriers.

The Access to Cancer Clinical Trials Act—which has been introduced in the House by Representative ISRAEL and which I introduced last year as well—would eliminate these barriers for cancer patients. Under the legislation, health care costs associated with a clinical trial would still be covered by the trial sponsors; however, insurers would not be permitted to deny benefits for other routine health care otherwise covered under their health plan. Similar legislation was passed in the Ohio General Assembly last year, but this federal bill would apply to all insurance carriers, not just those regulated by states.

The Access to Cancer Clinical Trials Act is a lifesaving bill endorsed by over thirty voluntary health organizations, including the Lance Armstrong Foundation, the National Patient Advocate Foundation, and the American Association for Cancer Research.

It is unthinkable that patients battling cancer must also fight insurers for basic benefits that should never be in doubt. To make progress on finding a cure for cancer, we need to encourage participation in research, not permit insurers to inhibit it.

I ask my colleagues to please join me in supporting this important bill.

By Mr. WEBB (for himself, Mr. BURR, Ms. COLLINS, Mr. WARNER, Mr. DURBIN, Mr. CARDIN, Mr. ROCKEFELLER, Mr. AKAKA, Mr. DODD, Mr. BUNNING, and Mr. KERRY):

S. 491. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

Mr. WEBB. Mr. President, today I rise to introduce the bipartisan Federal and Military Retiree Health Care Equity Act. I introduce this bill with Senators BURR, COLLINS, CARDIN, DURBIN, WARNER, ROCKEFELLER, AKAKA, DODD, KERRY, and BUNNING. This legislation will provide some relief for our Nation's Federal and military retirees from the increases in their health care plans. This measure extends premium conversion to Federal and military retirees, allowing them to pay their health insurance premiums with pretax dollars.

I believe strongly in protecting the rights and benefits of our federal and military retirees, many of whom have given years of service to our country. I commend their service to our Nation.

The increasing cost of health care is a critical issue, especially to Federal and military retirees living on a fixed income. Health care premiums are rising for Federal and military retirees and their families. This legislation will help to ensure that more Federal and military retirees are able to continue their health care coverage with the Federal Employee Health Benefits Plan and supplemental TRICARE health insurance plans as premiums continue to rise.

In the fall of 2000 premium conversion became available to active Federal employees who participate in the Federal Employees Health Benefits Program. It is a benefit already available to many private sector employees. While premium conversion does not directly affect the amount of the Federal Employee Health Benefit Plan premiums, it helps to offset some of the increase by reducing an individual's Federal tax liability.

Extending this benefit to Federal employees requires a change in the tax law, specifically section 125 of the Internal Revenue Code. This legislation makes the necessary change in the tax code. Under the legislation, the benefit would be concurrently afforded to our Nation's military retirees as well to assist with increasing health care costs.

A number of organizations representing federal and military retirees are strongly behind this initiative: National Active and Retired Federal Employees Association, The Military Coalition, National Treasury Employees Union, National Association of Postmasters of the United States, Professional Aviation Safety Specialists, National Association of Postal Supervisors, National Federation of Federal Employees, National Association of Government Employees, National Rural Letter Carrier Association, National Postal Mail Handlers, American Foreign Service Association, and American Postal Workers Union.

The Federal and Military Retiree Health Care Equity Act has enjoyed overwhelming, bipartisan support for four Congresses. This is a matter of basic fairness. Our Federal employee and military retirees deserve access to the same quality, affordable health care they received as active members of the civil service and military. I encourage my colleagues to join me in moving this legislation forward in this Congress.

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

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

S. 491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal and Military Retiree Health Care Equity Act''.

SEC. 2. PRETAX PAYMENT OF HEALTH INSURANCE PREMIUMS BY FEDERAL CIVILIAN AND MILITARY RETIREES.

(a) IN GENERAL.—Subsection (g) of section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by adding at the end the following new paragraph:

''(5) HEALTH INSURANCE PREMIUMS OF FEDERAL CIVILIAN AND MILITARY RETIREES.—

''(A) FEHBP PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an annuitant, as defined in paragraph (3) of section 8901, title 5, United States Code, with respect to a choice between the annuity or compensation referred to in such paragraph and benefits under the health benefits program established by chapter 89 of such title 5.

''(B) TRICARE PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an individual receiving retired or retainer pay by reason of being a member or former member of the uniformed services of the United States with respect to a choice between such pay and benefits under the health benefits programs established by chapter 55 of title 10, United States Code.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. DEDUCTION FOR TRICARE SUPPLEMENTAL PREMIUMS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amounts paid during the taxable year by the taxpayer for insurance purchased as supplemental coverage to the health benefits programs established by chapter 55 of title 10, United States Code, for the taxpayer and the taxpayer's spouse and dependents.

''(b) COORDINATION WITH MEDICAL DEDUCTION.—Any amount allowed as a deduction under subsection (a) shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).''.

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (21) the following new paragraph:

''(22) TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 224. TRICARE supplemental premiums or enrollment fees.

''Sec. 225. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. IMPLEMENTATION.

(a) FEHBP PREMIUM CONVERSION OPTION FOR FEDERAL CIVILIAN RETIREES.—The Director of the Office of Personnel Management shall take such actions as the Director considers necessary so that the option made possible by section 125(g)(5)(A) of the Internal Revenue Code of 1986 (as added by section 2) shall be offered beginning with the first open enrollment period, afforded under section 8905(g)(1) of title 5, United States Code, which begins not less than 90 days after the date of the enactment of this Act.

(b) TRICARE PREMIUM CONVERSION OPTION FOR MILITARY RETIREES.—The Secretary of Defense, after consulting with the other administering Secretaries (as specified in section 1073 of title 10, United States Code), shall take such actions as the Secretary considers necessary so that the option made possible by section 125(g)(5)(B) of the Internal Revenue Code of 1986 (as so added) shall be offered beginning with the first open enrollment period afforded under health benefits programs established under chapter 55 of such title, which begins not less than 90 days after the date of the enactment of this Act.

By Mr. CARDIN (for himself and Mr. SPECTER):

S. 495. A bill to increase public confidence in the justice system and address any unwarranted racial and ethnic disparities in the criminal process; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, I rise today to introduce the Justice Integrity Act of 2009. I am pleased that Senator SPECTER, the ranking member of the Judiciary Committee, has joined me as an original cosponsor of this legislation. I think it is important to

begin this discussion with the first words that appear in the Constitution of the United States. ''We the people of the United States, in Order to form a more perfect Union, establish Justice . . .'' The Founding Fathers chose Justice as a cornerstone for the foundation of our country. Justice is defined as fairness, moral rightness, and as a system of law in which every person receives his or her due from the system, including all of their guaranteed rights. There are many perceptions and realities that surround our criminal justice system.

Our Constitution guarantees that all Americans, no matter their race, color, creed or gender, have the right to equal protection under the law. Yet statistics, reports and data reflect a possibility of bias in our justice system. For example, a distressing statistic shows that one out of every three African-American males born today can expect to go to jail during his lifetime. African-Americans are disproportionately arrested and incarcerated, they are more likely to be pulled over by a police car while driving, and they are three times more likely to be arrested for a drug offense than white Americans and are nearly 10 times as likely to enter prison for drug offenses. Take for example, how two forms of the same drug are handled differently in our justice system: crack cocaine and powder cocaine. In 2006, blacks constituted 82 percent of those sentenced under federal crack cocaine laws while whites constituted of only 8.8 percent, despite the fact that more than 66 percent of people who use crack cocaine are white. Government data further demonstrates that drug rates are similar among all racial and ethnic groups.

A 2007 study released by the Department of Justice's Bureau of Justice Statistics revealed that while Black, Hispanic and White drivers are equally likely to be pulled over by police, Blacks and Hispanics are much more likely to be searched and arrested. These types of disparities and the perception of bias is unacceptable and we should take bold steps to correct these injustices. During the last Congress, my good friend and former member of the Judiciary Committee, Senator Biden, introduced this bill and during his introductory speech he stated ''nowhere is the guarantee of equal protection more important than in our criminal justice system.'' I couldn't agree more with that statement, which is why I have reintroduced this very important legislation.

Just last week Attorney General Eric Holder gave a speech for African-American History Month. In that speech, Attorney General Holder asked us, as a nation, to ''find ways to force ourselves to confront that which we have become experts at avoiding''. One way to do that is to look at the disparities in our justice system that have existed for many years and can be traced back to slavery and the Jim Crow era. In President Obama's March 2008 speech on Race, he asked Americans to ''march for a more just, more equal, more free, more caring and more prosperous America.'' He further stated that in order to perfect our union we must continue to ''insist on a full measure of justice in every aspect of American life.'' I heard President Obama that day, and I heard Attorney General Holder last week. I believe we are at a crossroads today where we can either take on the challenges and attack these injustices or continue to turn our heads away from the problems in our justice system. The Justice Integrity Act responds to the racial and ethnic disparities and perceptions that surround our Federal justice system.

The Justice Integrity Act will create 10 pilot programs across the country that will help create a plan that will ensure that law enforcement priorities and initiatives—including charging and plea decisions, as well as sentencing recommendations are not influenced by racial or ethnic bias but instead apply the law in a just and fair manner to all individuals. These 10 pilot programs will be set up at the discretion of the Attorney General in 10 different U.S. attorney offices. Each U.S. attorney will create an advisory group including all the major stakeholders in the justice system. Each of the individuals will gather information and examine data which will lead to a report on their findings and recommendations to the district on how to reduce unjustified racial and ethnic disparities.

Our current justice system is not working at its greatest potential. This bill will not only help restore the public's trust in our justice system but also restore integrity in our justice system. Any form of bias in our criminal justice system erodes the core principles in our Constitution specifically that ''all men are created equal'' under the law and that our justice system is not only fair but just.

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

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

S. 495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Justice Integrity Act of 2009''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the pursuit of justice requires the fair application of the law;

(2) racial and ethnic disparities in the criminal process have contributed to a growing perception of bias in the criminal justice system;

(3) there are a variety of possible causes of disparities in criminal justice statistics among racial and ethnic groups and these causes may differ throughout the United States, including crime rates, racial discrimination, ethnic and cultural insensitivity, or unconscious bias, as well as other factors;

(4) the Nation would benefit from an understanding of all factors causing a disparate impact on the criminal justice system; and

(5) programs that promote fairness will increase public confidence in the criminal justice system, increase public safety, and further the pursuit of justice.

SEC. 3. PILOT PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish a pilot program in 10 United States districts in order to promote fairness, and the perception of fairness, in the Federal criminal justice system, and to determine whether legislation is required.

(b) PROGRAM REQUIREMENTS.—

(1) U.S. ATTORNEYS.—The Attorney General shall designate, in accordance with paragraph (3), 10 United States Attorneys who shall each implement a plan in accordance with section 4, beginning not later than 1 month after those United States Attorneys are designated by the Attorney General.

(2) PURPOSE.—The purposes of the plans required by this section are—

(A) to gather racial and ethnic data on investigations and prosecutions in the United States districts and the causes of disparities, if any;

(B) to determine the extent to which the communities' perception of bias has affected confidence in the Federal criminal justice system;

(C) to analyze whether measures may be taken to reduce unwarranted disparities, if any, and increase confidence in the criminal justice system; and

(D) to make recommendations, to the extent possible, to ensure that law enforcement priorities and initiatives, charging and plea bargaining decisions, sentencing recommendations, and other steps within the criminal process are not influenced by racial and ethnic stereotyping or bias, and do not produce unwarranted disparities from otherwise neutral laws or policies.

(3) CRITERIA FOR SELECTION.—

(A) IN GENERAL.—The 10 pilot districts referred to in subsection (a) shall include districts of varying compositions with respect to size, case load, geography, and racial and ethnic composition.

(B) METROPOLITAN AREAS.—At least 3 of the United States Attorneys designated by the Attorney General shall be in Federal districts encompassing metropolitan areas.

SEC. 4. PLAN AND REPORT.

(a) IN GENERAL.—

(1) UNITED STATES ATTORNEY.—Each United States Attorney shall, in consultation with an advisory group appointed in accordance with paragraph (2), develop and implement a plan in accordance with subsections (b) and (c).

(2) ADVISORY GROUP.—

(A) APPOINTMENT.—Not later than 90 days after designation by the Attorney General, the United States Attorney in each of the 10 pilot districts selected pursuant to section 3 shall appoint an advisory group, after consultation with the chief judge of the district and criminal justice professionals within the district.

(B) MEMBERSHIP.—The advisory group of a United States Attorney shall include—

(i) 1 or more senior social scientists with expertise in research methods or statistics; and

(ii) individuals and entities who play important roles in the criminal justice process and have broad-based community representation such as—

(I) Federal and State prosecutors;

(II) Federal and State defenders, if present in the district, and private defense counsel;

(III) Federal and State judges;

(IV) Federal and State law enforcement officials and union representatives;
(V) a member of the United States Sentencing Commission or designee;
(VI) parole and probation officers;
(VII) correctional officers;
(VIII) victim's rights representatives;
(IX) civil rights organizations;
(X) business and professional representatives; and
(XI) faith based organizations that provide services to people involved in the criminal justice system.

(C) TERM LIMIT.—Subject to subparagraph (D), a member of the advisory group shall not serve longer than 5 years.

(D) PERMANENT MEMBERS.—Notwithstanding subparagraph (C), the following shall be permanent members of the advisory group for that district:
(i) The chief judge for the judicial district.
(ii) The Federal defender for the judicial district.
(iii) The United States Attorney for the judicial district.

(E) REPORTER.—The United States Attorney may designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Executive Office of the United States Attorneys.

(F) INDEPENDENT CONTRACTORS.—The members of an advisory group of a United States Attorney and any person designated as a reporter for such group—
(i) shall be considered independent contractors of the United States Attorney's Office when in the performance of official duties of the advisory group; and
(ii) may not, solely by reason of service on or for the advisory group, be prohibited from practicing law before any court.

(b) DEVELOPMENT AND IMPLEMENTATION OF A PLAN AND REPORT.—
(1) ADVISORY GROUP REPORT.—The advisory group appointed under subsection (a)(2) shall—
(A)(i) systematically collect and analyze quantitative data on the race and ethnicity of the defendant and victim at each stage of prosecution, including case intake, bail requests, declinations, selection of charges, diversion from prosecution or incarceration, plea offers, sentencing recommendations, fast-track sentencing, and use of alternative sanctions; and
(ii) at a minimum, collect aggregate data capable of individualization and tracking through the system so that any cumulative racial or ethnic disadvantage can be analyzed;
(B) seek to determine the causes of racial and ethnic disparities in a district, and whether these disparities are substantially explained by sound law enforcement policies or if they are at least partially attributable to discrimination, insensitivity, or unconscious bias;
(C) examine the extent to which racial and ethnic disparities are attributable to—
(i) law enforcement priorities, prosecutorial priorities, the substantive provisions of legislation enacted by Congress; or
(ii) the penalty schemes enacted by Congress or implemented by the United States Sentencing Commission;
(D) examine data including—
(i) the racial and ethnic demographics of the United States Attorney's district;
(ii) defendants charged in all categories of offense by race and ethnicity, and, where applicable, the race and ethnicity of any identified victim;
(iii) recommendations for sentencing enhancements and reductions, including the filing of substantial assistance motions, whether at sentencing or post-conviction, by race and ethnicity;
(iv) charging policies, including decisions as to who should be charged in Federal rather than State court when either forum is available, and whether these policies tend to result in racial or ethnic disparities among defendants charged in Federal court, including whether relative disparities exist between State and Federal defendants charged with similar offenses;
(v) the racial and ethnic composition of the Federal prosecutors in the district; and
(vi) the extent to which training in the exercise of discretion, including cultural competency, is provided prosecutors;
(E) consult with an educational or independent research group, if necessary, to conduct work under this subsection; and
(F) submit to the United States Attorney by the end of the second year after their initial appointment a report and proposed plan, which shall be made available to the public and which shall include—
(i) factual findings and conclusions on racial and ethnic disparities, if any, and the State of public confidence in the criminal process;
(ii) recommended measures, rules, and programs for reducing unjustified disparities, if any, and increasing public confidence; and
(iii) an explanation of the manner in which the recommended plan complies with this paragraph.

(2) ADOPTION OF PLAN.—Not later than 60 days after receiving and considering the advisory group's report and proposed plan under paragraph (1), the United States Attorney appointed under section 3 shall adopt and implement a plan.

(3) COPY OF REPORT.—The United States Attorney shall transmit a copy of the plan and report adopted and implemented, in accordance with this subsection, together with the report and plan recommended by the advisory group, to the Attorney General. The United States Attorney shall include with the plan an explanation of any recommendation of the advisory group that is not included in the plan.

(4) CONGRESS.—The Attorney General shall transmit to the United States Attorney's in every Federal district and to the Committees on the Judiciary of the Senate and the House of Representatives copies of any plan and accompanying report submitted by a pilot district.

(c) PERIODIC UNITED STATES ATTORNEY ASSESSMENT.—After adopting and implementing a plan under subsection (b), each United States Attorney in a pilot district shall annually evaluate the efficacy of the plan. In performing such assessment, the United States Attorney shall consult with the advisory group appointed in accordance with subsection (a)(2). Each assessment shall be submitted to the Executive Office for United States Attorneys for review in accordance with subsection (d).

(d) INFORMATION ON THE PILOT PROGRAM.—
(1) REPORT AND MODEL PLAN.—Not later than 5 years after the date of the enactment of this Act, the Attorney General shall—
(A) prepare a comprehensive report on all plans received pursuant to this section;
(B) based on all the plans received pursuant to this section the Attorney General shall also develop one or more model plans; and
(C) transmit copies of the report and model plan or plans to the Committees on the Judiciary of the Senate and the House of Representatives.

(2) CONTINUED OVERSIGHT.—The Attorney General shall, on a continuing basis—
(A) study ways to reduce unwarranted racial and ethnic disparate impact in the Federal criminal system; and
(B) make recommendations to all United States Attorneys on ways to improve the system.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 for use, at the discretion of the Attorney General, by the United States Attorneys' advisory groups in the development and implementation of plans under this Act.

By Mr. DURBIN:

S. 497. A bill to amend the Public Health Service Act to authorize capitation grants to increase the number of nursing faculty and students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. As we prepare to tackle the many challenges of our health care system, let's take the time to make sure that nursing schools are in a position to teach and train a new generation of nurses and nurse educators. Today, I am introducing the Nurse Education, Expansion, and Development (NEED) Act to provide schools of nursing with grants for faculty, equipment, and clinical laboratories. The proposed grants give colleges of nursing the flexibility to use federal funds to address the very problems that keep nursing schools from hiring more teachers today.

The healthcare crisis is complicated and the challenges are immense, but the runaway costs and inefficiencies in our health care system are no longer sustainable. So as we begin to look at healthcare reform in this Congress, let's keep in mind one lesson we learned from Massachusetts' recent experience. After a landmark healthcare reform law to extend healthcare coverage to every person in the State, the sudden demand for primary care professionals outpaced the supply.

Nurses can help fill that primary care gap. Today, nurse practitioners are already taking over at the helm of primary care in many areas that don't have any primary care physicians. Nurses are staffing health care clinics, and many are opening their own practices. Increased standards of training have opened new doors for nurses who want to further their careers but do not want to attend medical school. The numbers tell the story. In 2000 there were roughly 90,000 nurse practitioners in the U.S. By 2015, it is estimated there will be as many as 135,000.

Unfortunately, the number of nurses is not keeping pace with the growing health care needs of our Nation. In 2000, the U.S. Department of Health and Human Services found that the U.S. is 110,000 short of the number of nurses we need. By 2005, the shortage had doubled to 219,000. By 2020, it is expected we will be more than 1 million nurses short of the need.

Contributing to this shortage is a lack of faculty to teach and train future nurses. In a survey of more than 400 schools of nursing last year, the American Association of Colleges of Nursing found that 63 percent of the schools reported vacancies on their faculty. An additional 17.8 percent said

they were fully staffed, but still needed more faculty to handle the number of students who want to be trained. Last year, nursing colleges across the Nation denied admission to 49,948 qualified applicants because there were not enough faculty members to teach the students.

Statistics paint a bleak picture for the availability of nursing faculty now and into the future. The median age of a doctorally prepared nursing faculty member is 56 years old. The average age of retirement for faculty at schools of nursing is 65 years. It is expected that 200 to 300 doctorally prepared faculty will be eligible for retirement each year from 2005 through 2012, reducing faculty even though more than 1 million replacement nurses will be needed.

The number of qualified students turned away from nursing schools in Illinois reflects the national trend and continues to grow. In 2002–2003, 502 qualified students were rejected from Illinois nursing schools. In 2008, 2,523 students were turned away because of lack of faculty and resources—over 1600 more students than in 2007. To avoid the vast shortage HHS is projecting, we have to figure out how to make a significant increase that we can sustain in the number of nurses graduating and entering the workforce each year.

My hope is that the bill I am introducing today can be part of the answer. Nursing schools need the resources to teach and train a new generation of nurses and nurse educators. Let's not take on health care reform without considering the more than 2.9 million nurses in our country today who are critical to our health care system. And as we look at improving our health care system, let's start by investing in the nursing pipeline today for the health care needs of tomorrow.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nurse Education, Expansion, and Development Act of 2009''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) While the Nurse Reinvestment Act (Public Law 107–205) helped to increase applications to schools of nursing by 125 percent, schools of nursing have been unable to accommodate the influx of interested students because they have an insufficient number of nurse educators. The American Association of Colleges of Nursing estimates that—

(A) in the 2008–2009 school year—

(i) 62.8 percent of schools of nursing had from 1 to 16 vacant faculty positions; and

(ii) an additional 17.8 percent of schools of nursing needed additional faculty, but lacked the resources needed to add more positions; and

(B) 49,948 eligible candidates were denied admission to schools of nursing in 2008, primarily due to an insufficient number of faculty members.

(2) A growing number of nurses with doctoral degrees are choosing careers outside of education. Over the last few years, 20.7 percent of doctoral nursing graduates reported seeking employment outside the education profession.

(3) The average age of nurse faculty at retirement is 62.5 years. With the average age of doctorally-prepared nurse faculty at 55.6 years in 2007, a wave of retirements is expected within the next 10 years.

(4) Master's and doctoral programs in nursing are not producing a large enough pool of potential nurse educators to meet the projected demand for nurses over the next 10 years. While graduations from master's and doctoral programs in nursing rose by 12.8 percent (or 1,918 graduates) and 4.5 percent (or 24 graduates), respectively, in the 2008–2009 school year, projections still demonstrate a shortage of nurse faculty. Given current trends, there will be at least 2,616 unfilled faculty positions in 2012.

(5) According to the November 2007 Monthly Labor Review of the Bureau of Labor Statistics, more than 1,000,000 new and replacement nurses will be needed by 2016.

SEC. 3. CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS.

(a) GRANTS.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a master's degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—For purposes of this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 school years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 school years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each school year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding school year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) does not apply to the first school year for which a school receives a grant under this section.

''(C) With respect to any school year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding school years.

''(4) Not later than 1 year after receipt of the grant, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy,

public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to the Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than the end of fiscal year 2010, a final report on such results.

''(g) APPLICATION.—To seek a grant under this section, a school nursing shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the costs of carrying out this section (except the costs described in paragraph (2)), there are authorized to be appropriated $75,000,000 for fiscal year 2010, $85,000,000 for fiscal year 2011, and $95,000,000 for fiscal year 2012.

''(2) ADMINISTRATIVE COSTS.—For the costs of administering this section, including the costs of evaluating the results of grants and submitting reports to the Congress, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2010, 2011, and 2012.''.

(b) GAO STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study and submit a report to the Congress on ways to increase participation in the nurse faculty profession.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall include the following:

(A) A discussion of the master's degree and doctoral degree programs that are successful in placing graduates as faculty in schools of nursing.

(B) An examination of compensation disparities throughout the nursing profession and compensation disparities between higher education instructional faculty generally and higher education instructional nursing faculty.

By Mr. BURR:

S. 498. A bill to amend title 38, United States Code, to authorize dental insurance for veterans and survivors and dependents of veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BURR. Mr. President, I rise today to once again introduce legislation that would give our veterans, surviving spouses, and certain dependent children the option to buy dental insurance coverage through the Department of Veterans' Affairs, VA. My bill is based on a very successful program that has been in place since 1998 for military retirees and their families.

Under the TRICARE Retiree Dental Program, TRDP, military retirees are given the option to purchase dental coverage through the Department of Defense. Since the program started, over 1 million eligible participants have chosen to buy dental coverage through this plan, including over 56,000 in my home State of North Carolina. Those individuals have access to a network of about 112,000 dental plan providers across the Nation. Premiums range from $14 to $48 per month per person, depending on the region and type of dental plan selected. With this kind of success, it seems only fitting that we offer the same kind of benefit to our veterans.

VA runs the largest integrated health care system in the Nation. Although VA provides dental benefits to the 7.9 million veterans enrolled in the healthcare system, these benefits are either limited to a select group of people or can only be provided under very limited circumstances. For example, VA provides comprehensive dental care to veterans for 180 days after they leave service; who have service-related dental conditions; who are in nursing homes and require dental care; or who fall under other very strict guidelines.

My bill would supplement this limited coverage by giving veterans and survivors the option to purchase a more comprehensive dental plan. Of course, many veterans may have dental coverage through their employers or through an individual policy. My bill extends this dental plan option to all enrolled veterans.

As I mentioned, the bill is modeled after the successful program that is now offered to TRICARE retirees. Federal employees also have access to a similar benefit option for dental coverage. Like these other programs, this VA program would be entirely voluntary and provide needed coverage from a network of dental professionals in local communities.

This bill would not replace VA's dental services; it is just another option for those who want to have access to group insurance rates that they could not otherwise get on their own. This idea is like the 44 year relationship VA has with Prudential, who provides active duty servicemembers and veterans with group life insurance policies. The most important part of the relationship is that servicemembers and veterans get to reap the benefits of group rates and competition.

By Mr. ROCKEFELLER (for himself, Mr. SCHUMER, Mr. KOHL, Mr. LEAHY, Mr. BROWN, and Mr. INOUYE):

S. 501. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the marketing of authorized generic drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, I rise today with Senators SCHUMER, KOHL, LEAHY, and BROWN to reintroduce an important piece of legislation, the Fair Prescription Drug Competition Act. Our legislation eliminates one of the most prominent loopholes that brand name drug companies use to limit consumer access to lower cost generic drugs; it ends the marketing of so-called ''authorized generic'' drugs during the 180-day exclusivity period that Congress designed to specifically allow true generics to enter the market.

An authorized generic drug is a brand name prescription drug produced by the same brand manufacturer on the same manufacturing lines, yet repackaged as a generic. Some argue that authorized generic drugs are cheaper than brand name drugs and, therefore, benefit consumers. In reality, authorized generics only serve to reduce generic competition, extend brand monopolies, and lead to higher health care costs for consumers over the long-term. As I have said many times, authorized generics are a sham. They are brand name prescription drugs in disguise.

After up to 20 years of holding a patent for a brand name drug, the manufacturer doesn't want to let go of their enormous profits. So, they repackage the drug and refer to it as a generic in order to achieve a very simple goal—to drive true generics out of the market by offering the drug at a lower price initially; then, when victory is assured, raising the cost on the so-called ''authorized generic'' to gain a larger profit. This is a huge problem and one that is becoming even more prevalent as patents on some of the best-selling brand name pharmaceuticals expire.

In 1984, Congress passed the Hatch-Waxman legislation to provide consumers greater access to lower cost generic drugs. The intent of this law was to improve generic competition, while preserving the ability of brand name manufacturers to discover and market new and innovative products. Over time, brand name manufacturers found ways to exploit certain loopholes in the Hatch-Waxman law to the detriment of generics.

As a result, Congress enacted amendments to the Hatch-Waxman Act as

part of the 2003 Medicare prescription drug law. These amendments were designed to close long-standing loopholes that were delaying generic competition and hindering consumer access to lower-cost generic drugs. These reforms were also intended to strengthen the 180-day period of market exclusivity for generic manufacturers that pursue costly patent challenges.

The Hatch-Waxman Act and the additional reforms included in the 2003 Medicare law provide crucial incentives for generic drug companies to enter the market and make prescription drugs more affordable for consumers. As health care spending continues to skyrocket, finding ways to reduce costs is crucial. Today, generic medications comprise more then 56 percent of all prescriptions in this country, but they only generate 13 percent of our Nation's drug costs. Furthermore, generic drugs are 50 percent to 80 percent cheaper than brand name drugs. In fact, generic drugs save consumers an estimated $8 to $10 billion a year at retail pharmacies. For working families, these savings can make a huge difference, particularly during a recession. We must protect the true intent of the Hatch-Waxman Act and increase access to affordable prescription drugs for all Americans. The Fair Prescription Drug Competition Act does just that by eliminating the authorized generics loophole, protecting the integrity of the 180 days, and improving consumer access to lower cost generic drugs.

I urge my colleagues to support this timely and important piece of legislation.

By Mr. WYDEN:

S. 499. A bill to amend the Energy Policy Act of 2005 to repeal the ultra-deepwater and unconventional onshore natural gas and other petroleum research and development program; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I rise this afternoon to reintroduce the Withdraw Energy Addicting New Subsidies Act. I first introduced this legislation in the 109th Congress to repeal what I believed to be a back-door subsidy to the oil and gas industry at a time when the oil and gas industry didn't need any more subsidies. This hidden subsidy was included in the Energy Policy Act of 2005. And what it does is to directly transfer $50 million dollars a year of oil and gas royalties, which would otherwise go the Federal Treasury, into a special program to research on advanced, ultra-deep drilling technology for the oil and gas industry. This transfer isn't a one-time transfer, it's an annual transfer that continues every year through the year 2017, at a cost of $250 million over five years.

There are plenty of industries in this country that are hurting, but the oil and gas industry is not one of them. It's time, as President Obama has said, to end Federal programs that we don't really need. And this is one of them. I applaud the decision by the President to propose the repeal of the ultra-deepwater drilling program in the budget he announced today. It's a decision that's long overdue. That's why I am reintroducing this bill—the WEANS Act. I urge my colleagues in joining me in ending this unneeded subsidy by supporting the WEANS Act.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Withdraw Energy Addicting New Subsidies Act of 2009'' or the ''WEANS Act of 2009''.

SEC. 2. REPEAL OF ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.

Subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.) is repealed.

By Mr. DURBIN:

S. 500. A bill to amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. As the Congress tries to help Americans overcome the most serious economic crisis since the Great Depression, we face two urgent yet conflicting priorities. We have to increase demand for American products to resuscitate our economy. And we have to reduce the financial burden that our children will assume. We need to let consumers keep more of their own money without reducing the revenues that the government needs to pay for essential services.

In addition, we need to stop the reckless lending that brought us this economic disaster.

Today, I introduce the Protecting Consumers from Unreasonable Credit Rates Act to try to get at each of these goals. My bill sets a ceiling of 36 percent annualized interest rates on consumer credit.

Consumers spend approximately $27 billion every year on predatory payday loans, high-cost overdraft loans, and hugely expensive refund anticipation loans. Imagine if a portion of that $270 billion 10-year cost of credit could be redirected towards buying American goods and services. The Center for Responsible Lending estimates that a strong federal usury cap would save low-income borrowers $5 billion each year.

And, in an era that has called for trillions of taxpayer dollars to bail out banks and jumpstart economic demand, this proposal costs the taxpayers nothing.

The Protecting Consumers from Unreasonable Credit Rates Act would establish a new Federal annualized fee and interest rate calculation—the FAIR—and institute a 36-percent cap for all types of consumer credit.

In 2006, Congress enacted a Federal 36 percent annualized usury cap for certain credit products marketed to military servicemembers and their families, which curbed payday, car title, and tax refund lending around military bases. My bill would expand on that premise to include all types of credit for all borrowers.

If a lender can't make money on 36 percent interest, then maybe the loan shouldn't be made.

Although I hope to gain widespread support for this bill from responsible lenders, I understand that some of the financial service firms in this country will be uneasy with a broad bill establishing a high interest rate cap. I hope this bill can open an honest conversation about consumer credit rates.

My opening question in that conversation is this: what services do you provide for which you can justify charging your customers more than 36 percent in annual interest?

Fifteen States and the District of Columbia have already enacted broadly applicable usury laws that protect borrowers from high-cost payday loans and many other forms of credit, while 34 States and the District of Columbia have limited annual interest rates to 36 percent or less for one or more types of consumer credit.

But there is a problem with this State-by-State approach. Those limits can sometimes be evaded by out-of-State lenders that are based in States that have weaker usury laws.

Various Federal and State loopholes allow unscrupulous lenders to charge cash-strapped consumers pay 400 percent annual interest for payday loans on average, 300 percent annual interest for car title loans, up to 3500 percent annual interest for bank overdraft loans, between 50 and 500 percent annual interest for loans secured by expected tax refunds, and higher than 50 percent annual interest for credit cards that charge junk fees.

Consider 66-year-old Rosa Mobley, who lives on Social Security and a small pension.

The Chicago Tribune reports that Ms. Mobley took out a car title loan—a type of payday loan in which the borrowers put up their cars as collateral—for $1,000. Ms. Mobley was charged 300 percent interest.

She wound up paying more than $4,000 over 28 months and at the time of the report was struggling just to get by.

This bill would require that all fees and finance changes be included in the new usury rate calculation and would require all lending to conform to the limit, thereby eliminating the many loopholes that have allowed these predatory practices to flourish.

It would not preempt stronger State laws, it would allow State attorneys general to help enforce this new rate cap, and it would provide for strong

civil penalties to deter lender violations.

I included in this bill the flexibility for responsible lenders to replace payday loans that some borrowers once relied on with reasonably priced, small-dollar loan alternatives. The bill allows lenders to exceed the 36 percent usury cap for one-time application fees that cover the costs of setting up a new customer account and for processing costs such as late charges and insufficient funds fees.

The Protecting Consumers from Unreasonable Credit Rates Act would eliminate predatory lenders, but it also would help borrowers make smarter choices.

Congress established the Truth in Lending Act over 40 years ago to help consumers compare the costs of borrowing when buying a home, a car, or other items by establishing a standard Annual Percentage Rate that all lenders should advertise.

My first mentor in politics, the late Senator Paul Douglas from my home State of Illinois, said all the way back in 1963 that too often lenders:

compound the camouflaging of credit by loading on all sorts of extraneous fees, such as exorbitant fees for credit life insurance, excessive fees for credit investigation, and all sorts of loan processing fees which rightfully should be included in the percentage rate statement so that any percentage rate quoted is meaningless and deceptive.

That was before anyone had ever heard of ''subprime lending.''

Unfortunately, as the use of credit has exploded and as the complexity of the credit products offered by lenders has become mind-boggling, Congress and the Federal Reserve have taken several actions since the passage of Truth in Lending to weaken the APR as a tool for comparison shopping. Today, many fees can be excluded from the rate that is given to borrowers. The APR no longer gives consumers the convenient and accurate information it once did. One payday lender in Pennsylvania used the various exclusions to disclose what was really a 400 percent APR as 6 percent.

This bill would give consumers a way to accurate compare credit options, by requiring that the new FAIR calculation be disclosed both for open-end credit plans such as credit cards and for closed-end credit such as mortgages and payday loans.

The bill is supported by 100 groups at the national and local levels, including the Consumer Federation of American, the National Consumer Law Center, the Center for Responsible Lending, USPIRG, and Consumers Union, and I include a copy of their letter of support for the CONGRESSIONAL RECORD.

As Congress considers some very complicated economic challenges, I urge my colleagues to also consider simple solutions. We can help give more money to American consumers today without borrowing money that must be repaid tomorrow. Let's start by eliminating some of the worst abuses in lending by establishing a reasonable fee and interest rate cap.

I urge my colleagues to support the Protecting Consumers from Unreasonable Credit Rates Act.

I ask unanimous consent that the text of the bill and the letter of support be printed in the RECORD.

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

S. 500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Consumers from Unreasonable Credit Rates Act of 2009''.

SEC. 2. FINDINGS.

Congress finds that—

(1) attempts have been made to prohibit usurious interest rates in America since colonial times;

(2) at the State level, 15 states and the District of Columbia have enacted broadly applicable usury laws that protect borrowers from high-cost payday loans and many other forms of credit, while 34 states and the District of Columbia have limited annual interest rates to 36 percent or less for 1 or more types of consumer credit;

(3) at the Federal level, in 2006, Congress enacted a Federal 36 percent annualized usury cap for service members and their families for covered credit products, as defined by the Department of Defense, which curbed payday, car title, and tax refund lending around military bases;

(4) notwithstanding such attempts to curb predatory lending, high cost lending persists in all 50 States due to loopholes in State laws, safe harbor laws for specific forms of credit, and the exportation of unregulated interest rates permitted by preemption;

(5) due to the lack of a comprehensive Federal usury cap, consumers annually pay approximately $17,500,000,000 for high-cost overdraft loans, as much as $8,600,000,000 for storefront and online payday loans, and nearly $900,000,000 for tax refund anticipation loans;

(6) cash-strapped consumers pay on average 400 percent annual interest for payday loans, 300 percent annual interest for car title loans, up to 3,500 percent for bank overdraft loans, 50 to 500 percent annual interest for loans secured by expected tax refunds, and higher than 50 percent annual percentage interest for credit cards that charge junk fees;

(7) a national maximum interest rate that includes all forms of fees and closes all loopholes is necessary to eliminate such predatory lending; and

(8) alternatives to predatory lending that encourage small dollar loans with minimal or no fees, installment payment schedules, and affordable repayment periods should be encouraged.

SEC. 3. NATIONAL MAXIMUM INTEREST RATE.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

''SEC. 141. MAXIMUM RATES OF INTEREST.

''(a) IN GENERAL.—Notwithstanding any other provision of law, no creditor may make an extension of credit to a consumer with respect to which the fee and interest rate, as defined in subsection (b), exceeds 36 percent.

''(b) FEE AND INTEREST RATE DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the fee and interest rate includes all charges payable, directly or indirectly, incident to, ancillary to, or as a condition of the extension of credit, including—

''(A) any payment compensating a creditor or prospective creditor for—

''(i) an extension of credit or making available a line of credit, such as fees connected with credit extension or availability such as numerical periodic rates, annual fees, cash advance fees, and membership fees; or

''(ii) any fees for default or breach by a borrower of a condition upon which credit was extended, such as late fees, creditor-imposed not sufficient funds fees charged when a borrower tenders payment on a debt with a check drawn on insufficient funds, overdraft fees, and over limit fees;

''(B) all fees which constitute a finance charge, as defined by rules of the Board in accordance with this title;

''(C) credit insurance premiums, whether optional or required; and

''(D) all charges and costs for ancillary products sold in connection with or incidental to the credit transaction.

''(2) TOLERANCES.—

''(A) IN GENERAL.—With respect to a credit obligation that is payable in at least 3 fully amortizing installments over at least 90 days, the term 'fee and interest rate' does not include—

''(i) application or participation fees that in total do not exceed the greater of $30 or, if there is a limit to the credit line, 5 percent of the credit limit, up to $120, if—

''(I) such fees are excludable from the finance charge pursuant to section 106 and regulations issued thereunder;

''(II) such fees cover all credit extended or renewed by the creditor for 12 months; and

''(III) the minimum amount of credit extended or available on a credit line is equal to $300 or more;

''(ii) a late fee charged as authorized by State law and by the agreement that does not exceed either $20 per late payment or $20 per month; or

''(iii) a creditor-imposed not sufficient funds fee charged when a borrower tenders payment on a debt with a check drawn on insufficient funds that does not exceed $15.

''(B) ADJUSTMENTS FOR INFLATION.—The Board may adjust the amounts of the tolerances established under this paragraph for inflation over time, consistent with the primary goals of protecting consumers and ensuring that the 36 percent fee and interest rate limitation is not circumvented.

''(c) CALCULATIONS.—

''(1) OPEN END CREDIT PLANS.—For an open end credit plan—

''(A) the fee and interest rate shall be calculated each month, based upon the sum of all fees and finance charges described in subsection (b) charged by the creditor during the preceding 1-year period, divided by the average daily balance; and

''(B) if the credit account has been open less than 1 year, the fee and interest rate shall be calculated based upon the total of all fees and finance charges described in subsection (b)(1) charged by the creditor since the plan was opened, divided by the average daily balance, and multiplied by the quotient of 12 divided by the number of full months that the credit plan has been in existence.

''(2) OTHER CREDIT PLANS.—For purposes of this section, in calculating the fee and interest rate, the Board shall require the method of calculation of annual percentage rate specified in section 107(a)(1), except that the amount referred to in that section 107(a)(1) as the 'finance charge' shall include all fees, charges, and payments described in subsection (b)(1).

''(3) ADJUSTMENTS AUTHORIZED.—The Board may make adjustments to the calculations in paragraphs (1) and (2), but the primary goals of such adjustment shall be to protect consumers and to ensure that the 36 percent

fee and interest rate limitation is not circumvented.

''(d) DEFINITION OF CREDITOR.—As used in this section, the term 'creditor' has the same meaning as in section 702(e) of the Equal Credit Opportunity Act (15 U.S.C. 1691a(e)).

''(e) NO EXEMPTIONS PERMITTED.—The exemption authority of the Board under section 105 shall not apply to the rates established under this section or the disclosure requirements under section 127(b)(6).

''(f) DISCLOSURE OF FEE AND INTEREST RATE FOR CREDIT OTHER THAN OPEN END CREDIT PLANS.—In addition to the disclosure requirements under section 127(b)(6), the Board may prescribe regulations requiring disclosure of the fee and interest rate established under this section in addition to or instead of annual percentage rate disclosures otherwise required under this title.

''(g) RELATION TO STATE LAW.—Nothing in this section may be construed to preempt any provision of State law that provides greater protection to consumers than is provided in this section.

''(h) CIVIL LIABILITY AND ENFORCEMENT.—In addition to remedies available to the consumer under section 130(a), any payment compensating a creditor or prospective creditor, to the extent that such payment is a transaction made in violation of this section, shall be null and void, and not enforceable by any party in any court or alternative dispute resolution forum, and the creditor or any subsequent holder of the obligation shall promptly return to the consumer any principal, interest, charges, and fees, and any security interest associated with such transaction. Notwithstanding any statute of limitations or repose, a violation of this section may be raised as a matter of defense by recoupment or setoff to an action to collect such debt or repossess related security at any time.

''(i) VIOLATIONS.—Any person that violates this section, or seeks to enforce an agreement made in violation of this section, shall be subject to, for each such violation, 1 year in prison and a fine in an amount equal to the greater of—

''(1) 3 times the amount of the total accrued debt associated with the subject transaction; or

''(2) $50,000.

''(j) STATE ATTORNEYS GENERAL.—An action to enforce this section may be brought by the appropriate State attorney general in any United States district court or any other court of competent jurisdiction within 3 years from the date of the violation, and such attorney general may obtain injunctive relief.''.

SEC. 4. DISCLOSURE OF FEE AND INTEREST RATE FOR OPEN END CREDIT PLANS.

Section 127(b)(6) of the Truth in Lending Act (15 U.S.C. 1637(b)(6)) is amended by striking ''the total finance charge expressed'' and all that follows through the end of the paragraph and inserting ''the fee and interest rate, displayed as 'FAIR', established under section 141.''.

DIVERSE NATIONAL AND STATE GROUPS SUPPORT DURBIN/SPEIER FAIR BILL

FEBRUARY 25, 2009.

Hon. RICHARD J. DURBIN,
Hart Senate Bldg.,
Washington, DC.
Hon. JACKIE SPEIER,
Cannon House Office Bldg.,
Washington, DC.

DEAR SENATOR DURBIN AND REPRESENTATIVE SPEIER: We applaud Senator Durbin and Representative Speier for proposing a measure that would stop a wide range of lending abuses by capping interest rates for consumer credit at 36 percent annually. Cleaning up the finance industry is essential to a sustainable economic recovery.

The ''Protecting Consumers from Unreasonable Credit Rates Act'' would implement a key promise made by President Obama to extend to all Americans Congressional protection against predatory lending for Service members and their families. By limiting the total cost of consumer credit to 36 percent, Congress will keep billions of dollars in the hands of low and moderate-income consumers, helping to stimulate the economy without costing taxpayers a penny.

This measure is designed to keep affordable financial products available, as lenders who offer sustainable loans do so at rates well below 36 percent annually. But it would eliminate abuses that rely on high fees, interest and other devices to charge extremely high annual rates—some 400 percent and higher—to trap consumers in debt they cannot afford to pay off.

Protections that once curbed abusive lending in America have been shredded, and consumers are paying astronomical rates for credit, especially those who have the fewest resources. Payday loans cost 400 percent APR or higher; car title loans cost 300 percent APR and put car ownership at risk; loans secured by expected tax refunds cost 50 to 500 percent APR; and credit card fees and interest can combine to produce triple-digit rates. Bank overdraft loans can cost quadruple digit interest rates. These extremely expensive credit products drain billions from families who struggle to make ends meet, diminishing their ability to purchase products and services that would boost the economy.

The ability of states to enact meaningful reforms on credit card and bank overdraft practices has been severely restricted as a result of federal preemption. Banks are now permitted to locate in a state without consumer protections and then engage in unregulated lending in the other forty-nine states, which are powerless to protect their citizens against high cost credit cards and tax refund anticipation loans. State usury caps have been riddled with loopholes and exceptions, leaving consumers in thirty-five states exposed to outrageously expensive payday loans.

The FAIR (Fees and Interest Rate) cap on consumer credit is set high enough not to hamper mainstream responsible lending. A 36 percent rate cap is twice the limit for federally-chartered credit unions and enables credit to be responsibly extended to consumers with less than perfect credit ratings. This is the rate cap enacted by Congress through the Military Lending Act and is the limit typically used in state small loan laws. The FAIR cap will be the maximum amount lenders can charge, but states will be able to set lower rate caps to protect their citizens, such as New York's 25 percent criminal cap and Arkansas's constitutional cap.

We urge quick action to implement the FAIR cap to stop usurious credit rates, to protect struggling consumers, and to put all lenders under the same set of protections.

Sincerely,

Jean Ann Fox, Consumer Federation of America.
Pam Banks, Consumers Union.
Lauren Saunders, National Consumer Law Center (on behalf of its low income clients).
Edmund Mierzwinski, U. S. Public Interest Research Group.
Michael Calhoun, Center for Responsible Lending.
David Berenbaum, National Community Reinvestment Coalition.
Hilary O. Shelton, NAACP.
Linda Sherry, Consumer Action.
Sally Greenberg, National Consumers League.
Don Mathis, Community Action Partnership.
Jim Campen, Americans For Fairness in Lending.
Maude Hurd, Association of Community Organizations for Reform Now (ACORN).
George Goehl, National Training and Information Center.
Ira Rheingold, National Association of Consumer Advocates (NACA).
Jerily DeCoteau, First Nations Development Institute.
Joanna Donohoe, Oweesta Corporation.
Lisa Rice, National Fair Housing Alliance.
Rosemary Shahan, Consumers for Auto Reliability and Safety.
Steve Hitov, National Health Law Program (NHeLP).
Jacqueline Johnson Pata, National Congress of American Indians.
Joe Rich, Lawyers' Committee for Civil Rights Under Law.

STATE ORGANIZATIONS

Shay Farley, Alabama Appleseed.
Barbara Williams, Alaska Injured Workers Alliance Research and Development Corp.
Diane E. Brown, Arizona Public Interest Research Group.
Leslie Kyman Cooper, Arizona Consumers Council.
Al Sterman, Democratic Processes Center, Arizona.
Karin Uhlich, Southwest Center for Economic Integrity, Arizona.
H.C. ''Hank'' Klein, Arkansans Against Abusive Payday Lending, Arkansas.
Jim Bliesner, San Diego City/County Reinvestment Task Force, California.
Betsy Handler, Inner City Law Center, Los Angeles, California.
Richard Holober, Consumer Federation of California.
Kimberly Jones and Liana Molina, California Reinvestment Coalition.
Kyra Kazantzis, Public Interest Law Firm, Fair Housing Law Project, San Jose, CA
M. Stacey Hawver, Legal Aid Society of San Mateo County, CA.
Raphael L. Podolsky, Legal Assistance Resource Center of Connecticut, Inc. Lynn Drysdale, Jacksonville Area Legal Aid, Inc., Florida.
Bill Newton, Florida Consumer Action Network.
Sally G. Schmidt, Florida Equal Justice Center.
Victor Geminani, Lawyers for Equal Justice, Hawaii.
Don Carlson, Central Illinois Organizing Project, Illinois.
Lynda DeLaforgue and William McNary, Citizen Action/Illinois.
Rose Mary Meyer, Project IRENE, Illinois.
Dory Rand, Woodstock Institute, Illinois.
Madeline Talbott, Action Now, Illinois.
Brian C. White, Lakeside Community Development Corporation, Illinois.
Victor Elias, Child and Family Policy Center and Iowa Coalition Against Abusive Lending, Iowa.
Larry M. McGuire, Minister, Community of Christ and Inter-Religious Council of Linn County, Iowa.
Lana L. Ross, Iowa Community Action Association.
Jason Selmon, Sunflower Community Action, Kansas.
Terry Brooks, Kentucky Youth Advocates.
Dana Jackson, Making Connections Network, Louisville, Kentucky.
Melissa Fry Konty, Mountain Association for Community Economic Development, Kentucky.
Anne Marie Regan and Rich Seckel, Kentucky Equal Justice Center.
Amy Shir, Kentucky Asset Building Coalition.
Debra Gardner, Public Justice Center, Maryland.
Charles Shafer, Maryland Consumer Rights Coalition.

Debra Fastino, The Coalition for Social Justice, Massachusetts.

Jim Breslauer, Neighborhood Legal Services, Lawrence, Massachusetts.

Caroline Murray, Alliance to Develop Power/ADP Worker Center, Massachusetts Paheadra B. Robinson, Mississippi Center for Justice.

Robin Acree, GRO-Grassroots Organizing, Missouri.

Mike Cherry, Consumer Credit Counseling Service, Missouri.

Mike Ferry, Gateway Legal Services, Inc., Missouri, Arkansas, and Illinois.

Linda Gryczan, Montana Business and Professional Women, Montana Women's Lobby

Linda E. Reed, Montana Community Foundation.

Michele Johnson, Consumer Credit Counseling Service, Nevada and Utah

Dan Wulz, Legal Aid Center of Southern Nevada.

Paula J. O'Brien, New York State Consumer Protection Board.

Josh Zinner and Sarah Ludwig, Neighborhood Economic Development Advocacy Project, New York.

Al Ripley, North Carolina Justice Center.

Jeffrey D. Dillman, Housing Research and Advocacy Center, Ohio.

Bill Faith, Coalition on Homelessness and Housing in Ohio.

Jim McCarthy, Miami Valley Fair Housing Center, Inc., Ohio.

David Rothstein, PolicyMatters, Ohio.

Jeff Shuman, Deep Fork Community Action, Oklahoma.

Linda Burgin, SEIU Local 503, Oregon.

Linda Burgin, SEIU Oregon State Council.

Jerry Cohen, AARP Oregon.

Alice Dale, SEIU Local 49, Oregon.

Angela Martin, Our Oregon.

Kerry Smith, Community Legal Services, Pennsylvania.

Sue Berkowitz, South Carolina Appleseed Legal Justice Center.

Rena Eller, Senior Citizens of Hendersonville, Inc.

Dana M. Given, United Way of Sumner County, Tennessee.

Corky Neale, RISE Foundation and Memphis Responsible Lending Collaborative, TN.

Karen Pershing, United Way of Greater Knoxville, Tennessee.

Sherry Tolli, Home Safe of Sumner, Wilson and Robertson Counties, Inc., Tennessee.

Carlos Gallinar, La Fe Community Development Corporation, El Paso, Texas.

Regina Harvey, Dominion Financial Management, Smyrna, Texas.

Linda Hilton, Coalition of Religious Communities, Utah.

Janice ''Jay'' Johnson, Virginia Organizing Project.

Irene E. Leech, Virginia Citizens Consumer Council.

LaTonya Reed and C. Douglas Smith, Virginia Interfaith Center.

Ward Scull and Mike Lane, Virginians against Payday Lending.

James W. Speer, Virginia Poverty Law Center.

Dana Wiggins, Virginia Partnership to Encourage Responsible Lending.

Maya Baxter, Statewide Poverty Action Network, Washington.

John R. Jones, Washington ACORN.

Bruce Neas, Columbia Legal Services, Washington, on behalf of clients.

Will Pittz, Washington Community Action Network.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 57—DESIGNATING THE FIRST WEEK OF APRIL 2009 AS ''NATIONAL ASBESTOS AWARENESS WEEK''

Mr. BAUCUS (for himself, Mr. LEAHY, Mr. ISAKSON, Mr. TESTER, Mr. KENNEDY, Mr. DURBIN, Mr. REID, Mrs. FEINSTEIN, and Mrs. MURRAY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 57

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas asbestos fibers can cause mesothelioma, asbestosis, and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas generally, little is known about late-stage treatment of asbestos-related diseases, and there is no cure for such diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognoses;

Whereas the United States has reduced its consumption of asbestos substantially, yet continues to consume almost 2,000 metric tons of the fibrous mineral for use in certain products throughout the Nation;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas exposure to asbestos continues, but safety and prevention of asbestos exposure already has significantly reduced the incidence of asbestos-related diseases and can further reduce the incidence of such diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of people in the United States die from asbestos-related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975;

Whereas people in the small community of Libby, Montana have asbestos-related diseases at a significantly higher rate than the national average and suffer from mesothelioma at a significantly higher rate than the national average; and

Whereas the establishment of a ''National Asbestos Awareness Week'' will raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

Resolved, That the Senate—

(1) designates the first week of April 2009 as ''National Asbestos Awareness Week'';

(2) urges the Surgeon General to warn and educate people about the public health issue of asbestos exposure, which may be hazardous to their health; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the Office of the Surgeon General.

SENATE RESOLUTION 58—DESIGNATING THE WEEK OF MARCH 1 THROUGH MARCH 8, 2009, AS ''SCHOOL SOCIAL WORK WEEK''

Mr. WHITEHOUSE (for himself, Mr. COCHRAN, Mr. KERRY, Ms. LANDRIEU, Mr. BROWN, Mr. LAUTENBERG, Mrs. MURRAY, Mrs. LINCOLN, Mr. KENNEDY, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 58

Whereas the Senate has recognized the importance of school social work through the inclusion of school social work programs in the current authorizations of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

Whereas school social workers serve as vital members of a school's educational team, playing a central role in creating partnerships between the home, school, and community to ensure student academic success;

Whereas school social workers are especially skilled in providing services to students who face serious challenges to school success, including poverty, disability, discrimination, abuse, addiction, bullying, divorce of parents, loss of a loved one, and other barriers to learning;

Whereas there is a growing need for local educational agencies to offer the mental health services that school social workers provide when working with families, teachers, principals, community agencies, and other entities to address students' emotional, physical, and environmental needs so that students may achieve behavioral and academic success;

Whereas to achieve the goal of the No Child Left Behind Act of 2001 (Public Law 107–110) of helping all children reach their optimal levels of potential and achievement, including children with serious emotional disturbances, schools must work to remove the emotional, behavioral, and academic barriers that interfere with student success in school;

Whereas fewer than 1 in 5 of the 17,500,000 children in need of mental health services actually receive these services, and research indicates that school mental health programs improve educational outcomes by decreasing absences, decreasing discipline referrals, and improving academic achievement;

Whereas school mental health programs are critical to early identification of mental health problems and in the provision of appropriate services when needed;

Whereas the national average ratio of students to school social workers recommended by the School Social Work Association of America is 400 to 1; and

Whereas the celebration of ''School Social Work Week'' highlights the vital role school social workers play in the lives of students in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 1 through March 8, 2009, as ''School Social Work Week'';

(2) honors and recognizes the contributions of school social workers to the successes of students in schools across the Nation; and

(3) encourages the people of the United States to observe ''School Social Work Week'' with appropriate ceremonies and activities that promote awareness of the vital role of school social workers, in schools and in the community as a whole, in helping students prepare for their futures as productive citizens.

AMENDMENTS SUBMITTED AND PROPOSED

SA 591. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 160, to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

TEXT OF AMENDMENTS

SA 591. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 160, to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives; as follows:

At the end of the bill add the following:

SEC. 9. FCC AUTHORITIES.

(a) CLARIFICATION OF GENERAL POWERS.—Title III of the Communications Act of 1934 is amended by inserting after section 303 (47 U.S.C. 303) the following new section:

''SEC. 303B. CLARIFICATION OF GENERAL POWERS.

''(a) CERTAIN AFFIRMATIVE ACTIONS REQUIRED.—The Commission shall take actions to encourage and promote diversity in communication media ownership and to ensure that broadcast station licenses are used in the public interest.

''(b) CONSTRUCTION.—Nothing in section 303A shall be construed to limit the authority of the Commission regarding matters unrelated to a requirement that broadcasters present or ascertain opposing viewpoints on issues of public importance.''.

(b) SEVERABILITY.—Notwithstanding section 7(a), if any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the amendment made by subsection (a) and the application of such amendment to any other person or circumstance shall not be affected by such holding.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, February 26, 2009, at 9:30 a.m., in open session to receive testimony on strategic options for the way ahead in Afghanistan and Pakistan.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 26, 2009, at 10 a.m., in order to conduct a committee hearing entitled An Examination of the Administration's Homeowner Affordability and Stability Plan.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Thursday, February 26, 2009, at 10 a.m., in room 253 of the Russell Senate Office Building.

The Committee will examine Consumer Protection and the Credit Crisis and enforcement against fraudulent credit repair schemes under the Credit Repair Organization Act (CROA).

Specifically, the Committee will examine consumer protection in credit counseling, debt management, and foreclosure rescue programs and fraud. The Committee will also examine oversight of the federal authorities, protecting distressed consumers from mortgage fraud scams, and steering families away from these fraudulent schemes toward a path of financial stability.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate in order to conduct a hearing on Thursday, February 26, 2009, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building. The purpose of the hearing is to provide recommendations for reducing energy consumption in buildings through improved implementation of authorized DOE programs and through other innovative federal energy efficiency policies and programs.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 26, 2009, at 2:30 p.m., to hold a hearing titled ''Engaging Muslim Communities around the World.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, in order to conduct a hearing entitled ''Integrative Care: A Pathway To A Healthier Nation'' on Thursday, February 26, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, February 26, 2009 at 10 a.m. in Room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on Youth Suicide in Indian Country.

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

COMMITTEE ON THE JUDICIARY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, in order to conduct an executive business meeting on Thursday, February 26, 2009, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, February 26, 2009 at 10 a.m. to conduct a hearing on Caring for Veterans in Rural Areas. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 26, 2009 at 2:30 p.m. to hold a closed meeting.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on Thursday, February 26, 2009, at 2:30 p.m. in order to conduct a hearing entitled, ''Protecting Public and Animal Health—Homeland Security and the Federal Veterinarian Workforce.''

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

STANLEY J. ROSZKOWSKI UNITED STATES COURTHOUSE

Mr. SANDERS. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 387 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 387) to designate the United States courthouse located at 211 South Court Street, Rockford, Illinois, as the Stanley J. Roszkowski United States Courthouse.

There being no objection, the Senate proceeded to consider the bill.

Mr. SANDERS. Mr. President, I ask unanimous consent that the bill be

read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 387) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANLEY J. ROSZKOWSKI UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse, located at 211 South Court Street, Rockford, Illinois, shall be known and designated as the ''Stanley J. Roszkowski United States Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the ''Stanley J. Roszkowski United States Courthouse''.

APPOINTMENT

The PRESIDING OFFICER. The Chair, in accordance with Public Law 93–618, as amended by Public Law 100–418, on behalf of the President pro tempore and upon the recommendation of the chairman of the Committee on Finance, appoints the following members of the Finance Committee as congressional advisers on trade policy and negotiations to International conferences, meetings and negotiation sessions relating to trade agreements: the Senator from Montana (Mr. BAUCUS), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from North Dakota (Mr. CONRAD), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Utah (Mr. HATCH).

ORDERS FOR FRIDAY, FEBRUARY 27, 2009

Mr. SANDERS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Friday, February 27; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. SANDERS. Mr. President, there will be no rollcall votes during Friday's session of the Senate. However, Senators should expect a busy week next week as the Senate considers the Omnibus appropriations bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANDERS. If there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn under the previous order.

There being no objection, the Senate, at 5:11 p.m., adjourned until Friday, February 27, 2009, at 9:30 a.m.