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Senate

The Senate met at 2 p.m., and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

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

Let us pray.

God, our King, You are clothed in majesty and strength. Your throne has been established from the beginning and You existed before time began.

Help our lawmakers today to do their work, striving to labor for Your glory. Give them the purity of life and honesty of purpose to walk in Your way. Lord, strengthen their heart and mind that they may worthily measure up to the role You have ordained for them. Thus, may they fulfill their vocation to the glory of Your Name and the advancement of Your kingdom.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS 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. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 12, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from

the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. COONS 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 be in a period of morning business until 4:30 this afternoon. Following morning business, the Senate will be in executive session to consider the nominations of Norman Eisen to be Ambassador to the Czech Republic and Mari Aponte to be Ambassador to El Salvador.

At 5:30 p.m. there will be at least two rollcall votes in relation to the nominations.

NOMINATIONS

Mr. REID. Mr. President, today the Senate will vote on two nominations: those of Norman Eisen to serve as Ambassador to the Czech Republic and Maria Carmen Aponte to serve as Ambassador to El Salvador.

These two Ambassadors are in their positions as we speak, having been given recess appointments. These nominees are accomplished, qualified public servants who will continue to represent their Nation with distinction. For my Republican colleagues, however, being qualified and dedicated doesn't seem to be enough anymore. Last week, they blocked the nomination of a brilliant legal mind, Caitlin Halligan, to the U.S. Court of Appeals for the District of Columbia. Obviously, they don't mind there are these

vacancies because Republicans were in the majority in that court. So they wanted to defeat this competent woman, and that is what they did with these vacancies still there in that court.

They blocked the nomination of Richard Cordray to lead the Consumer Financial Protection Bureau, despite his obviously deep qualifications for the job. He has a long history of protecting the middle class against unfair practices by financial predators and he would have been a great asset in our fight to protect Main Street from the kind of Wall Street greed that caused the 2008 financial crisis. Yet Republicans denied Mr. Cordray's nomination—I should say confirmation—and all it does is weaken the agency he was nominated to lead.

I hope Republicans will not turn every confirmation process into a political three-ring circus. The candidates today, Mr. Eisen and Ms. Aponte, have jumped through enough hoops already. Ms. Aponte's accomplished record as Ambassador to El Salvador over the past 15 months speaks for itself. Experts in the region from across the political spectrum support her confirmation. The same enthusiasm is there for Ambassador Eisen. If Republicans block the confirmation of these excellent, qualified candidates, it will only be for nakedly partisan reasons.

PAYROLL TAX CUT EXTENSION

Mr. REID. Mr. President, also under partisan assault this month is a Democratic proposal to grant a \$1,000-tax decrease on working families.

Senate Republicans have blocked four proposals to protect middle-class pocketbooks. Every hour they delay and every day they filibuster is one more the Senate, by necessity, will have to stay in Washington to get its work done.

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



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Republicans have opposed our plan to pay for this legislation with a tiny surtax on a tiny fraction of America's highest earners. The tax would only apply to the second or third or fourth million the wealthiest Americans make. But Republicans say the richest of the rich in our country—even those who make millions every year—shouldn't contribute more to get our economy back on track. They call our plan, time after time, a tax on job creators—and I say so-called job creators—because every shred of evidence contradicts this red herring.

For example, there have been many outlets, but I will concentrate on one: National Public Radio went looking for one of these fictitious millionaire job creators. A reporter reached out to business groups, the antitax lobby, and Republicans in Congress hoping to interview one of these millionaires. Days ticked by with no luck. Many of our job creators are similar to unicorns; they are impossible to find and don't exist. That is because only a tiny fraction of people making more than \$1 million—probably less than 1 percent—are actually small business owners, and only a tiny fraction of that tiny fraction is a traditional job creator. Most of these businesses are hedge fund managers or wealthy lawyers. They don't do much hiring and they don't need more tax breaks.

One reporter looked for millionaire job creators hiding on Facebook. This time they found a few, and they actually supported our plan. These people on Facebook actually supported our plan to ask the richest of the rich to pitch in to improve the economy for all Americans. This is what Jason Burger, owner of a contracting company that is hiring like crazy, said:

It's only fair that I put back into the system. That is the entire reason for my success.

Mr. Burger may be a millionaire, but he is not one in a million. The majority of people who make more than \$1 million a year say they would gladly contribute more to improve the economy.

It is often said that what is good for business is good for America. I hope my Republican colleagues will remember, as Mr. Burger does, what is good for America is also good for business.

RECOGNITION OF THE MINORITY LEADER

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

MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT

Mr. McCONNELL. Mr. President, later this week Senators will have an opportunity to do three big things with a single vote.

By voting for the Middle Class Tax Relief and Job Creation Act that will soon come over from the House, Sen-

ators will be able to extend the temporary tax relief working Americans continue to need nearly 3 years into this administration, prevent more job losses in the middle of a jobs crisis by blocking a new regulation on U.S. manufacturers, and facilitate the creation of tens of thousands of new jobs through the construction of the Keystone XL Pipeline. One vote, three accomplishments. That is to say nothing of the other things the bill would do such as the doc fix and unemployment insurance.

My suggestion is that once this legislation comes over from the House, we pass it without delay. Based on the merits of the bill, it should be a strong bipartisan vote. Nothing could be more bipartisan right now than preventing job loss or facilitating the creation of new private sector jobs.

The President has said job creation is his top priority. Here is a bill that helps him achieve it without a dime of taxpayer money. The President says he wants to extend the payroll tax extension. Here is a bill that does it. The President says he wants unemployment insurance extended. This bill does that. The President says he wants the two parties to compromise. This is it. There is no reason this legislation shouldn't have the President's enthusiastic support.

The only reason—the only reason—for Democrats to oppose this job-creating bill would be to gain some political advantage at a time when every one of them says job creation is a top priority.

Here is what the junior Senator from West Virginia, a Democrat, had to say just today about the pipeline measure contained in the House bill:

I'm for the Keystone Pipeline. All the trade unions, everyone's for it. It creates thousands of jobs.

I couldn't say it better.

The House actually had a stand-alone vote on the Keystone XL back in July. Forty-seven House Democrats voted for it. I would suggest to my friends on the other side that they join with us and close out the year on a bipartisan note.

The Middle Class Tax Relief and Job Creation Act was written to appeal to both parties, and I have yet to hear anyone on the other side offer a single good reason for opposing it. So far, the only reason Democrats have given for opposing this bill is that they would rather extend the payroll tax cut on its own without adding language about a pipeline that many of them say they support anyway. So evidently they would vote for both these things separately but not together. That makes absolutely no sense.

Look, you are either for this pipeline project and the jobs that would come with it or you are not. If you are for it, there is no reason to oppose it just because it is not offered as a stand-alone measure. That doesn't make any sense.

It is time to stop the posturing. Here is a bill that contains top priorities from both sides. Let's take it up and

pass it without any more theatrics. Let's pass this job-creating bill and give Americans the certainty and the jobs they deserve.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

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

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

USE OF THE FILIBUSTER

Mr. DURBIN. Mr. President, last week, the highlight of the Senate was two Republican filibusters. Those are efforts by the Republicans to demand 60 votes for the Senate to take action. It used to be rare. In fact, it was so rare that Jimmy Stewart made a movie about it: "Mr. Smith Goes to Washington." My colleagues may remember it. It wasn't this Chamber, but it looked a lot like it, and Jimmy Stewart was at a desk in the back row because he was a freshman Senator and he literally spoke until he dropped, physically, but he won the argument, won the day—a great triumph in Washington. He used the filibuster effectively to stop what he thought was a greedy move, a selfish move by his colleagues.

That is the movies. What is real life? Real life is when a Republican Senator says: I declare a filibuster and I will see you later; I am going out to dinner.

That is how it works around here. If we had a few more Jimmy Stewart moments on the floor, where those who are pushing for a filibuster—an exceptional, extraordinary 60-vote margin—had to actually stay on the floor and argue their point, I think they would go away. That is because 9 times out of 10, 19 out of 20, maybe even more, it turns out there is no solid basis for what they are doing.

What they did last week with their filibusters was to stop a woman from

being appointed to the circuit court in the District of Columbia. Her name is Caitlin Halligan. She is from New York. She is an extraordinary person who has argued many cases before the Supreme Court. I do not have her résumé in front of me, but I spoke to her nomination last week. She was found unanimously well-qualified by the American Bar Association, and yet she was filibustered by the Republicans, and we could only come up with one Republican vote to support us—only one. All the rest said: The filibuster continues.

To put that in historic perspective, a few years ago we had a big confrontation in the Senate, before the Acting President pro tempore was elected to the Senate, so I do not implicate him in any way. But before the Acting President pro tempore was elected, there was an argument about whether you should filibuster nominees.

Well, a group of 14, a bipartisan group, said: only under extraordinary circumstances. Last week, with the filibuster of this nominee, they completely forgot that—except for one, Senator MURKOWSKI of Alaska. She remembered that promise, and she kept it. She joined us in voting to break the filibuster. It was not enough. That nominee fell by the wayside.

It was not enough, though. One filibuster a week is not enough for the other side. They came up later in the week with another one—that seems to be the sum and substance of their strategy in the Senate—and this filibuster was of Richard Cordray. Richard Cordray is a former attorney general of the State of Ohio. He is now working at the Consumer Financial Protection Bureau, and the President wants him to be the Director.

What is this bureau? Created by the Dodd-Frank financial reform bill, it will put in place for the first time in the history of the United States an agency of government focused on making certain families and consumers know what they are signing when they get into financial transactions, and to stop those who are exploiting Americans and American families. The Consumer Financial Protection Bureau. We have a ton of agencies that work with the financial institutions. Some of them are good, close friends of those institutions. This would be the one agency of government on the side of consumers.

I know a little bit about it because I heard a speech once from Elizabeth Warren. Elizabeth Warren, a Harvard law professor, one of the most articulate spokespersons for consumer rights in America—and the watchdog on the bailout funds Congress gave to the banks. She gave a speech once and said: We ought to have one agency that says to the American people, here are the tricks and traps you might find in a mortgage or a credit card agreement, and here are some things we should not allow under the laws of America.

I liked it so much, I went up to her afterward and said: I wish to introduce

the bill. She and I worked on it. We introduced it. I put the first bill in. It gained support and popularity to the point where, when we came to the floor with the Dodd-Frank bill, Senator Chris Dodd took my idea and, I will say, improved it dramatically—he did a great job—and included it in financial reform.

My hope—the hope of many people—was that Elizabeth Warren, the person who conceived this idea, would head this agency. She was stopped cold. The banking interests and financial institutions in America said not only no, but heck no, we are not going to allow her to be the head of this agency.

She worked at it, trying to get it up and running, get the right people in place, and eventually went on, and I will not talk here about what her next effort will be. You can read about it anywhere in the papers. But she was the inspiration for this, and Richard Cordray was by her side, as they put this agency together.

The banks hate the Consumer Financial Protection Bureau like the devil hates Holy Water. The idea there would actually be an independent agency looking over their transactions and their legal instruments and informing the American people when they have stepped over the line is something they find unacceptable.

Let me tell you about another person working over at the Consumer Financial Protection Bureau. Her name is Holly Petraeus. If her name rings a bell, it should. Her husband, General Petraeus, has probably been in the forefront of keeping America safe since 9/11 more than any other individual, serving both Republican and Democratic administrations. He has risked his life serving his country overseas. He is completely committed to our men and women in the military, and he is currently head of the CIA. His wife is cut from the same cloth. She believes in the military in her heart and soul, and she has worked at the Consumer Financial Protection Bureau to stop predatory lenders who are taking advantage of military families. That is the kind of work that can be done and is being done there. But they do not have a Director. They do not have a leader.

So last week we brought Richard Cordray's nomination to the floor. It has been here for a long time. No one—no one—has argued this man is not extremely well qualified for the job. He is. The vote came up, and there was another Republican filibuster. He fell by the wayside—just what the banks want. They want to make certain this Bureau does not have a leader and cannot use its resources effectively. They are doing everything they can to cripple it.

Well, Mr. President, if that were the end of the story—two bad filibusters last week—hold on to your hats because here we come again. This week we are going to have Ambassador Mari Aponte, President Obama's choice to

represent our Nation as U.S. Ambassador to El Salvador, before the Senate.

We know Ambassador Aponte is more than qualified for this assignment because she is already performing that job with distinction. President Obama appointed her by recess appointment nearly a year ago.

Let me tell you about two of the things she has achieved in a year as our chief diplomat in El Salvador.

First, she persuaded El Salvador to send troops to assist the NATO training mission in Afghanistan in August. This is the first time—the first time—any Latin American country has put troops on the ground in Afghanistan in support of American troops.

This represents a significant achievement for El Salvador. Twenty years ago, the people of El Salvador were struggling in the midst of a bloody civil war. Today, they are strong enough and stable enough to help others around the world in Afghanistan establish their own stable democracy.

Ambassador Aponte has proven to be very effective advocating for U.S. interests in Latin America—a region immediately on our doorstep and with which we have many strategic interests.

Ambassador Aponte has helped to advance America's security interests in Latin America by expertly negotiating an agreement with El Salvador to open a new jointly funded electronic monitoring center to fight transnational crime.

What are we talking about here? Drug dealing and terrorism. Such gang and narcotics-related crime impacts both our nations, Central America, and the world. This skilled diplomat is able to work now, as a recess appointment by President Obama, to ensure that El Salvador remains a strong ally in the fight against these dangers.

She has already proven herself to be an accomplished diplomat in a short period of time. She has a long history of public service and experience in both the private and nonprofit sectors.

One of America's greatest strengths is that we are a diverse nation. Ambassador Aponte helps demonstrate that strength to the world. She is one of the few Puerto Rican Ambassadors serving our Nation.

But despite everything I have said to you, her nomination has been met with unjustified resistance on the Republican side of the aisle.

In 1998, Ambassador Aponte was appointed by then-President Clinton to be Ambassador to the Dominican Republic. She withdrew her nomination, in 1998—13 years ago—after a Miami newspaper reported allegations that a former naturalized Cuban-American boyfriend from the early 1990s was actually a Cuban intelligence agent who was trying to recruit her.

The FBI looked into the matter. They investigated it. Aponte cooperated completely, and she also severed all her ties with this individual. She

was never the subject of any FBI investigation or ever accused of any wrongdoing.

Despite her full cooperation with the Federal Bureau of Investigation, ultimately the FBI found no evidence to support the allegations against her—none.

When President Obama looked at Ambassador Aponte's record of public service, he nominated her to serve as America's Ambassador to El Salvador in 2009. Once again, the critics raised the same allegations about her former relationship, even though they had been thoroughly investigated and dismissed and discredited by the Federal Bureau of Investigation.

Senator DEMINT of South Carolina objected to her nomination. He was the only Senator objecting. So this time around, the chairman of the Foreign Relations Committee, Senator JOHN KERRY of Massachusetts, along with Senator MENENDEZ, our only Hispanic Senator on the Democratic side, from the State of New Jersey, made an unprecedented move. They said to Senator DEMINT of South Carolina: We will allow you to personally review the FBI files on Ambassador Aponte.

So Senator DEMINT appeared to raise a new objection to Aponte at that point. And listen to this one: This objection—new one—by Senator DEMINT stems from an editorial the Ambassador wrote in a popular El Salvadoran newspaper in June about Lesbian, Gay, Bisexual, and Transgender Pride Month. The article was entitled “For the elimination of prejudices wherever they exist.” Her op-ed disavowed violence and hatred against individuals based on their sexual orientation, urging education and understanding. Those are hardly radical ideas. Most Members of the Senate—at least, let's say, many Members of the Senate—have given speeches along these lines.

Well, the Senator from South Carolina calls this op-ed provocative and argues that it is disrespectful of El Salvador's culture and that it inflamed tensions with an important ally. There is no evidence to support what he said—none.

To the contrary, El Salvador itself had already taken—before she published this editorial—steps toward more equal rights with the passage of Decree 56 in May 2010. That law prohibits all forms of discrimination by the Government of El Salvador based on sexual orientation—just what the Ambassador had asked for in her editorial.

Decree 56 was signed 1 year before Ambassador Aponte wrote her article, 4 months before she was sworn in as Ambassador. The record is there.

El Salvador reaffirmed its national commitment to equality again last June when it joined the United States and more than 80 other nations in signing the declaration for the elimination of violence against the lesbian, gay, bisexual, and transgender community during the Human Rights Council of the United Nations.

Let me also note that Ambassador Aponte wrote that op-ed pursuant to cables from the State Department that went out to all ambassadors around the world, suggesting they write similar pieces or hold a related event. In fact, similar editorials to what Ambassador Aponte wrote were written and events were held at American embassies and posts all around the world.

Why is one Senator picking on this Ambassador? Quite simply, the nomination of a U.S. Ambassador to a strategically important ally such as El Salvador is no time for a political debate that has little or nothing to do with time-honored and accepted principles in the United States and around the world.

Ambassador Aponte deserves a vote in the Senate based on her work, her achievements, and her demonstrated ability to effectively advocate for the United States in El Salvador.

She has been thoroughly vetted by the FBI and the State Department, as is every nominee. She has passed two separate top secret security clearances. She has shown she is able to work with Salvadoran leaders and achieve way beyond what many believed could be achieved because of her skill.

We live in challenging times. Our ambassadors are the eyes and ears of America around the world. Some of the posts they serve in are very dangerous. Look at what Ambassador Robert Ford has been doing in Syria amid that country's upheaval. Blocking qualified and talented Americans from serving in El Salvador or any place in the world is not in America's best long-term interests.

During our recent Foreign Relations Committee markup, which the Acting President pro tempore attended, related to Ambassador Aponte's nomination, Chairman KERRY offered Senator DEMINT another opportunity to review all the materials we have regarding Ambassador Aponte. I hope he took advantage of that offer. Should he still oppose her nomination, I disagree with him, of course, but respect his rights in the Senate. He can register his vote along with the other Senators. But I certainly hope this critical and important nomination will not be unfairly held up and discredited with another filibuster. It is time for the Senate to move beyond filibusters, to work in an effort to try to solve our problems.

PAYROLL TAX CUT

Mr. DURBIN. Mr. President, there was a recent survey of how many families in America have an immediate member of the family who is serving in the military. The number is one of the lowest in history. It turns out the families who actually know someone or have someone serving in the military are a small percentage of this great Nation.

My family has a nephew serving in Afghanistan with the 10th Mountain Division. Not long ago, as a college stu-

dent, he worked as a doorman here in the Senate. But Michael is now serving overseas in Afghanistan. I think about him all the time. I send him boxes of things. I do not know if he will have any use for them or enjoy them, but it is my way of reminding him we do not forget him.

We have a big family, and I am sure he gets plenty of stuff. I know some of that must be a joy for him to receive. But more important than any material sent to him, I hope it is an expression of how we feel about him, about the sacrifice he is making, as so many others are making, thousands around the world, as we meet in the safety of this Senate Chamber.

We ask an awful lot of our men and women in uniform. We ask them to risk their lives for America. Many come back injured. Some do not return, having given that promise and that pledge. They make a sacrifice which many of us have never been asked to make.

I think about that in terms of the debate we enter into this week in the Senate. We are trying to turn this economy around because so many people are out of work. Businesses are struggling. The President put forward a jobs bill and has for months been pushing for its passage. We have considered a lot of parts of it.

One part relating to veterans we actually agreed on. It was a breakthrough. I am glad we did. But when it came to all of the others, the million who are out of work in America, there is still wide disagreement. We hope to finish this matter this week and head home for the holidays where we all want to be. But, unfortunately, we are embroiled in a political fight again. The fight is over something very basic. It is this: Should we ask the wealthiest in America to pay a little more in taxes so that we can provide a payroll tax cut for almost 160 million Americans? That is it.

What we hear from the other side of the aisle over and over again is, no; we cannot impose a new burden on the wealthiest in America. We cannot ask any more sacrifice from people who are already earning at least—at least—\$1 million a year. I thought about that. I thought about my nephew and so many like him who sacrifice every single day for this great Nation, and to think that we could not ask the wealthiest among us to pay a little more in taxes to help us get out of this recession and put America back to work.

Those two things, unfortunately, are in sharp contrast. I think it is time for us to pass this payroll tax cut. It is desperately needed. We need to maintain our unemployment insurance because we still have too many people out of work: four unemployed Americans for every available job. That is a fact. Things are getting better slowly but too slowly. In the meantime, these people are looking every single day for a job while they do their best to keep their families together, to keep their

families with the basics in life, to make sure they pay the rent, the mortgage, the utility bills.

The first casualty in many of these families is health insurance. Can you imagine raising children not knowing if one trip to the emergency room will be something you could never hope to afford. Unemployment benefits allow people to keep their families together and to continue looking for work.

I urge my colleagues, before we consider leaving for the holiday season, let's get the job done. President Obama has made it clear. He will not allow us to go home until we get this job done. Extend the payroll tax cut for 160 million Americans; maintain unemployment benefits for those millions who are counting on them to put bread on the table and keep their families together during a very difficult time and let's pass a spending bill. We agreed on the limits on what we would spend. Let's pass the bill now in a bipartisan fashion. I hope we can reach that point.

One last point. I now hear the Republican Senate leader come to the floor and tell us this entire debate, this entire breakdown, all the problems we have had is about an oil pipeline. Now, I did not know that until last week. I wish he would have spoken up a lot earlier, that an oil pipeline, the Keystone Pipeline, which has been controversial, has to be part of any deal. He said at one point that it may even create 20,000 jobs.

I am quick to remind my colleague, there are 14 million Americans out of work and 160 million counting on this payroll tax cut. So 20,000 jobs is important. I would love to see every job we can responsibly bring to this country. But let's not stop the business of government, let's not stop helping this economy recover over one issue, whatever it may be—whether it is a pipeline or whatever it may be.

We owe to the people who sent us here to respect them, to show that we will do our best to keep this country moving forward and do it in the name of so many of our men and women in uniform who are sacrificing today as we meet in the safety and security of this Chamber.

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

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

The legislative clerk proceeded to call the roll.

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

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

SPENDING AND TAXES

Mr. HATCH. Mr. President, over the last few weeks the Senate has been engaged in a familiar exercise. The Democratic majority, urged on by the President, offers up an increase in spending to be paid for by an increase

in taxes. If anything, this familiar refrain should cement in the minds of the American people that President Obama and his congressional allies remain committed to a policy of tax and spend. Let's not mistake any of this for carefully designed stimulus spending or tax policy. No, the series of tax-and-spend proposals brought to the Senate floor during the past few months were designed for political reasons only. It remains unclear what any of this has to do with job creation. In fact, I suspect that much of this bread and circus routine is meant to distract the families and taxpayers from the President's mediocre record on job creation and economic growth.

For months the Senate has been asked to consider higher taxes, including surtaxes on the so-called rich to pay for whatever the Democrats have settled on as their spending idea of the week. Most of those ideas were sold as stimulus even though they include things such as an infrastructure bank, which would be a brandnew GSE to gobble taxpayer resources—just like Fannie and Freddie—and which would take years just to get off the ground. Most of the ideas have been designed to appease Democratic constituencies—mostly unions—and to construct campaign-season talking points attacking Republicans for their failure to increase taxes on the evil rich in order to pay for the Democrats' spending sugar highs. The focus on politics has become such a priority for the President that he is now in the unusual position of making a raid on Social Security's trust funds his principal policy objective.

At first, to pay for the very massive new stimulus plan of the President's, the Democrats wanted to limit deductions for people earning \$200,000 or more, which in September was evidently how they defined the so-called rich. Next came a proposed surtax of 5.6 percent on people earning \$1 million or more to pay for the President's stimulus scheme. We can't be sure, but I suspect this jump in the income threshold for the Democrats' tax increases came when high-income Democrats in high-income jurisdictions such as New York, California, and New Jersey made it clear that this is where they had to part company with the President. Next came a surtax of 0.5 percent on high-income earners to give funds to States to help pay mostly union workers. Then came a surtax of 0.7 percent on those earners to help pay for a new Fannie and Freddie called an infrastructure bank. This was followed by a surtax of 3.25 percent on those earners for a payroll tax expenditure. Finally came a surtax of 1.9 percent on those earners for the payroll tax expenditure.

The pattern is clear: Democrats roll out their stimulus spending plan of the week, find out how much it will cost, and then find out what surtax to slap on high earners, including business income recipients. That is how we get

tax proposals with rates of 5.6 percent, then 0.5 percent, then 0.7 percent, then 3.25 percent, and then 1.9 percent. Who knows what will come next. Never mind that businesses across this country have been clear that massive uncertainty about the current administration's policies, regulations, and tax increases is holding back their hiring, job creation, and the economy. People are uncertain about what their future health care costs will be, what their future energy costs will be, what their future regulatory environment will be, and what their future taxes will be. Given the past few months of tax rate roulette being played by the Democrats, is it any wonder that families and businesses are uncertain and pessimistic about the future?

These tax rates have nothing to do with designing optimal tax policy and everything to do with scoring cheap political points and growing an already bloated Federal Government. These tax rates have nothing to do with engineering greater wealth or income equality through the Tax Code. These tax rates have nothing to do with creating a foundation for growth in jobs and the economy. They have everything to do with paying for politically favored, poll-tested stimulus spending.

In the President's \$800 billion-plus stimulus of 2009, we were told that the measures would be temporary and we would "pivot" later to fiscal austerity. But the promised pivot never comes. Still today we are told to spend more now and pivot later, but the promised pivots never come. Unfortunately, unless we pivot, we will run off a budgetary cliff and face the deficit and debt crisis plaguing Europe today.

These tax rates recently proposed by Democrats have nothing to do with long-term economic growth and more to do with the President's vision of government as the benevolent allocator of people's hard-earned income. Not content with his average deficits being close to 25 percent of the entire size of our economy—which we have not seen since the years surrounding World War II—the President and my Democratic friends here in the Senate want to permanently enshrine a European-sized government in the American economy. They don't just want additional infrastructure spending, they want a brandnew government bureaucracy free of Congress to tax and spend. They want an all-powerful, unchecked government czar to control the provision and costs of consumer credit cards. They want an overzealous EPA to control reliable sources of energy no matter what the cost of their policies. They want an activist Labor Department to control how workers and companies can bargain to control where they can operate a business and to push people into their union voting base whether they support the union or not. The President's pursuits are not those of someone who thinks that in certain instances government is constitutionally authorized to act and can occasionally do some good. His record is

that of someone who is confident that in most cases, government technocrats can do better things with Americans' hard-earned incomes than Americans can do for themselves.

When we look at the variable menu of recent tax rates proposed by Democrats, we have to ask whether, once enshrined into law, the 5.6-percent rate or the 0.5-percent rate or whatever happens to be their flavor of the week is where my friends on the other side of the aisle would leave things. I have every reason to doubt they would stop at those rates and every reason to believe they will work as hard as they can to keep increasing those rates, demolishing businesses and jobs as they go. I have every reason to believe the current President will stick with his commitment to "spread the wealth around" and ask the so-called rich—and that could mean people who earn as little as \$200,000, according to Democrats—to pay "just a little bit more."

So where will they stop? What is the optimal tax-the-rich rate of taxation? Economist Peter Diamond, who was nominated by the President to serve on the Federal Reserve Board, has proposed in recent writings that "tax policy needs to be socially acceptable" and then finds it acceptable to go on to say that the so-called optimal top tax rate could be as high as 73 percent. The current top marginal tax rate on earnings in the U.S. economy is around 42.5 percent when we combine income tax rates of 35 percent with the Medicare tax and average State taxes. The cutoff for the top percentile of tax filers is about \$400,000, according to Diamond's analysis.

When we consider the liberal conventional wisdom about how businesses operate, the American people, it seems to me, should be careful about where the Democrats' tax hike proposals might lead. The bottom line is that the sky is the limit.

Consider the New York Times' December 9 editorial, tucked in between advertisements for jewelry, properties, and baubles that only the tremendously megarich could afford, where the liberal press offered the following guidance on tax policy:

The latest Democratic bill to cut the payroll tax, blocked by Republicans on Thursday, called for a 1.9 percent surtax on income over \$1 million. More important, for any savvy business owner, a surtax would have no bearing on hiring decisions. If new workers are profitable before tax, they will be profitable after tax, even if the employer has to pay slightly more of the profit in taxes.

This perfectly encapsulates the understanding of the economy by folks who have never run a business or tried to turn a profit. The liberal notion is that business owners are immune to basic economics and that their hiring decisions are entirely unaffected by tax rates.

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

Mr. HATCH. I ask unanimous consent to be able to speak for just a few minutes more.

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

Mr. HATCH. With this view in mind, it is not hard to imagine proposals for taxes upward of 73 percent because those megarich business owners simply won't flinch.

The Democrats' burning desire to raise taxes seems to confuse income and wealth. They abhor the outsized wealth accumulation of the megarich, even though they love the campaign contributions flowing from them. They seem to think that massive increases in income taxes will cure the growth in inequality observed over decades in the United States and in many foreign economies.

Some of our Nation's wealthiest individuals, such as Bill Gates and Warren Buffett, join this chorus and call for higher taxes on others, even though they channel large portions of their wealth to private foundations, revealing their preference for resources to be allocated in the private sector rather than by the government.

Even our President calls for more taxes on himself, although he could write a check to the IRS at any moment. He calls for a Buffett rule, even though he paid a tax rate of 26.3 percent in 2010, which, according to a recent Congressional Research Service analysis, means the President violates his own idea of the Buffett rule by paying a lower tax rate than well over 10 million more moderate income taxpayers.

The past few months have witnessed a variable menu of tax rates offered by my friends on the other side of the aisle. They claim these tax increases will secure equality, economic growth, job creation, and more.

Those claims are false. The evidence is clear that the recent proposals from Democrats have been more of the same: tax and spend, move toward a permanently larger government, and design politically motivated bills they know will fail in the Congress in order to hone election year talking points.

We need to be clear with the American people that these proposals might be good for government, but they will do little to cure the ills of our economy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent to speak for up to 15 minutes in morning business.

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

CLASS WARFARE

Mr. KYL. Mr. President, last Thursday marked the fifth time this year the majority has initiated a vote on the so-called millionaires' surcharge—a tax that primarily affects small businesses—in order to "pay for" a piece of legislation. Notably, Thursday also marked the fifth time this year this tax increase failed to pass the Senate,

which suggests, of course, it is being used for political purposes.

President Obama and his supporters have argued that the tax increases they support—such as the millionaires' surcharge—will not affect anyone but the wealthiest Americans, and that those people have to start doing "their fair share" because they "can afford it." They repeat the phrase "shared sacrifice."

In a recent campaign speech in Kansas, President Obama took the class warfare argument to a whole new level, injecting his speech with false economic moralisms and evoking what he calls the "you're on your own" economics of Republicans and suggesting that the "breath-taking greed of a few"—these are his words I am using—has been crushing the middle class. The President's object seems to be purposefully conflating all upper income taxpayers with those reckless few who helped cause the financial crisis, ignoring, I might add, those in Congress who also helped to create that crisis.

The President's rhetoric is not only wrongheaded, in my view it is irresponsible. I wish to make three points in response.

First, the President of the United States should not be pitting Americans against each other. Class warfare has no place in American debates. It is divisive, and it is unhelpful to the national discourse. It is especially unbecoming of the President, who is the only person elected to represent all Americans. He should speak for all Americans, especially in times of high unemployment and high economic uncertainty, not pit them one against each other for short-term political gain.

America is not a caste society. There is no formal class structure engrained into our way of life. The opposite is true. That is why millions of people left the old countries in Europe and elsewhere to come here for economic opportunity and to compete in our free markets.

Why doesn't the President offer encouragement about America's strengths and its future, rather than play into some Americans' fears? In other words, why doesn't he run the kind of campaign he ran in 2008—one based on unity and hope?

The answer, I am afraid, is because the President's record during the last 3 years does not inspire much hope: a massive stimulus filled with special-interest goodies, a government takeover of health care, a failed cap-and-trade agenda, an EPA power grab, and more new job-killing regulations than one can count.

Obviously, the policies of the last 3 years have not left Americans in better shape than they were 3 years ago. Indeed, about three-quarters of Americans say the country is on the "wrong track." As columnist Charles Krauthammer wrote in a recent column: "Obama has spent three years on signature policies that ignore or aggravate" structural problems, such as

high unemployment, weak growth, vast debt, and our strained safety net and dysfunctional Tax Code.

So the President cannot run on his record. And he does not want voters to focus on how his policies may have prolonged our economic troubles or that his party controlled Washington for the first 2 years of his Presidency. His way out is to blame others.

But rather than stir up resentment and unease, I suggest the President focus on strengthening opportunity for all Americans. That gets to the second point, which addresses the assertion that upper income taxpayers are not doing their fair share. This is patently false. Let me provide a few instructive numbers.

According to IRS data, the top 1 percent of taxpayers pays 38 percent of total income taxes but earns only 20 percent of total income. In other words, the top 1 percent earns 20 percent and pays almost double that in their share of Federal income taxes.

The top 2 percent of taxpayers pays almost half of all the taxes—48.68 percent, to be exact. They only earn a little under 28 percent of the total income and pay almost 50 percent. So the top 2 percent are paying almost 50 percent of all the taxes. And this is not a fair share? This is not doing their part?

The top 5 percent of taxpayers pays 58.7 percent. They earn just a little over one-third of all of the income. In fact, the top 5 percent pays more than the bottom 95 percent, total. The top 5 percent pays more taxes by far than the rest of the 95 percent. And they are not doing their fair share?

The top 10 percent of taxpayers pays almost 70 percent and still earns less than 50 percent of total income—45.7 percent, to be exact.

The bottom 95 percent of taxpayers pays 41.3 percent. They earn 65.3 percent of total income. So the bottom 95 percent—this is a big chunk of American taxpayers—is earning a lot more in percentage than they are paying in percentage of income taxes.

The Joint Committee on Taxation estimates that 51 percent of all households, which includes both filers and nonfilers, had either zero or negative income tax liability for the year 2009. Such progressive taxation is, in fact, “shared sacrifice.” The United States has the most progressive income Tax Code of any country among developed nations. So the argument that top-tier earners are not doing enough does not hold water, and somebody needs to call the President on this false argument of his because it attempts to pit one group of Americans against the other when in point of fact the President, of all people, should be unifying Americans.

The third point is related to who actually would pay this millionaires’ surcharge that the President advocates and our colleagues have been urging us to vote for yet again. This proposed tax increase will presumably be trotted out again and again. It cannot get the

votes to pass, but it makes a nice political charge.

The President and his supporters claim it would only affect the wealthiest of the wealthy. Well, the fact is this tax would crush small business owners. Many small businesses are organized as “pass-through” entities. That means they pay their taxes as individuals. They are not organized as corporations. They do not pay their taxes as corporations. They pay as individuals.

So when the plumbing company or the air conditioning company pays taxes, that small business owner pays them as an individual and, therefore, he pays at the individual income tax rates. If you are in one of the top two rates—and 50 percent of small business income is reported in those top two rates—you are going to get clobbered by this surtax on millionaires. And these are the very businesses, the most successful small businesses, that create many of America’s new jobs.

According to the National Association of Manufacturers’ December 5 weekly report:

Small and medium-sized payrolls (those with less than 500 employees) accounted for the bulk of the net new jobs, continuing a familiar trend. This was true for both the goods-producing as well as the service-producing sectors.

There is a lot of data that shows many of these job-creating small businesses would be slammed by a millionaires’ surcharge.

For example, a Wall Street Journal editorial reports that the Joint Committee on Taxation has estimated that taxpayers will declare \$1.2 trillion in business income in 2013. Of this reported tax income, 34 percent would be “on tax returns with ‘modified adjusted gross income in excess of \$1 million.’” As the Journal notes, that means about \$400 billion in business income would be subjected to the so-called millionaires’ surcharge tax.

And who pays that? As the Journal writes, the Treasury Department examined IRS data in 2007 and found 392,000 tax returns with incomes above \$1 million, 311,000 of which were classified by the Treasury Department as “business owners.” So 80 percent of a payroll tax surcharge will fall on these small business owners. That is a direct tax on job creation. What could you think of that would do more harm to creating jobs in America than imposing a brandnew tax on the people who we hope are going to create the new jobs coming out of this recession? Remember too that taxes are already set to go up in 2013 when the current tax rates expire. On top of that, business investors will also face a 3.8-percent ObamaCare “investment income tax surcharge” set to begin in 2013.

How is taking money away from these small businesses going to allow them to expand and hire more workers?

John Mackey, who is the cofounder of the wildly successful Whole Foods chain, wrote an op-ed last month explaining, from his point of view, what

policies can help and harm job growth. He writes:

One hundred years ago the total cost of government at all levels . . . was only 8 percent of our gross domestic product. In 2010, it was 40 percent. Government is gobbling up trillions of dollars from our economy to feed itself through higher taxes and unprecedented deficit spending—money that could be used by individuals to improve their lives and by entrepreneurs to create jobs.

Policymakers would do well to listen to the advice of entrepreneurs such as John Mackey about a real growth agenda. Americans are counting on job creators in the private sector to help turn the economy around by putting capital at risk and hiring new employees. Relentless class warfare and obsessing over income redistribution are not real policy prescriptions.

Mr. President, I ask unanimous consent to have printed in the RECORD the op-ed piece by Charles Krauthammer which I mentioned.

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

[From the Washington Post, Dec. 8, 2011]

OBAMA’S CAMPAIGN FOR CLASS RESENTMENT
(By Charles Krauthammer)

In the first month of his presidency, Barack Obama averred that if in three years he hadn’t alleviated the nation’s economic pain, he’d be a “one-term proposition.”

When three-quarters of Americans think the country is on the “wrong track” and even Bill Clinton calls the economy “lousy,” how then to run for a second term? Traveling Tuesday to Osawatimie, Kan., site of a famous 1910 Teddy Roosevelt speech, Obama laid out the case.

It seems that he and his policies have nothing to do with the current state of things. Sure, presidents are ordinarily held accountable for economic growth, unemployment, national indebtedness (see Obama, above). But not this time. Responsibility, you see, lies with the rich.

Or, as the philosophers of Zuccotti Park call them, the 1 percent. For Obama, these rich are the ones holding back the 99 percent. The “breathtaking greed of a few” is crushing the middle class. If only the rich paid their “fair share,” the middle class would have a chance. Otherwise, government won’t have enough funds to “invest” in education and innovation, the golden path to the sunny uplands of economic growth and opportunity.

Where to begin? A country spending twice as much per capita on education as it did in 1970 with zero effect on test scores is not underinvesting in education. It’s misinvesting. As for federally directed spending on innovation—like Solyndra? Ethanol? The preposterously subsidized, flammable Chevy Volt?

Our current economic distress is attributable to myriad causes: globalization, expensive high-tech medicine, a huge debt burden, a burst housing bubble largely driven by precisely the egalitarian impulse that Obama is promoting (government aggressively pushing “affordable housing” that turned out to be disastrously unaffordable), an aging population straining the social safety net. Yes, growing inequality is a problem throughout the Western world. But Obama’s pretense that it is the root cause of this sick economy is ridiculous.

As is his solution, that old perennial: selective abolition of the Bush tax cuts. As if all that ails us, all that keeps the economy from

humming and the middle class from advancing, is a 4.6-point hike in marginal tax rates for the rich.

This, in a country \$15 trillion in debt with out-of-control entitlements systematically starving every other national need. This obsession with a sock-it-to-the-rich tax hike that, at most, would have reduced this year's deficit from \$1.30 trillion to \$1.22 trillion is the classic reflex of reactionary liberalism—anything to avoid addressing the underlying structural problems, which would require modernizing the totemic programs of the New Deal and Great Society.

As for those structural problems, Obama has spent three years on signature policies that either ignore or aggravate them:

—A massive stimulus, a gigantic payoff to Democratic interest groups (such as teachers, public-sector unions) that will add nearly \$1 trillion to the national debt.

—A sweeping federally run reorganization of health care that (a) cost Congress a year, (b) created an entirely new entitlement in a nation hemorrhaging from unsustainable entitlements, (c) introduced new levels of uncertainty into an already stagnant economy.

—High-handed regulation, best exemplified by Obama's failed cap-and-trade legislation, promptly followed by the Environmental Protection Agency trying to impose the same conventional-energy-killing agenda by administrative means.

Moreover, on the one issue that already enjoys a bipartisan consensus—the need for fundamental reform of a corrosive, corrupted tax code that misdirects capital and promotes unfairness—Obama did nothing, ignoring the recommendations of several bipartisan commissions, including his own.

In Kansas, Obama lamented that millions “are now forced to take their children to food banks.” You have to admire the audacity. That's the kind of damning observation the opposition brings up when you've been in office three years. Yet Obama summoned it to make the case for his reelection!

Why? Because, you see, he bears no responsibility for the current economic distress. It's the rich. And, like Horatius at the bridge, Obama stands with the American masses against the soulless plutocrats.

This is populism so crude that it channels not Teddy Roosevelt so much as Hugo Chavez. But with high unemployment, economic stagnation and unprecedented deficits, what else can Obama say?

He can't run on stewardship. He can't run on policy. His signature initiatives—the stimulus, Obamacare and the failed cap-and-trade—will go unmentioned in his campaign ads. Indeed, they will be the stuff of Republican ads.

What's left? Class resentment. Got a better idea?

Mr. KYL. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, I apologize for interrupting my colleague, and I will not for long. I think my colleague wants to speak on the subject of the nominations that are going to be contained within an hour of debate, equally divided. I want to make certain the comments of the Senator are going to be part of that time period. So if I could ask, for my colleague—I believe we are almost at the hour where we

have to go to executive session and report the two nominations. I would be happy, then, to yield to my colleague to speak first, if he wishes.

Would my colleague agree with that?

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I am willing to do that, but I thought I maintained the right to the floor by—

Mr. KERRY. Mr. President, I ask unanimous consent that after we have moved to executive session, the Senator from Iowa be the first to speak in the time period allotted to the opposers.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF NORMAN L. EISEN TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC

NOMINATION OF MARI CARMEN APONTE TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR

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

The bill clerk read the nominations of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic, and Mari Carmen Aponte, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate equally divided in the usual form.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to speak about one of the votes we are going to have this afternoon, and it has nothing to do with Mr. Eisen's job as Ambassador. It is about why he has not been confirmed to this point.

The President announced Mr. Eisen's nomination to be Ambassador to the Czech Republic on June 28, 2010. On September 20, 2010, I provided public notice of my intention to object to the nomination. In other words, as I always do when I put a hold on some-

thing—a bill or a nomination—I put a reason in the CONGRESSIONAL RECORD so that everybody knows it is me. I am not a secret-holds guy.

The reason for my objection is not related to the substance of his duty as Ambassador; I object to his nomination because of the way Mr. Eisen handled the controversial firing of Gerald Walpin and the congressional inquiry into that firing. Mr. Walpin was the inspector general at the Corporation for National Community Service, AmeriCorps. Mr. Eisen was at the White House Counsel's office at the time.

Any attempt to undermine the independence and integrity of inspectors general raises serious concerns with me, and anybody ought to know that about this Senator. An inspector general who does his or her job runs the risk of losing friends at any agency as well as maybe the White House. The Congress must not sit idly by when an inspector general is removed improperly.

After the President abruptly removed Inspector General Walpin from office, there were allegations that he was fired for political reasons. So I started the investigation. There was evidence that the removal may have been motivated by a desire to protect a friend and political ally of the President, mayor of Sacramento Kevin Johnson.

The inspector general and CNCS management were clashing over an inquiry into misuse of Federal grant money at a charity run by Johnson. There were allegations that the grant money was used to pay for personal services for Johnson such as maybe washing his car. There seemed to be evidence of that. There were allegations that the grant money has been used to pay for political campaign work. So what would you expect an inspector general to do?

The IG was pushing aggressively to require Johnson to repay the Federal grant money that his charity could not account for. The inspector general was also pushing to have Johnson prohibited from receiving future Federal grant funds. This caused, as you might expect, a political uproar because some people feared that might prevent the city of Sacramento from receiving Federal stimulus dollars during the financial crisis.

All of this background cried out for further investigation. I also learned that Mr. Eisen personally delivered an ultimatum to Inspector General Walpin. He demanded the inspector general resign or be terminated within 1 hour. At the time he delivered the ultimatum, no notice had been given or provided to Congress as is legally required under the Inspector General Reform Act.

The IG Act requires the President to tell Congress the reasons for removal of an inspector general 30 days before taking action. That is what the law requires. Now, ironically, I cosponsored this provision with Senator Obama before he became President Obama. The

goal of that provision is to make sure Congress is aware of why an inspector general is being removed.

We need independent inspectors general. They should not be removed for political reasons. So we need to make sure Congress is informed of the reasons for getting rid of an inspector general. Mr. Eisen's 1-hour ultimatum was an attempt to avoid that provision of law. If the inspector general had resigned under that pressure, Congress would not have received any notice and the reasons for his removal would have remained a secret, but Inspector General Walpin did not resign, and the President began the process of removing him with a 30-day notice. At first the notice merely said he had lost confidence in the inspector general. Senators from both political parties agreed that was too vague. So Mr. Eisen provided a second more detailed explanation. The second explanation said the inspector general had been "confused and disoriented" at a board meeting on May 20, 2009. It essentially implied that he might be senile.

So my staff met with Mr. Eisen to try to learn more. So here I give you another reason for my hold on Mr. Eisen. During that interview with the congressional staff on June 17, 2009, Mr. Eisen refused to answer at least 12 very direct questions. I wrote to the White House Counsel's office immediately after the interview. I listed the 12 questions he refused to answer and asked for written answers.

I never got a satisfactory reply. So I had to gather the facts independently. So Mr. Eisen did provide some information during this interview that very day in 2009. The problem is, the information turned out to be not true. Eisen tried to assure the staff that the firing was not politically motivated. He claimed the agency's bipartisan board of directors unanimously supported the removal of Inspector General Walpin before the President decided to remove him. He also claimed the White House conducted "an extensive review" in response to concerns raised by the board about Walpin's fitness for that office. He said this review was prompted by that incident at the May 20, 2009, board meeting where it appeared that the inspector general was disoriented.

When congressional investigators interviewed eyewitnesses, however, their accounts differed slightly. At a minimum, all agreed the inspector general lost his train of thought during the presentation. Others described it as being a more serious episode.

The chairman of the board of directors suggested telling the White House about what happened. No one on the board objected. So he went and met with Mr. Eisen in the White House Counsel's office.

Now, think about that, would you, please. If you think the inspector general might be suffering from some mental incapacity or illness, why would you run straight to the White House Counsel's office? It seems to me you

would talk to his family or the people who worked with him every day about your concerns. That would be the only way to find out if there had been similar incidents or if it was only a one-time occurrence.

Instead, the chairman of the board asked Mr. Eisen at the White House Counsel's office to look into it. According to Mr. Eisen, he conducted "an extensive review" which then formed the basis for the President's decision to remove Walpin from office. However, our investigation finds no evidence that Mr. Eisen's review consisted of anything more than simply asking the CNCS management to describe their complaints about Mr. Walpin. Unlike the congressional review, Mr. Eisen did not interview each of the board members present at the May 20 meeting. He also did not interview the other Office of Inspector General employee who was present with Mr. Walpin during that board meeting where they said he was disoriented. Instead, Eisen merely collected from the agency details about various routine disagreements with the inspector general.

Now, get this. None of the evidence the agency provided to the White House related to Mr. Walpin's mental capacity to serve, even though that was the question that supposedly prompted the review in the first place. Mr. Eisen accepted the agency's version of those disagreements without even giving the inspector general a chance to respond.

Obviously, any agency is going to have some clashes with an inspector general, at least if that office operates as a truly independent and aggressive watchdog. Mr. Eisen did not provide Mr. Walpin or anyone else in the Office of Inspector General an opportunity to reply or give their side of the story. Mr. Eisen took action based upon incomplete information provided only by agency officials who had adversarial relationships with that inspector general.

He told Congress the May 20 incident was the reason for removing the inspector general. But Mr. Eisen failed to give Inspector General Walpin or anyone close to him a chance to tell his side of the story. To put it as simply as possible: That is just not fair.

On June 17, 2009, I wrote to White House counsel Gregory Craig listing 12 specific direct questions that Eisen refused to answer that day. Question No. 4 was this: Which witnesses were interviewed in the course of Mr. Eisen's review?

This question followed a more general question about what Mr. Eisen did in the course of his review. His answer to that prior more general question included the claim that he conducted witness interviews of the board members. However, he refused to specify which witnesses or how many witnesses he interviewed. Then he resorted to talking points rather than answering specific questions.

He replied along these lines: No. 1, we did an extensive review; No. 2, I am not

going to get into the details; and, No. 3, all of the board members agreed, including the Republican board members.

Mr. Eisen clearly led the staff to believe that the President's decision was based in part on the unanimous agreement of the board that the inspector general should go. That was false. The account of Eisen's interview is based on memories of both House and Senate staff present at that time. Also present was a career law enforcement agent from the executive branch on temporary detail to my oversight and investigations staff whose recollections confirm this account as well.

In short, Mr. Eisen's lack of candor and cooperation cannot be mistaken for a misunderstanding or a miscommunication. There was no miscommunication. Attempts to remove an IG must be evaluated with strict scrutiny. When administration officials are asked to provide information to Congress, I expect to rely on those officials to provide the unvarnished truth. Evidence that a witness may have misled Congress is extremely serious.

Just last month, Mr. Eisen finally admitted his earlier statements were not true. He sent me a letter, and I ask unanimous consent to have it printed in the RECORD.

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

NOVEMBER 20, 2011.

DEAR SENATOR GRASSLEY: Thanks very much for meeting with me. I know how busy you are and I very much appreciate you and your staff taking the time to talk about my service as Ambassador to the Czech Republic. I also appreciate the opportunity to discuss your concerns about my interactions with staff relating to the removal of Gerald Walpin as the Inspector General of the Corporation for National Community Service (CNCS).

With respect to the Walpin matter, you have asked me to clarify certain steps that were taken by the Administration prior to my June 10, 2009 phone call with Mr. Walpin about the President's decision to remove him from office. On May 20, 2009, the Chair of the CNCS Board, Alan Solomont, notified the White House that the Board had serious concerns about Mr. Walpin's performance. I personally spoke with Mr. Solomont and obtained his independent recollection of the events of the May 20 Board meeting. To be clear, at that time, CNCS Board Members did not express to the White House, verbally or otherwise, unanimous support for the removal of Mr. Walpin. I believe that, on or about June 8 or 9, 2009, White House personnel also communicated with a Republican Board member, Vice-Chair Goldsmith. I do not recall any other conversations with Board members prior to the removal.

Thanks again for seeing me and for allowing me to convey my apology in connection with my June 17, 2009 meeting with Congressional staff. It is now my understanding that I answered a few of the questions inaccurately, although at the time I thought they were accurate. Of course, it was not my intent to mislead staff in any way, but to the extent that I was unclear in my responses, or that my declining to answer questions created confusion, I regret it and I sincerely apologize. I have tremendous respect for the role that you and your staff have played in

supporting the Inspector General community. I look forward to working with you in the future on items of mutual interest.

Sincerely yours,

NORMAN L. EISEN.

Mr. GRASSLEY. He sent me a letter on November 20 admitting his answers were "inaccurate." He also acknowledged in a meeting with me that the key factual findings in the staff report were correct. He said he did not intentionally provide false information, and he has apologized.

I am sure he sincerely regrets the way he handled the questions, especially since it has led to the difficulty in his confirmation process and probably, if we had had that letter as we asked for late last year, he would have been confirmed at that particular time.

Now after my meeting with him this year, I accepted his apology about the false or "inaccurate" statements. I agreed to proceed to the nomination with a 60-vote margin required for confirmation. The majority leader did not agree with that, so he decided to invoke cloture instead.

I will oppose cloture because I am still opposed to the nomination. My opposition was always based on more than one or two false statements. Lack of candor is broader than whether a particular statement is technically true. It includes his failure to be forthcoming and responsive to those questions that were asked on June 17, 2009. His evasiveness caused House and Senate staff to spend much more time and resources uncovering the truth.

If he had just answered a few simple factual questions, that would not have been necessary. For example, in relation to the 1-hour ultimatum, he refused to answer specific questions about his June 10, 2009, conversation with Mr. Walpin. He would only say that he disagreed with certain aspects of Mr. Walpin's account without specifying which aspects.

Word games and evasiveness of that sort are incompatible with being a candid and forthcoming witness and ought to be incompatible with a person representing the United States as an ambassador. My reasons for opposing his nomination also include all of the other circumstances surrounding the way Mr. Eisen handled Mr. Walpin's removal.

Mr. Eisen's attempt to force the inspector general to resign with a 1-hour ultimatum would have amounted to a constructive removal. It would have evaded the congressional notice requirement if he had been successful. However, Inspector General Walpin refused to resign and even filed lawsuits to try to keep his position. He did not win his lawsuit because ultimately the White House did comply with the technical requirements of the 30-day notice provision.

After the controversy erupted, the inspector general was placed on administrative leave until 30 days after the second more detailed notice to Congress.

That is why Walpin lost his lawsuit, but that does not change the nature and the fact that Norm Eisen attempted to evade the statute.

He tried to force a quiet resignation and thus remove the inspector general from office without the 30-day notice to Congress the law requires.

Because Inspector General Walpin did not yield to the pressure, no court had a chance to rule on whether that would be appropriate.

I am also opposed to this nomination because of the way the White House decided to avoid these issues last year with a recess appointment. Senate confirmation, under the advice and consent clause, is one of the strongest checks on executive branch power.

Recess appointments are meant to fill vacancies that arise during a long recess, not to bypass the confirmation process. This vacancy arose on January 20, 2009. Yet the President waited 18 months before making an appointment.

There had already been a lot of controversy over Mr. Eisen's actions at the time of his appointment. The White House should have known there would be issues with his confirmation. Rather than listening to my concerns, the White House decided to bypass Congress. President Obama rewarded Mr. Eisen by using a recess appointment to install him as Acting U.S. Ambassador to the Czech Republic.

Mr. Eisen had several opportunities to address my concerns last year. He was scheduled to meet with my staff on December 16, 2010, at 11:30 a.m., and at approximately 11:15 a.m., the White House postponed the meeting until 2:15 p.m. At approximately 2 p.m., the meeting was canceled by the White House Office of Legislative Affairs without further explanation.

By calling off a face-to-face meeting in favor of a recess appointment, the White House sent the message that the President is not interested in hearing the concerns of Republican Members of Congress.

Once he had his recess appointment, Mr. Eisen did not seek to meet with me or my staff again until that appointment was about to expire at the end of this year. Only then did he apologize and admit that the statements in his staff interview were not accurate. Remember, our President, at the time of his inauguration, made a commitment to be the most transparent of any administration in our history.

In summary, Mr. Eisen took action on behalf of the President that ran afoul of the Inspector General Reform Act. Mr. Eisen only listened to the agency's complaints about the inspector general rather than conducting a fair, thorough, and responsible investigation, and then he misled congressional investigators about his review and about the true basis of the President's decision to fire the inspector general. He admitted in this letter to me that he provided inaccurate information but claimed it was unintentional.

This is the second time in the last 2 months an official from the Obama administration has done that. The Deputy Attorney General just withdrew a letter sent to me on Operation Fast and Furious earlier this year because of its "inaccuracies."

I am afraid there is a pattern developing with this administration about not leveling with Congress in its constitutional responsibility of oversight. When we ask for information from the executive branch, we expect honest, forthcoming, and truthful answers. We can disagree on policy; we are all entitled to our opinion, but we are not entitled to our own facts. Getting the facts straight should not be akin to pulling teeth. We need to send a signal that congressional oversight matters and there are consequences in misleading Congress.

It should come as no surprise to anybody that doing our constitutional job of oversight is very important to this Senate. I know Ambassador Eisen recognizes that. I got that very clearly from him in our last meeting in October.

I don't like interference by people in either a Republican or Democratic administration who don't cooperate with my investigations, and I will bet every Senator will say that. Therefore, for the reasons I just gave, I ask my colleagues to oppose cloture and oppose this nomination.

I yield the floor and reserve the remainder of the time on this side.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, momentarily, I am going to yield time to the Senator from New Jersey.

Before I do that, I wish to say very quickly—and I am not going to make all my comments right now—to my colleague from Iowa, first of all, I have great respect for his diligent approach to these issues. He has been tremendously receptive to a continuing dialog. I express my gratitude to him for that. When asked, he met with Ambassador Eisen, and he certainly listened to the facts as they were presented by others who have a different point of view.

Obviously, every Senator here always does draw their own conclusions. First, I thank Senator GRASSLEY for his willingness to agree to have these votes that we will have today and to move forward with some resolution with respect to this nomination.

I understand he has chosen to oppose the nominee. I simply say to him, and I think to others, sometimes in these processes, sometimes in the questions for the record, as we call them, where people submit written questions, and even in the interviews, there are miscommunications, misinterpretations, and misstatements that are not intentional and not meant to somehow mislead or deceive somebody.

I simply say to the Senator that I know he has met with Ambassador Eisen and we have now heard why he

intends to vote no. I am convinced several different individuals and entities have thoroughly investigated and examined the removal of Inspector General Walpin, and they have found there was no wrongdoing. The Foreign Relations Committee looked into it in conjunction with the consideration of this nomination, and the Homeland Security Committee examined this issue. It was, in fact, litigated in Federal district court and before the DC Circuit Court. None of these entities—not one—found that either the President somehow acted wrongly or illegally or inappropriately in connection with the removal of Mr. Walpin from the office.

To the contrary, the U.S. district court specifically rejected Mr. Walpin's claims that he was improperly removed from this position, and they dismissed his lawsuit.

Our friends, Senator LIEBERMAN and Senator COLLINS, both of whom enjoy strong reputations for integrity within the Senate, stated their belief, as ranking and chair of the Homeland Security Committee, that the President met the letter and spirit of the Inspector General Reform Act.

I do believe there was some miscommunication. I have talked to the Senator from Iowa about it. I think it was unfortunate, and I wish it had been cleared up earlier. I believe it was genuinely a miscommunication, not an intentional act, and I appreciate the fact that Mr. Eisen has apologized to Senator GRASSLEY for his sense of that miscommunication—the difference between review and removal and a sense of what may have happened in the course of that.

I also appreciate Senator GRASSLEY's willingness to look beyond that and to enforce his principles, as he is privileged to do as an individual Senator, but also to allow the Senate to try to do its work today.

I will say a few words about Mr. Eisen and the job he is doing. He is doing an outstanding job in Prague on our behalf.

First, the Senator from New Jersey is here to speak about a different nominee. I will yield up to 10 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I thank the chairman for yielding. I have come to the floor to address the nomination of an extraordinary woman—a qualified, talented Latina—to be the U.S. Ambassador to El Salvador.

Unfortunately, some of my Republican colleagues have made Ambassador Mari Carmen Aponte a target of inside-the-beltway politics, where the political points gained from bringing down an administration's nominee supersedes the value gained from having a superior ambassador, promoting and guarding American interests at a critical time.

Born in Puerto Rico, Ambassador Aponte became the executive director of the Puerto Rico Federal Affairs Ad-

ministration in 2001. She has served as a director at the National Council of LaRaza and the Puerto Rican Legal Defense and Education Fund. She has presided over the Hispanic Bar Association of the District of Columbia and the Hispanic National Bar Association. She has excelled in her field, and she has won the respect of her colleagues and the diplomatic community.

Let's look at the record. Nearly 2 years ago, I chaired the nomination hearing for Ambassador Aponte to serve as President Obama's Ambassador in San Salvador. At that time, one of my Republican colleagues objected to her nomination because he was not given access to her FBI file to review information about a personal relationship Ambassador Aponte had with a Cuban national some 20 years ago.

Pursuant to precedent, one Democrat and one Republican reviewed that file. I was the Democrat. There was nothing in the file to substantiate the concerns raised by my colleagues.

On this issue, I take a backseat to no one when it comes to promoting democracy in Cuba and opposing the Castro regime or anybody who sympathizes with such a despotic regime. I certainly would never, for a moment, let down my guard when it comes to that regime.

I can assure every colleague on both sides of the aisle that if I had any concern that Ambassador Aponte would let her guard down or had any questionable relationship with a Cuban national or if there was any relationship of the Castro regime in her background, I would not be supporting her today.

This is a respected American diplomat who has been on the job and has served this Nation with distinction. In the 15 months since Ambassador Aponte was sworn in as U.S. Ambassador to El Salvador during a recess appointment, she has impressed the diplomatic establishment with her professionalism and won the respect of parties both right and left in El Salvador. She has won the respect of civilian and military forces. She has won the respect of the public and private sector. She has won everyone's support and fostered a strong U.S.-Salvadoran bilateral relationship that culminated with President Obama announcing El Salvador as only one of four countries in the world, and the only country in Latin America, chosen to participate in the Partnership for Growth Initiative.

Most important, Ambassador Aponte has been an advocate for American national security and democratic values. As a result of her advocacy, El Salvador is again a key ally in Central America, and its troops are the only ones from a Latin American country fighting alongside American troops in both Iraq and Afghanistan.

Ambassador Aponte has consistently fought efforts by Cuba and Venezuela to gain influence in Central America.

As a result of her negotiating skills, the United States and El Salvador will open a new joint electronic monitoring center—jointly funded, by the way—that will be an invaluable tool in fighting transnational crime.

This is a record of success. It is a record of honor. It is a record of diplomatic and political distinction. It is the record of a dedicated, qualified, experienced, and engaged American diplomat—a 15-month record that brought our nations together and pursued our interests. What more could we ask? What more should we ask?

Having said that, because of my strong belief that Ambassador Aponte is fully and uniquely qualified for this post, during the last several months, I worked with the distinguished chairman, Senator KERRY, to find a way—despite committee precedent—to allow an additional Republican on the Foreign Relations Committee to review the Ambassador's FBI file. As a result, not one but two Republicans—my colleague and friend from Florida, Mr. RUBIO, and the Senator from South Carolina, Mr. DEMINT—were able to review her file. Since the concern had been not having access to the file, we presumed that once they were reviewed, they would lift their objections and allow a vote on her nomination. Why? Because there is nothing in that file that would indicate otherwise. But we were wrong. It wasn't about the file. That appeared to just be a delay tactic. The opposition to Ms. Aponte's nomination turned out to be about one thing and one thing only; that is, politics. Our good-faith effort to provide full access to information and address concerns about Ms. Aponte was summarily dismissed.

At her nomination hearing in November, Republican members of the committee raised a new concern—an editorial penned by Ambassador Aponte on tolerance and nonviolence during Gay Pride Month in June. Republicans decried it as disregarding Salvadoran culture and questioned her motives for writing the editorial, despite the fact that this editorial was the result of a cable edict to all embassies from the State Department urging missions to write editorials during these events.

The true irony of this trumped-up allegation is that the editorial, which Republicans assert “stirred controversy and was rebuked throughout Latin America,” mirrored a May 2010 decree by Salvadoran President Funes prohibiting discrimination by the Government of El Salvador based on sexual orientation.

So let's be honest, there is no question about Ambassador Aponte's qualifications or performance on the job or about whether an editorial on tolerance is grounds for sacking an ambassador. This is just another Republican dog and pony show to undermine the President's policy objectives and attack a qualified Democratic nominee to an essential post.

When the facts, when the files—when there was nothing that corroborated

the vicious allegations about Ms. Aponte's past, those on the other side argued that her editorial on the elimination of prejudice was the basis for their opposition. When they learned that the Government of El Salvador itself supports this view, Republicans again changed their tune. Four weeks after her November 29 nomination hearing on the eve of the Foreign Relations Committee business meeting, these Members decided they wanted to attack from a different angle. They called for a new classified hearing to vet her nomination, to permit questions to FBI and diplomatic security investigators about whether they had been subjected to political interference for determining that Ambassador Aponte was eligible for a security clearance.

I find it pretty appalling that Members of the Chamber would essentially suggest without evidence that professional FBI and diplomatic security members would bend to political pressure or that any administration would apply such pressure, risking U.S. national security, on behalf of any person. Those Members knew that the content and timing of their request would make it impossible to fulfill. To his credit, the chairman of the committee, Senator KERRY, over the last several weeks has nonetheless sought to resolve the situation. In fact, there has been an offer made to Senator DEMINT to go over the whole essence of the background of the diplomatic security clearance.

The shifting basis of the opposition to Ambassador Aponte reveals, to me at least, that the motive for this operation is pure partisan politics, driven by pure partisan interest, fueled by a pure partisan desire to derail an administration nominee for the sake of derailment alone, without any regard for the consequences for American foreign policy or for the Nation.

I have seen this Ambassador. She has succeeded beyond anybody's wildest expectations in a country that has dramatically turned the course of events in a way we want to see it. I urge my colleagues to support Ambassador Aponte's nomination. I urge them to put partisan politics aside, recognize the benefits to America's security and foreign policy interests that her tenure has delivered, and allow Ambassador Aponte to continue serving our Nation.

With that, I yield the floor, and I yield back to the chairman any time I may not have consumed.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I rise today to express my opposition to the nomination of Mari Carmen Aponte to be Ambassador to El Salvador. Her confirmation has been unanimously opposed twice by all Republicans on the Senate Foreign Relations Committee, and for good reason.

Before I discuss Ms. Aponte, I would like to clarify some facts about the nomination process. Several Demo-

crats have voiced complaints recently about Senate Republicans' supposed obstruction when it comes to President Obama's nominees, but most of his nominees have not even been contested. In fact, since Obama became President, the Senate has confirmed 1,198 of his nominees. Only a small fraction of these nominees have been so controversial that they have been blocked by the Senate.

As a Member of the Senate, I take the Senate's constitutional duty to provide advice and consent to the President regarding his nominees seriously. While the overwhelming majority of nominees are easily confirmed, some do rise to such a level that further debate and scrutiny are required by the Senate. Ms. Aponte is one of these nominees.

This is not the first time the Senate has considered confirming Ms. Aponte for an ambassadorship. She was first nominated by former President Clinton in 1998 to be the Ambassador to the Dominican Republic. At the time, Senator Jesse Helms, who was chairman of the Foreign Relations Committee, learned of possible background issues and concerns by investigators relating to Ms. Aponte's ties to Cuban intelligence. Primarily, the question centered around the 12-year romantic relationship she had with a man who was targeted as part of an FBI counterintelligence investigation and allegedly worked for Cuba's spy agency. A high-ranking Cuban defector claimed that Cuban intelligence tried to recruit Ms. Aponte to be a spy for the Cuban Government. Rather than discuss her past relationship, Ms. Aponte withdrew her nomination, and it was filled by someone else.

Eventually, Ms. Aponte was given a top security clearance by the State Department despite what some have described as serious objections from career officials.

When President Obama nominated Ms. Aponte in March of 2010 to be Ambassador to El Salvador, Republicans asked for more information to address the allegations that had previously surfaced—namely, information about the scope of the 1998 investigation, including an update to that file; second, information about the Cuban defector who was handled by the CIA who publicly alleged that Cuban intelligence had attempted to recruit Ms. Aponte through her longtime live-in boyfriend; and third, information about the FBI's counterintelligence investigation that led to Ms. Aponte's refusal to take a lie detector test in 1994, as requested by the FBI. Serious questions, honest questions.

Instead of allowing Senators to access that information and alleviate our concerns, President Obama went around the Senate and granted Ms. Aponte a recess appointment in August of 2010. For nearly a year and a half, Republicans have been continually denied access to Ms. Aponte's full FBI record and other information, as the

Obama administration has rebuffed our requests related to Ms. Aponte's past.

Shortly after Ms. Aponte was first nominated by President Obama, I, along with four other members of the Senate Foreign Relations Committee, wrote a letter to Secretary of State Hillary Clinton asking for her assistance in obtaining this information. That same month, all eight Republican members of the committee wrote to Senate Foreign Relations Committee chairman JOHN KERRY stating that committee members had not received requested information needed to fully vet the nominee.

Let me remind everyone that we never received that information. Ms. Aponte was recess-appointed by the Obama administration later that summer. We have continued our efforts to work with the administration to get access to this information. Chairman KERRY was able to convince the White House to allow me to see a summary of the diplomatic security background investigation; however, that summary did not address the fundamental questions that have arisen, and that summary left me with more questions than answers.

Committee Republicans wrote another letter to Chairman KERRY about our concerns last month. In the letter, we said:

We recognize the need to balance highly sensitive materials during the confirmation process. However, we believe that in this particular case, the scope of the background review was not appropriately complete.

We went on to say:

The background summary that was provided was based on an updated investigation, but it did not encompass numerous allegations that the initial background investigation in 1998 was tainted by political interference. News reports and other sources alleged that Ms. Aponte received security clearance despite objections from career officials due to outside pressure. However, these allegations and the circumstances surrounding them were not part of the current background investigation. Without additional information, Senators have no way of determining the validity of media stories and rumors that have been circulating about this nominee's past.

We also asked for a closed hearing due to these lingering issues. We wrote:

We believe that the circumstances warrant additional committee review in the form of a closed hearing. A closed hearing would allow Senators to review and discuss the classified and sensitive data relevant to the nomination and discuss the unresolved issues with investigators and relevant intelligence community officials. As the issue involved both a high-ranking Cuban defector and FBI counterintelligence investigations, a closed hearing would be the most beneficial format available to the committee to rectify the deficiency of information provided.

Senator KERRY declined to hold a closed briefing and wrote a letter back stating:

In my view the process we have followed with regard to Ms. Aponte's nomination has afforded committee members ample time and opportunity to consider her nomination and secure answers to any relevant questions.

He also said:

We should all be in a position now to debate Ms. Aponte's nomination on its merits.

Senator KERRY then offered to work with my office further to get answers from the administration. I believe he did work in good faith with our office, but in the end the White House once again denied our requests for information.

While I would agree with Senator KERRY that there has been ample time spent on Ms. Aponte's nomination, we still lack critical information. The Senate cannot in good faith confirm a nominee who has repeatedly refused to answer simple necessary questions related to her past.

In addition to questions about her past, Ms. Aponte's current judgment is also in question. In her recess-appointed capacity as Ambassador to El Salvador, Ms. Aponte has inflamed tensions in the very country where she should be improving diplomatic relations. Her decision to publish an opinion piece hostile to the culture of El Salvadorans presents even more doubts about her fitness for the job. This op-ed upset a large number of community and pro-life groups in El Salvador who were insulted by Ms. Aponte's rhetoric.

A coalition of more than three dozen groups has since written the Senate asking its Members to oppose Ms. Aponte's confirmation. I quote from their letter, in which they wrote:

We respectfully request that Ms. Aponte be removed from post as soon as possible so that El Salvador may enjoy the benefits of having a person as a government representative of your noble country.

Meanwhile, Republicans on the Senate Foreign Relations Committee are still trying to get access to information about Ms. Aponte's past. Two days ago, the White House again denied Senators the right to be briefed or review information relevant to this nomination.

Senators should not be forced to vote on a nominee without a complete understanding of her background. I urge you to join us in voting against cloture.

Mr. President, I reserve the remainder of the Republican time. How much time remains?

The PRESIDING OFFICER. Ten seconds.

Mr. DEMINT. That is pretty good timing.

I thank the Chair, and I yield back.

Mr. KERRY. Mr. President, I yield 4 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank my friend from Massachusetts, and I rise, Mr. President, to speak in support of the nomination of Norm Eisen to be Ambassador to the Czech Republic.

I know Norm in a very personal capacity, so I feel very strongly about this nomination. Since I was fortunate to be elected to the Senate and came to Washington in the late 1980s, I joined a synagogue in Georgetown, and Norm

Eisen and his wife and children are members of that synagogue, so I have gotten to know them in a totally non-political, nondiplomatic way. Based on that, I start with a real appreciation of this fine, honorable, public-spirited man.

He happened to have gone to law school with President Obama. I think as a result of that the President knew him and asked him to be the ethics counsel in the White House in the first years of the administration. I think anybody you talk to, or most anybody you talk to, about his performance in that job would say he did an excellent job. He was demanding ethically and intellectually. His honor and his quest to have the government and those who serve in government act in an honorable way is very high.

When there was a vacancy in the position of Ambassador to the Czech Republic, President Obama asked Norm Eisen if he would serve. And the President did something that really had a lot of meaning to it. Apart from Norman's quite considerable resume as a private attorney, being successful and highly regarded and very effective, Norm Eisen is the child of survivors of the Holocaust. His mother was actually born in the Czech Republic. So what a remarkable moment for President Obama to ask him to return to the country from which his family was essentially chased—and some worse—in the position as Ambassador of the greatest country in the world, the superpower of the United States of America.

We now have a record of his performance in that position. There was a problem with the nomination before, raised by Senator GRASSLEY at that time, and so he was a recess appointment. But now he has been there, and he has done an extraordinary job. I know from conversations with people in Prague that he is very highly regarded by the leadership of the Czech Republic. An extraordinary, bipartisan group of foreign policy experts has also endorsed his confirmation.

It would actually be extremely disruptive if we did not confirm Norm Eisen in terms of our relations—diplomatic, economic, security relations—with the Czech Republic, which are so important.

So I think if you were considering this nomination and put the various arguments on the scales of justice, on one side you have a record of public service, of honor, of great family values, of intellectual excellence, of belief in public service, of a great record now in the time he has been in Prague as our Ambassador. On the other side, you have a question about how Norman, while he was in the White House as ethics counsel, handled the case of this one individual inspector general at the Corporation for National and Community Service.

I have been over this in great detail. In our Governmental Affairs part of the Homeland Securities Committee,

we oversee the IGs. Senator COLLINS and I have gone over this. And with respect to Senator GRASSLEY, who has been very thorough and fair about this and is probably the leading protector and defender of the IGs in the Senate, in the matter that bothers him, there was a misunderstanding. There was not, in my opinion, after looking at this very thoroughly, an intentional act of deceit. There was a misunderstanding, and Ambassador Eisen has now apologized for that misunderstanding of stating unintentionally an inaccuracy.

So on one side of the scales of justice, you have all these extraordinary positives and on the other a question raised about this one case he handled, which Senator GRASSLEY and others working for him say was deceitful. Ambassador Eisen says it was a misunderstanding, for which he apologizes.

To me, it is not only in the interest of the United States but also in the interest of fairness and justice—with which we like to believe we conduct our proceedings here—that the Senate today cross party lines and confirm the nomination of Norm Eisen to be Ambassador to the Czech Republic.

Mr. CASEY. Mr. President, I stand in support of Norman L. Eisen's appointment to be Ambassador to the Czech Republic. It is with great confidence in Ambassador Eisen's skill, qualifications, and record that I support this appointment. Ambassador Eisen will greatly advance U.S.-Czech relations and directly benefit American diplomatic and business interests, possibly helping to create 9,000 jobs in the Commonwealth of Pennsylvania and elsewhere in America.

Ambassador Eisen was first nominated to be Ambassador to the Czech Republic on June 29, 2010. He was given a recess appointment on December 29, 2010 and has served with distinction as Ambassador in Prague since that time.

Ambassador Eisen is highly qualified and suited for this post. He speaks Czech, knows and respects Czech culture, and understands the country's history in a deeply personal way. His mother was born in the former Czechoslovakia and survived Auschwitz. The State Department notes that the Ambassador resides in the former Nazi General Staff Headquarters, where he and his family now celebrate the Sabbath in the same room where Nazis dined 70 years ago “a powerful Czech-American message about the triumph of good.”

Accompanying his strong multicultural qualifications is Ambassador Eisen's quintessentially American personal history. He was the first in his family to graduate from high school, college, and law school—all with honors. He had a long and successful practice as a private attorney at a major D.C. law firm; founded a government watchdog group, and served in the White House for two years—2009–10—as Special Assistant and Special Counsel to the President. This history prepared

Norm Eisen to be a successful ambassador representing American interests, culture, and values abroad.

Ambassador Eisen's track record as Ambassador to the Czech Republic speaks for itself. Since assuming his post, Ambassador Eisen has ensured the U.S. can look to the Czech Republic as a partner troop-contributing nation in Afghanistan, opponent of human rights violations by Iran, and an ally in the European Union and at the United Nations on important issues such as Israel.

Due to Ambassador Eisen's efforts, the defense relationship between the U.S. and the Czech Republic is at an historic high point. He has been an eloquent advocate in urging Prague to retain the 600 soldiers it has sent to Afghanistan, making it one of our most supportive NATO allies. The National Review notes that during Ambassador Eisen's tenure, "defense ties with the Czech Republic have broadened and deepened."

Energy and technology developments have also strengthened the relationship between our two nations during Ambassador Eisen's tenure. He assisted the Czech government to develop a Center for Civilian Nuclear Safety in Prague that would build on efforts to ensure the safety of radiological materials. Of special importance to Pennsylvanians, Ambassador Eisen has worked in support of Westinghouse's efforts to provide civilian nuclear reactors in the Czech Republic. Westinghouse employs over 6,000 Western Pennsylvanians and over 9,000 Americans in other areas of the country.

A successful Westinghouse bid in the Czech Republic would create an estimated 9,000 direct and indirect high-paying U.S. jobs over the next 5 years. These jobs will be not only in western Pennsylvania, but also in States employing hundreds of high-tech nuclear energy industry workers, such as Connecticut, Minnesota, New Hampshire, South Carolina, and Utah.

The American Chamber of Commerce has noted that Ambassador Eisen's "presence in the country has been and will be essential to our common efforts to advance the interests of U.S. business" and has "invigorated our community and . . . expanded their export possibilities, which should add much needed jobs in the U.S. manufacturing sector."

In addition to defense, energy, and business developments, Ambassador Eisen has championed causes important to both Americans and Czechs. Having founded a watchdog group and worked on ethics and government reform in the White House, Ambassador Eisen is strongly qualified to help the Czech Republic address corruption. He helped launch the first ever "World Forum on Governance" in Prague, at which 100 Czech, U.S., and international anti-corruption champions met to develop innovative new solutions. The head of Transparency International in the Czech Republic has said

that "Ambassador Eisen's efforts have contributed to progress in fighting corruption and his continued presence in Prague is vital to help maintain that trend."

Ambassador Eisen has earned the respect and trust of Czech leaders and senior officials. In the words of Defense Minister Alexandr Vondra, who formerly served as the Czech Ambassador to the U.S.: "Norm Eisen is one of the most energetic, optimistic ambassadors I have ever seen. The bilateral U.S.-Czech relationship needs him."

It is clear that Norm Eisen has excelled at the duties entrusted to him as the U.S. Ambassador to the Czech Republic, and I fully support his appointment.

I thank the Chair.

Mr. KERRY. I thank the Senator. I yield 2 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. I rise also to speak in support of the confirmation of Norm Eisen to be U.S. Ambassador to the Czech Republic.

In the year since his recess appointment to this position by President Obama, Ambassador Eisen has proven to be a strong advocate for the United States. He has brought a renewed focus to our defense relations with the Czech Republic, resulting in an expansion of our bilateral and NATO military cooperation, and the Czech Republic has increased its troop contribution in Afghanistan and strongly supported international efforts on Iran and the U.S. policy on Israel with the EU and the United Nations during his tenure.

As Chair of the Senate Foreign Relations Subcommittee on European Affairs, I had the privilege of chairing both of Ambassador Eisen's nomination hearings. Throughout the nomination process, he has demonstrated a strong understanding of the complexities of our relationship with the Czech Republic, a drive to fully represent American interests and values, and a special humility in having the opportunity to represent the United States.

I would hope that all of our colleagues in the Senate this evening will join us in supporting Norm Eisen to be the Ambassador to the Czech Republic.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from New Hampshire very much. I know she cut her time a little bit because we are getting toward the end of these comments with respect to the nominees and to the vote.

Likewise, I haven't said anything about either nominee, and I want to say a couple words about each, if I can, and I want to specifically answer a couple points made by the Senator from South Carolina with respect to Mari Aponte.

First, with respect to Norm Eisen. He has been an extraordinarily effective Ambassador for the United States in terms of our relationship with the

Czech Republic and he has, by everybody's measure, deepened that partnership on key national security interests, and he has been a key supporter of American economic interests.

He has aggressively backed the Westinghouse Company's pursuit of a \$27 billion contract to construct civilian nuclear reactors in the Czech Republic, and that would mean thousands of jobs here in the United States. The Chamber of Commerce has called him one of the most effective ambassadors to hold this post. He has assisted the Czech Government with its plans to develop a center for nuclear safety in Prague, and he has been an eloquent advocate of urging Prague to retain the 600 soldiers they have sent from the Czech Republic to Afghanistan, making it one of our most supportive NATO allies. He has supported the Czech Government's efforts to pool defense resources with neighbors, and he has supported and enhanced the Czech efforts to establish a NATO Center of Excellence for helicopters.

Finally, he has enthusiastically supported the Czech leadership's efforts to promote the stabilization and democratization of six states between the EU and Russia—Ukraine, Georgia, Belarus, Armenia, Moldova, and Azerbaijan.

I think that in every respect Ambassador Eisen has earned the respect of the Senate. He understands the culture of the Czech Republic. He speaks the language, which is a critical asset for our ambassadors in any country in any part of world. And as was mentioned by the Senator from Connecticut, he is the son of a Holocaust survivor from the former Czechoslovakia and, believe me, he understands the history of that part of the world and that country in a very personal way.

I might also comment that the country's leaders trust him. National Review this week said that his efforts have been publicly recognized by innumerable Czech officials, including the leading transatlanticists: Prime Minister Petr Necas, Foreign Minister Karel Schwarzenberg, and Defense Minister Sasha Vondra.

I hope our colleagues today will recognize that he is exactly the right person we need in Prague at this time.

Now let me speak, if I may, to Ambassador Aponte.

I would hate to see the Senate take this good person and make her a part of the political back and forth that has consumed this city and to deny her the right to the full appointment as ambassador, given the outstanding job she has done in that capacity.

Let's talk about the accomplishments, rather than talk about something from 1990 that, frankly, has been vetted several times not just by the committees in her appointments but by the professionals in the national security establishment of the United States who have three times—not once but three times—given her national security clearances at the highest level.

It seems to me we should recognize that she has done a spectacular job of

negotiating an agreement with the Salvadoran Government to open a new jointly funded electronic monitoring center to fight transnational crime. She has helped secure the deployment of Salvadoran troops to Afghanistan—the only country in South America and Latin America to be doing so, and I think that is no small accomplishment. It is clear she has gained the respect of the Salvadoran Government.

The Foreign Relations Committee has received many letters in support of her nomination, including one signed by eight former foreign ministers and 18 members of the Salvadoran Congress.

We heard the Senator from South Carolina a few moments ago say that he wanted somehow to get additional information. I think the Senator from South Carolina knows I have bent over backward to try to help provide that information.

The first time she was nominated, two members of our committee were permitted to look at the FBI report, and we designated Senator MENENDEZ and Senator BARRASSO. They looked at it, and there was nothing in it that struck either of them as restraining people from being able to vote for her.

Then she was a recess appointment, because Senator DEMINT at that time objected to the nomination. And subsequently, with this nomination now, we were again appointing two people to see the FBI record. On this occasion we bent the rules, and both Senator RUBIO and Senator DEMINT were allowed to look at the FBI record.

Subsequent to that we went through a process of trying to schedule the nomination. Senator LUGAR and I had agreed we would try to do so. So Senator DEMINT reviewed the background file on November 3; Senator RUBIO reviewed it on November 7. Her nomination hearing was held on November 8, and her nomination was put on the agenda for the November 15 committee business meeting. The day of that business meeting—not before it—the day of the meeting, I received a request that her nomination be held over until the next business meeting. I honored that request and, indeed, we held it over. That same day I sent a letter to the members of the Foreign Relations Committee saying that the next business meeting would be rescheduled for 2 weeks later, which was the Tuesday after Thanksgiving, November 29.

Then late in the Thanksgiving recess, I received a letter asking that it be deferred indefinitely. The stated reason was to permit the committee to hold a closed-door hearing in which we could examine whether the FBI properly conducted its investigation relating to Ms. Aponte—not for her nomination now, not for her nomination a few months ago or last year, but looking into what the FBI did or didn't do in the 1990s.

I understand that everybody is busy. We all have a lot to do around here. But to wait until the 11th hour to ask for a hearing of that sort is, frankly,

puzzling. And carrying out an investigation of the FBI is no small matter. To suggest that on the several occasions she has received a top secret clearance somehow the FBI or the CIA or some other entity in our intelligence community bent under political pressure is insulting to them. And believe me, if that were true, we would have been reading about it on the front pages of the Washington Post or New York Times or all the papers a long time ago.

Let me recap. The background file was reviewed on November 3. No request for a closed hearing. Not during the November 8 nomination hearing was there a request for a closed hearing. Not in the written request on November 15 for a holdover was there a request for a closed hearing. And even after the Foreign Relations Committee voted out this nomination, I bent over backward to try to help Senator DEMINT be able to get the answers to his questions, and the White House said they would make available to him a briefing at the time of his choosing. That request was never responded to.

I ask unanimous consent to have printed in the RECORD the letter from the White House Director of Legislative Affairs.

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

THE WHITE HOUSE,
Washington, DC, December 9, 2011.

Hon. JOHN F. KERRY,
Chairman, Senate Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KERRY: I write to update you on our efforts to provide background information to members of the Senate Foreign Relations Committee in connection with their review of the nomination of Mari Carmen Aponte to be Ambassador to El Salvador. Ms. Aponte was originally nominated for this post in December 2009, and later recess appointed in August 2010. She was re-nominated to this position in February 2011.

Before detailing our most recent efforts to provide information to the Committee, we believe it is useful to describe our standard practice in this area and detail the substantial steps that have been taken to date. As you know, it has been the practice, for many years and through previous administrations, to balance between protecting highly sensitive materials and accommodating a legitimate need to access relevant information about pending nominees. In this case, we have pushed that balance far in the direction of disclosure to several Committee members.

It is the standard practice of the White House to make background investigations of nominees before your Committee available, upon request, for review by the Chair and Ranking Member, or their designees, only. Former Counsel to the President, Robert F. Bauer, explained the basis for this longstanding practice in a March 17, 2010 letter to Senator and Committee Ranking Member Lugar, “[o]ver many years and multiple Administrations, this policy has successfully struck the appropriate balance between protecting the confidentiality of highly sensitive materials and accommodating the Senate's legitimate need to access relevant information about pending nominees.”

In 2010, when Ms. Aponte's nomination was first under consideration, both you and Senator Lugar designated other members of the

Committee—Senators Menendez and Barrasso—to review Ms. Aponte's background investigation in advance of her confirmation hearing. The White House provided those briefings in March 2010. At that time, Senator DeMint made his first request to be briefed on the background investigation despite standard practice limiting that review to only two members of the Committee. Accordingly, Mr. Bauer denied the request.

Earlier this year, as the Committee considered Ms. Aponte's nomination for the second time, the Committee made the unusual request to have the background investigations made available for re-inspection. The White House in good faith accommodated this request. Senator Lugar designated his review to Senator Rubio, and you allowed Senator Menendez to designate your review to Senator DeMint. The White House provided the briefing to Senator DeMint on November 3, and to Senator Rubio on November 7. Despite this briefing, during the November 29 Committee Business Meeting, Senator DeMint stated that he still had questions regarding Ms. Aponte's background investigation. In a further display of good faith, you committed to working with the Administration to address Senator DeMint's concerns.

To this end, the White House has worked in close coordination with the State Department to arrange an additional briefing for Senator DeMint. The proposed briefing would have been conducted by Under Secretary Pat Kennedy, Assistant Secretary of Diplomatic Security Eric Boswell, and Donald Reid, who is Senior Coordinator for Security Infrastructure at the Bureau of Diplomatic Security. These three career State Department officials share the ultimate responsibility for conducting background investigations of candidates for Ambassadorial positions and issuing security clearances for such officials. Senator DeMint has to date declined this proposed briefing.

We are confident that the extraordinary steps that we have taken in this case have afforded Committee members the ability to thoroughly evaluate Ms. Aponte's nomination. Yet every accommodation has been met with a new demand. We are not prepared to make further briefings beyond what has already occurred and been offered. We appreciate your continued work on the timely consideration and confirmation of Administration nominees. Please let me know if I can provide additional information.

Sincerely,
ROBERT L. NABORS II,
Assistant to the President and
Director of the Office of Legislative Affairs.

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

Mr. KERRY. Mr. President, fair is fair around here. I do not think this nominee ought to be the victim of a prolonged delay process. She has done the job well. She deserves to be sent back. I hope colleagues will not filibuster her nomination today.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

Harry Reid, Barbara Boxer, Patrick J. Leahy, Patty Murray, Richard J. Durbin, Kent Conrad, John D. Rockefeller IV, Jeff Bingaman, Tim Johnson, Daniel K. Inouye, Debbie Stabenow, Robert P. Casey, Jr., Max Baucus, Charles E. Schumer, John F. Kerry, Mark Udall, Michael F. Bennet.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the nomination of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic shall be brought to a close?

The yeas and nays are mandatory under the rule.

Mr. KERRY. Mr. President, I ask unanimous consent, before the clerk calls the roll, that before the Aponte vote there be 2 minutes of debate.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Oregon (Mr. MERKLEY), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mr. CORNYN), the Senator from Missouri (Mr. BLUNT), the Senator from North Carolina (Mr. BURR), the Senator from Oklahoma (Mr. COBURN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Nevada (Mr. HELLER), the Senator from Illinois (Mr. KIRK), the Senator from Utah (Mr. LEE), the Senator from Kansas (Mr. MORAN), and the Senator from South Dakota (Mr. THUNE).

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

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

The yeas and nays resulted—yeas 70, nays 16, as follows:

[Rollcall Vote No. 226 Ex.]

YEAS—70

Akaka	Franken	McCain
Alexander	Gillibrand	McCaskill
Ayotte	Hagan	Menendez
Begich	Harkin	Murkowski
Bennet	Hatch	Murray
Bingaman	Hoeven	Nelson (NE)
Blumenthal	Hutchison	Nelson (FL)
Boxer	Inhofe	Portman
Brown (MA)	Inouye	Pryor
Brown (OH)	Isakson	Reed
Cantwell	Johnson (SD)	Reid
Cardin	Kerry	Rockefeller
Carper	Klobuchar	Sanders
Casey	Kohl	Schumer
Chambliss	Kyl	Sessions
Coats	Landrieu	Shaheen
Collins	Lautenberg	Shelby
Conrad	Leahy	Snowe
Coons	Levin	Stabenow
Corker	Lieberman	Tester
Durbin	Lugar	
Feinstein	Manchin	

Toomey
Udall (CO)

Udall (NM)
Warner

Webb
Whitehouse

NAYS—16

Barrasso
Boozman
Cochran
Crapo
DeMint
Enzi

Grassley
Johanns
Johnson (WI)
McConnell
Paul
Risch

Roberts
Rubio
Vitter
Wicker

NOT VOTING—14

Baucus
Blunt
Burr
Coburn
Cornyn

Graham
Heller
Kirk
Lee
Merkley

Mikulski
Moran
Thune
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 70, the nays are 16. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the question is, Will the Senate advise and consent to the nomination of Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic?

The nomination was confirmed.

The PRESIDING OFFICER. There will now be 2 minutes of debate prior to the next vote.

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, Mari Carmen Aponte is an excellently qualified Latina who is being politically discriminated against despite a record of accomplishment for the United States in El Salvador, which is universally recognized as extraordinary, from getting Salvadoran troops to fight alongside us—the only Latin American country to do so—to creating a new monitoring center to fight transnational crime. To suggest that the FBI and diplomatic security would give her not one but two top secret clearances that were not merited is the ultimate insult to those agencies. It is simply wrong to use alleged nameless, faceless accusers to falsely impugn her reputation.

I urge my colleagues to allow an up-or-down vote on her nomination and to vote for cloture so we can get to that vote to let this qualified Latina continue to work on behalf of the United States and El Salvador as she has successfully done.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. DEMINT. Mr. President, all of us regret when there is a situation where one of us has to oppose a nomination of a President, and 1,198 nominations have gone through without being contested. But this is one that rises to the level of concern.

Republicans have been asking questions about this nominee for months—in fact, much longer than that—going back to why she refused to take a lie detector test, why she withdrew her name when she was first nominated for ambassador under Clinton, and why the files have not been properly updated. We have asked the White House for private meetings with the FBI and CIA to give us updated knowledge of what happened in this circumstance so we

can make a good decision. But there was never an offer to do that. We had offers of low-level folks to come talk only to me, not to Republicans on the committee. But there are enough questions here for honest answers, and we have not gotten them.

I encourage my colleagues to vote against this nomination.

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

Mr. KERRY. Do we have any time remaining?

The PRESIDING OFFICER. No time remains.

CLOTURE MOTION

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Mari Carmen Aponte, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

Harry Reid, John F. Kerry, Barbara Boxer, Patrick J. Leahy, Patty Murray, Richard J. Durbin, Kent Conrad, John D. Rockefeller IV, Jeff Bingaman, Tim Johnson, Robert Menendez, Daniel K. Inouye, Max Baucus, Charles E. Schumer, Mark Udall, Michael F. Bennet, Al Franken.

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

The question is, Is it the sense of the Senate that debate on the nomination of Mari Carmen Aponte, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Oregon (Mr. MERKLEY), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mr. CORNYN), the Senator from Missouri (Mr. BLUNT), the Senator from North Carolina (Mr. BURR), the Senator from Oklahoma (Mr. COBURN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Nevada (Mr. HELLER), the Senator from Illinois (Mr. KIRK), the Senator from Utah (Mr. LEE), the Senator from Kansas (Mr. MORAN), and the Senator from South Dakota (Mr. THUNE).

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

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

The yeas and nays resulted—yeas 49, nays 37, as follows:

[Rollcall Vote No. 227 Ex.]

YEAS—49

Akaka	Franken	Murray
Begich	Gillibrand	Nelson (FL)
Bennet	Hagan	Pryor
Bingaman	Harkin	Reed
Blumenthal	Inouye	Rockefeller
Boxer	Johnson (SD)	Sanders
Brown (MA)	Kerry	Schumer
Brown (OH)	Klobuchar	Shaheen
Cantwell	Kohl	Stabenow
Cardin	Landrieu	Tester
Carpenter	Lautenberg	Udall (CO)
Casey	Leahy	Udall (NM)
Collins	Levin	Warner
Conrad	Lieberman	Webb
Coons	Manchin	Whitehouse
Durbin	McCaskill	
Feinstein	Menendez	

NAYS—37

Alexander	Hoeben	Portman
Ayotte	Hutchison	Reid
Barrasso	Inhofe	Risch
Boozman	Isakson	Roberts
Chambliss	Johanns	Rubio
Coats	Johnson (WI)	Sessions
Cochran	Kyl	Shelby
Corker	Lugar	Snowe
Crapo	McCain	Toomey
DeMint	McConnell	Vitter
Enzi	Murkowski	Wicker
Grassley	Nelson (NE)	
Hatch	Paul	

NOT VOTING—14

Baucus	Graham	Mikulski
Blunt	Heller	Moran
Burr	Kirk	Thune
Coburn	Lee	Wyden
Cornyn	Merkley	

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 37. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion is entered.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Texas.

RISK-BASED SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES ACT

Mrs. HUTCHISON. Mr. President, I come to the floor to discuss and pass the Risk-Based Security Screening for Members of the Armed Forces Act.

How many times have you been at an airport screening line, you are getting ready to go through the machines that are going to determine you are safe to travel and standing right there in the line is a man or woman in their military fighting gear—their camouflage and their combat boots—and they are having to take off their combat boots,

many times in their 2-week R&R period between their stints in Afghanistan or Iraq, and you think: Oh, my gosh. It is unbelievable that our military people—who are putting their lives on the line, who are sacrificing so much—are having to go through a procedure that does not have a commonsense feel about it.

Last week, Senator ROCKEFELLER, Senator BURR, and I introduced S. 1954, the Risk-Based Security Screening for Members of the Armed Forces Act. The bill was a modification of the House companion bill that was recently passed by Representative CRAVACK from Minnesota in a unanimous decision by the House.

It requires the TSA, the Transportation Security Agency, to create a system to speed members of our uniformed services through airport security.

I would also like to thank Senators LIEBERMAN and COLLINS for their input on this piece of legislation. We have all worked hard to move this bill through quickly, and it is the House bill we will be taking up very shortly with the modifications I have mentioned.

The bill establishes a timeline for the Transportation Security Administration and the Department of Defense together to develop and implement a program to establish expedited security screening procedures for military personnel and their families.

I think we can all agree our military men and women make sacrifices for our Nation every day. The least we can do is try to make their lives a little easier when they travel around the country they defend.

I think they have earned the right to at least go to the head of the line or have some kind of trusted passenger status.

Our Armed Forces are comprised of over 1.4 million brave men and women. They are stationed at more than 6,000 military bases worldwide. For all the hardships they endure, I think they deserve to be at the front of the line in some kind of procedure that expedites their security clearance.

Airports, airlines, and TSA recognize this issue, and they want to reduce the delays. Currently, TSA uses the same screening protocols for all passengers.

The TSA has indicated that it would like to improve the process and to move forward to risk-based screening procedures. They certainly have my support and I know that of many Members, if not an overwhelming majority in Congress, to do that.

Mr. Pistole, the head of the Transportation Security Administration, has testified before our Commerce Committee about the risk-based screening procedures they are trying to put in place that will give them a better opportunity to target people who are more at risk or more under suspicion, while letting frequent flyers and people in the military go through on an expedited basis.

I would say the first identifiable group to get risk-based screening proc-

esses should be those who are fighting this war, those with boots on the ground. Members of our military and their families traveling on orders and in uniform should benefit from these new rules. In a time of limited resources, the establishment of procedures to expedite the screening of a pool of travelers who are most certainly our trusted travelers would better allow the TSA to focus their attention on areas of real threats.

Earlier this year, the House passed Congressman CRAVACK's bill unanimously, just a couple of weeks ago. I hope our quick and unanimous action will allow the House to quickly reconsider the modified measure and get the bill signed into law as soon as possible.

As we are going into this traveling season—we have been through Thanksgiving, and we are now approaching Christmas. The bill is not going to be implemented by this season. They cannot do it in 2 weeks. But surely by the next holiday season, our trusted travelers, the members of our military and their families, will be able to have this expedited procedure. I hope that as they are traveling in this year's rush through the processes to get home to their loved ones, they will know we are working on something that will make their lives easier and expedite their travels while they are home on leave from fighting the war that is protecting our freedoms and our way of life.

Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 1801 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (H.R. 1801) to amend title 49, United States Code, to provide for expedited security screenings for members of the Armed Forces.

Without objection, the Senate proceeded to consider the bill.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, and I urge passage of the bill, as amended.

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

The amendment (No. 1458), in the nature of a substitute, was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Risk-Based Security Screening for Members of the Armed Forces Act".

SEC. 2. SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Section 44903 of title 49, United States Code, is amended by adding at the end the following:

"(m) SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.—

"(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with

the Department of Defense, shall develop and implement a plan to provide expedited security screening services for a member of the armed forces, and, to the extent possible, any accompanying family member, if the member of the armed forces, while in uniform, presents documentation indicating official orders for air transportation departing from a primary airport (as defined in section 47102).

“(2) PROTOCOLS.—In developing the plan, the Assistant Secretary shall consider—

“(A) leveraging existing security screening models used to reduce passenger wait times;

“(B) establishing standard guidelines for the screening of military uniform items, including combat boots; and

“(C) incorporating any new screening protocols into an existing trusted passenger program, as established pursuant to section 109(a)(3) of the Aviation and Transportation Security Act (49 U.S.C. 114 note), or into the development of any new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of individuals traveling in air transportation.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall affect the authority of the Assistant Secretary to require additional screening of a member of the armed forces if intelligence or law enforcement information indicates that additional screening is necessary.

“(4) REPORT TO CONGRESS.—The Assistant Secretary shall submit to the appropriate committees of Congress a report on the implementation of the plan.”

(b) EFFECTIVE DATE.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall implement the plan required by this Act.

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

The bill (H.R. 1801), as amended, was read the third time and passed.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table and that any statements related to the measure be printed in the RECORD.

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

Mrs. HUTCHISON. I am very pleased we have been able to pass this bill for the expedited travel procedures for our military personnel. The TSA will have about 180 days working with the Department of Defense to get procedures in place to do this.

I hope our military people, wherever they are in the world, know how much America appreciates their service. We know they are fighting for our way of life to prevail for our children and future generations.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Ohio.

Mr. BROWN of Ohio. I echo the words of the senior Senator from Texas in support of our men and women who might be home on leave, might have been sent somewhere on Active Duty, that this is the least we can do.

MORNING BUSINESS

Mr. BROWN of OHIO. Mr. President, I ask unanimous consent that the Sen-

ate proceed to a period of morning business until 7:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

CHINA POLICY

Mr. BROWN of Ohio. Mr. President, 10 years ago this month—10 years ago actually tomorrow, I believe—the People's Republic of China officially joined the World Trade Organization. American businesses, we were told, would gain new access to Chinese markets through the removal of trade barriers, through increased transparency, through more stringent protection of intellectual property rights.

China promised to follow the rule of law, to reform its legal system, and, in turn, would gain new access to global markets. At the time of joining the World Trade Organization, China made a number of promises. Chinese leaders pledged to reduce trade barriers and open markets. They promised to increase transparency, protect intellectual property rights, and reform their legal system.

Supporters of the People's Republic of China, including a strong majority, unfortunately, of Members of this body and a much thinner majority in the House of Representatives—other supporters of the People's Republic of China were most of America's, almost all of America's largest corporate CEOs—argued that the WTO membership would bring human rights and freedom and the rule of law to China.

Now 10 years later we see a very different picture, a picture of a number of Members of the House in those days and some Members of the Senate and some opponents to allowing China into the World Trade Organization. We have seen something very different. American workers have seen millions of jobs shipped to China. Factories in places such as Youngstown and Charleston and Huntington and Dayton have moved to Wuhan and Shenzhen and Shanghai, with final products sold back to the United States.

Think about this. The business plan of a number of American corporations is to shut down production in Mansfield, OH, and in Zanesville, OH, and move that production to Beijing, China, set up companies there, and ship products back to the United States. To my knowledge, never in history has there been a country where such a huge number of companies have set up that business plan. Think about that—shut down production in the country where you are located, lay off workers who have made you a successful company, hurt a community by closing down that plant, doing terrible damage to the schools, to the police departments, to the city services and all of that, and move your production to another country because you can work there more cheaply and sell products back to the United States. To my knowledge—and I

could be mistaken about this, but nobody has ever shown me otherwise—to my knowledge, never in world history has that been the business plan for so many companies.

American manufacturers that stay here have been undermined by a flood of cheap Chinese imports priced artificially low.

When a large corporation moves to China, so often that corporation's supply chain—the tool and die shop, tool and die maker, a machine shop—a small manufacturer that makes components and that sells to the larger company does not have the wherewithal to follow it to China, so they lose one of their biggest customers.

Those American manufacturers that stay here have been undermined by a flood of cheap Chinese imports priced artificially low. Some of those Chinese imports came from American companies that moved overseas to China.

Chinese citizens so often face poor work conditions, continual human rights violations. The country's sole Nobel Peace Prize winner is languishing in prison.

The big winners? The big winners are the multinational corporations here that have outsourced jobs, and the other big winner is the Chinese Communist Government and the apparatchiks they have enriched. Think about that. The big winners in this China trade policy are large American corporations that have outsourced jobs to China and the Chinese Communist Party, which apparently seems to be their allies in this, and the people in the Chinese Communist Party, the high-ranking apparatchiks.

So while American companies that stay here and American workers are following World Trade Organization rules intended to provide a common set of laws to ensure a level playing field for global trade, the Chinese are gaming the system. It is clear that China does not live up to its promises, does not live up to the unrealistic expectations of its supporters.

Far from becoming freer, the Chinese people are burdened with limited rights to basic freedoms of speech, religion, and assembly. I can't count the number of CEOs whom I saw walk the Halls—I was in the House of Representatives—of Congress and say: You know, if we pass PNTR, we are going to see freedom, all of this capitalism in China. All of these jobs in China are going to bring freedom—freedom of speech, freedom of religion, freedom of assembly in China.

No, it has enriched the country of China, to be sure. It has especially enriched the Communist Party, enriched the People's Liberation Army, enriched some of the capitalists in China in this Communist Party system. And it is getting worse. From the harsh crack-down on human rights lawyers and activists after the Arab Spring in the Middle East, to the brutal policies in Tibet that have led to a recent wave of self-immolations—imagine the depth of

feeling and passion and hopelessness and anger at an oppressive government that people who have such strong feelings would actually set themselves on fire in protest. From the crackdown on human rights lawyers, to the brutal policies in Tibet, the Chinese Community Party shows no sign of easing its grip on the Chinese people. Not only did their membership—their joining the WTO—not bring freedom and democracy to China, it did not bring fair trade either.

China has flouted WTO rules. China has gamed the system to its advantage. While China has chosen to comply with some WTO rules, overall the list of China's WTO violations is a long one: rampant intellectual property theft, massive subsidies for China's exports, hoarding of rare earths and other raw materials. China has refused to commit to the WTO's Agreement on Government Procurement.

I have stood here, as you have seen, Mr. President, in your time in the Senate, arguing for "Made in America" language so that when taxpayer dollars are spent buying products, those products should be made in America, paid for by U.S. taxpayers. I have heard conservative Washington politicians defending China, for all intents and purposes, saying: No, that would create a trade war, even though China will not sign on to an agreement on government procurement, which is exactly what their "Made in China" policy is all about. These violations not only show China's lack of respect for the rule of law, they also cost American jobs, and they also tend to stymie our economic growth.

American intellectual property-intensive firms alone have lost some \$50 billion to intellectual property rights violations. Those same firms are reporting that better intellectual property enforcement could lead to almost 1 million new jobs. Some of the worst hit companies are in my State, struggling to compete against a country that manipulates its currency and subsidizes its manufacturers.

Given our companies' well-founded fear of retaliation by Chinese regulators and companies if they speak up, we in government must give voice to their concerns. Let me explore that for a minute.

When we have launched—typically a labor union in the United States will launch a petition for a trade complaint, if you will, alleging violations by China of trade rules. Often the American company where these workers work is unwilling to join that petition. Why? Because they do business in China, and they know China will, in some cases, exact some kind of revenge against them. So our companies are not willing to stand up to the Chinese because they know what the Chinese will do when they are doing business in China. So it is up to us, as these companies' representatives, as these workers' representatives, as these community representatives, to stand up.

Probably the most damaging of China's violations is its continual manipulation of its currency. By deliberately holding down the value of its currency to boost exports, China is not only violating WTO commitments, they have built the largest trading surplus in history to the detriment of other leading trading partners.

The Senate fought back this fall by passing the Currency Exchange Rate Oversight Reform Act. I authored this legislation with a bipartisan group of Senators—Senator SNOWE from Maine, a Republican; Senator SCHUMER from New York, a Democrat; Senator GRAHAM of South Carolina, a Republican; Senator SESSIONS of Alabama, a Republican; Senator STABENOW of Michigan, a Democrat; Senator CASEY of Pennsylvania, a Democrat, and several others. This bill is the largest bipartisan bill that passed the Senate this year. It passed with 63 votes—joined, in fact, by the junior Senator from my State. Senator PORTMAN, former Trade Representative in the Bush administration, voted for this bill. This bill would crack down on China currency manipulation and provide an opportunity for Republicans and Democrats to come together to put American jobs and American workers first.

They said it represented the largest bipartisan jobs bill passed this session of Congress.

Currency manipulation provides an unfair subsidy to Chinese exports—of up to 40 percent, according to most economists. Almost all economists agree it is at least 25 percent. C. Fred Bergsten, an economist with the Peterson Institute for International Economics, who is fairly conservative, has asserted that China's intervention in currency markets and other subsidies they have provided makes up the most protectionist policy of any major country since World War II.

American politicians and CEOs are always afraid of standing up to the Chinese. They say we will look protectionist or that it looks as though we are starting a trade war. When Fred Bergsten, a mainstream economist, says that what China does is the most protectionist policy of any country since World War II, it is time we stood up and forced them to play fair. That is not a trade war. That comes from China. They have been waging a trade war against the United States for 10 years. That is why we have seen our budget deficit grow from double figures a decade ago to more than a half billion dollars a day, day in and day out, 7 days a week.

Additionally, American manufacturers seeking to sell products to China—our Nation's fastest growing export market—are hit with the same percentage in what amounts to an unfair tariff. If a company in Brunswick, OH, wants to sell products in China, they are hit with a 25-percent or larger currency tax and currency tariff. So the product costs 25 percent more, at least. When a Chinese company wants to sell

a product in Brunswick, competing with that company, they get a 25-percent bonus or advantage. That is hardly a way to practice fair trade.

A report released this fall estimates that our trade deficit with China, exacerbated by Chinese currency manipulation, has caused the loss of more than 2.8 million American jobs in the past 10 years—with two-thirds of the lost jobs in the manufacturing industry. The Presiding Officer, when he goes to Altoona, Bethlehem, or if he comes to Dayton or Toledo, sees the kind of damage this trade policy has done to American manufacturing. All of our problems in manufacturing are not because of our relationship with China and because they have gamed the system, but millions of jobs here have been lost and undermined because of China's gaming the system.

The first President Bush said a billion dollar trade deficit or surplus is equivalent to 13,000 jobs. So when we have a greater than \$200 billion persistent year-in and year-out trade deficit with China, that means we sell \$200 billion worth of fewer goods to them than they sell to us. Do the math. It is 13,000 jobs per billion dollar budget deficit.

Addressing currency manipulation through the trade remedies included in our bill, cosponsored by Senators GRAHAM, SNOWE, SCHUMER, SESSIONS, HAGAN, CASEY, and others, would provide immediate relief to American job creators. A report released earlier this year showed that addressing currency manipulation would support the creation and retention of more than 2 million American jobs, without requiring any government spending. That is why this is such an important jobs bill, because it is not spending any taxpayer dollars, it is just saying level the playing field for our companies and our workers dealing with China.

After years of China gaining benefits of WTO membership without adhering to its rules—and they promised they would under the rule of law 10 years ago this week when they joined the WTO—after years of them getting membership and getting the benefits of WTO membership, without agreeing to its rules, it is time for Congress and the administration to act in our Nation's interest. The Congress should pass a bill and the President should sign the bill.

American workers and American manufacturers can compete with anyone. But they cannot compete on a playing field that is far from level as long as we continue to let China do what it wants without repercussions.

Over the last 10 years, China has sought to sidestep and reshape the WTO to benefit China at our expense. That is not competing, that is cheating. We must act while we still have a chance.

I yield the floor.

RECOGNIZING NATIONAL NURSES WEEK MAY 6-12, 2011

Mr. PORTMAN. Mr. President, I rise today to recognize the contributions of our Nation's nurses and to thank them for their service to patients across this Nation. Nurses are among the largest group of health professionals and are on the front lines of our healthcare delivery system. Each day people with different health needs are served by legions of educated, qualified, and professional nurses.

Our Nation's nurses help to ensure that Americans receive quality health care and that our Nation's public health infrastructure remains strong. I recently had the opportunity to meet with nurses who visited our Nation's capital through the Nurses in Washington Internship Program. This group is made up of a coalition of nursing organizations united to promote a strong voice in advocating for the nursing community.

In closing, I ask my colleagues to join me in applauding the nurses in my home State of Ohio and across the country for their service to the American public.

ADDITIONAL STATEMENTS

RECOGNIZING THE CENTRAL ARKANSAS VETERANS HEALTHCARE SYSTEM

• Mr. BOOZMAN. Mr. President, today I honor the Central Arkansas Veterans Healthcare System, CAVHS, of Little Rock, AR. This health care provider is the recipient of the Secretary of Veterans Affairs' Robert W. Carey Performance Excellence Award, recognizing VA organizations for the implementation of management practices that produce the highest levels of performance and service to our Nation's veterans.

This well-deserved honor recognizes the outstanding service this facility provides to Arkansas veterans. CAVHS has an outstanding record of success throughout its rich 90-year history. In recent years, CAVHS has earned Robert W. Casey Awards in 2009 and 2010 in addition to 2011.

This health care delivery system includes a 2-campus medical center with 280 operating hospital beds, a 152-bed nursing home care unit, and a 119-bed domiciliary. CAVHS offers a variety of inpatient and outpatient health care amenities, spanning from disease prevention, primary care, extended rehabilitative care, and complex surgical procedures. It serves as an educational facility for more than 1,500 students and residents enrolled in more than 65 educational programs.

I am proud of the Central Arkansas Veterans Healthcare System for its dedication to providing quality care to Arkansas veterans and encourage continued efforts and services to these brave men and women. I urge my colleagues to join me in congratulating

this facility for the outstanding work it does and will continue to do to ensure the well-being of our veteran community.●

RECOGNIZING THE VETERANS HEALTH CARE SYSTEM OF THE OZARKS

• Mr. BOOZMAN. Mr. President, today I honor the Veterans Health Care System of the Ozarks, VHOS, in Fayetteville, AR. This health care provider is the recipient of the Secretary of Veterans Affairs Robert W. Carey Trophy Award, the highest recognition for quality achievement and service to our Nation's veterans. Each year, this award is presented to no more than two of the VA's highest performing organizations for quality achievement.

This well-deserved honor recognizes the exemplary quality of service it is providing to Arkansas veterans. The VHOS has an outstanding track record, winning Robert W. Carey Awards in 2010, 2009, and 2008.

Founded in 1935, the VHOS serves veterans in 23 counties in northwest Arkansas, southwest Missouri, and eastern Oklahoma. In addition to the Fayetteville location, six communities in the region have community based outpatient clinics.

Services at the VHOS include primary care, mental health care, specialty care, women's clinic, pharmacy, social work, surgery, and nutrition services. They are a 72-bed level 2 facility and have a large team of caregivers who can assist veterans whether they are hospitalized, living at home, or transitioning between the two. To accomplish the Veterans Affairs goals of integrity, commitment, advocacy, respect, and excellence, the VHOS works to honor veterans with high-quality health care.

I am proud of the Veterans Health Care System of the Ozarks and its commitment to providing exceptional care to our veterans and encourage continued efforts to improve the health and services offered to these brave men and women. I urge my colleagues to join me in congratulating this facility for the outstanding work it does to care for our veterans who have sacrificed so much for this Nation.●

TRIBUTE TO MR. JERRY LOLLEY

• Mr. JOHNSON of South Dakota. Mr. President, today I recognize the public service of a veterans service officer from South Dakota who is retiring after nearly 40 years of dedicated military and public service to veterans and their families.

Jerry Lolley has served as Meade County veterans service officer since 1992. Jerry's wife Harriet, known as "Granny," and children Grant and Lara have always supported Jerry while he has provided tireless service to thousands of veterans seeking assistance with benefit claims, medals requests, records searches, payment

issues, and health care issues. He has always been a valuable source of needed information for the families of veterans as well.

Military service and an understanding of the needs and issues of our military service personnel and veterans is deeply rooted with Jerry. After spending 2 years at South Dakota School of Mines and Technology, he served in the U.S. Air Force from 1968 to 1988 and retired as an E-7, providing dedicated service as an aircraft mechanic. His father served in General Patton's Army in World War II.

But Jerry's service extends also to the numerous issues impacting veterans and their families. He has been a constant advocate for veterans on Federal, State, and local issues of importance. He monitors Federal legislative issues and has shared valuable insight with me and my staff regarding potential impacts of legislation or VA agency decisions. He has always put the veteran first and foremost in his efforts, especially when it comes to improving health care resources, access, and level of care for veterans. He has also provided valuable insight on educational, spousal, dependent, and burial benefits.

During the Persian Gulf war, Operation Enduring Freedom, and Operation Iraqi Freedom, Jerry has been diligent in providing returning soldiers with important information about deadlines involving access to health care services, assisting soldiers with applications for various benefits, and providing general information to assist in their return home.

My staff and I have always valued Jerry's advocacy for veterans. He is rarely short on opinions on important matters and is quick to offer well-targeted questions toward agency officials to learn the basis for decisions and actions on various issues and even takes great care to request background information to verify or dispel the occasional rumor or misconception that may surface within the veterans community. His steadfast dedication to veterans has made him a great public servant and his service will be greatly missed.

I wish Jerry and his family all the best in his retirement, and it is my hope that he can find other options to continue serving veterans in the future. I congratulate him on his military service and his great public service career.●

RECOGNIZING CONCORDIA PUBLISHING HOUSE

• Mrs. McCASKILL. Mr. President, I rise today to recognize and congratulate St. Louis-based Concordia Publishing House on their 2011 Baldrige Award and overall commitment to excellence.

Founded in 1869, Concordia Publishing House, CPH, serves as the publishing arm of the Lutheran Church-Missouri Synod, LCMS, and provides

members of the LCMS community with resources for Christian worship and education. Throughout its history, CPH has grown both in size and scope while providing the very best products and services to customers around the world.

CPH's successful customer-focused business model distinguishes their business as one of the best in the industry and has earned noteworthy praise. With a near-perfect customer satisfaction score, CPH's customer call center was ranked a center of excellence by a Purdue University study for 3 consecutive years. CPH pairs their outstanding customer care with state-of-the-art products and technology. From being one of the first St. Louis companies to utilize an IBM online data filing system, to delivering eProducts on iPhones and iPads, the company has always embraced the latest technology in service of their clients. CPH's rank as one of the "Best Christian Workplaces in the United States" in 2009, 2010, and 2011, illustrates their focus on employee satisfaction and well-being.

Named after the 26th U.S. Secretary of Commerce, Malcolm Baldrige, the Baldrige Award was established by Congress in 1987 to enhance the competitiveness and performance of U.S. businesses. It is the highest Presidential honor for business performance. Recipients serve as role models not only for their peers in the nonprofit and business sectors but for every American organization that strives for a higher standard of performance and overall excellence.

The 2011 Baldrige Award winners were selected from a field of 69 applicants. Applicants were evaluated based on seven areas defined by the Baldrige Criteria for Performance Excellence: leadership; strategic planning; customer focus; managements, analysis and knowledge management; workforce focus; operations focus; and results.

Mr. President, 142 years after its founding, Concordia Publishing House continues to fulfill their mission to provide the LCMS community with the best possible products and services. Concordia Publishing House is an exemplary model of a customer-focused, quality-driven business that provides important resources to its community. It is my pleasure to recognize Concordia Publishing House for their well-deserved 2011 Baldrige Award.●

MESSAGE FROM THE HOUSE

At 3:23 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1633. An act to establish a temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter, to limit Federal regulation of nuisance dust in areas in which such dust is regulated under State, tribal, or local law, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1633. An act to establish a temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter, to limit Federal regulation of nuisance dust in areas in which such dust is regulated under State, tribal, or local law, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on December 9, 2011, she had presented to the President of the United States the following enrolled bills:

S. 535. An act to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes.

S. 683. An act to provide for the conveyance of certain parcels of land to the town of Mantua, Utah.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-4234. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Saflufenacil; Pesticide Tolerances" (FRL No. 9325-2) received during adjournment of the Senate in the Office of the President of the Senate on December 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4235. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Isoxaflutole; Pesticide Tolerances" (FRL No. 8885-8) received in the Office of the President of the Senate on December 6, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4236. A communication from the Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Sudanese Sanctions Regulations" (31 CFR Part 538) received in the Office of the President of the Senate on December 6, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-4237. A communication from the Chief of the Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 2 and 97 of the Commission's Rules to Facilitate Use by the Amateur Radio Service of the Allocation at 5 MHz" (FCC 11-171) received in the Office of the President of the Senate on December 5, 2011; to the Committee on Commerce, Science, and Transportation.

EC-4238. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the Commission's seventh annual report on ethanol market concentration; to the Committee on Commerce, Science, and Transportation.

EC-4239. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Special Regulations; Areas of the National Park System,

Yellowstone National Park" (RIN1024-AD92) received in the Office of the President of the Senate on December 7, 2011; to the Committee on Energy and Natural Resources.

EC-4240. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Indiana; Redesignation of Lake and Porter Counties to Attainment of the Fine Particulate Matter Standard" (FRL No. 9499-6) received during adjournment of the Senate in the Office of the President of the Senate on December 2, 2011; to the Committee on Environment and Public Works.

EC-4241. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Ohio and Indiana; Redesignation of the Ohio and Indiana Portions Cincinnati-Hamilton Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter" (FRL No. 9499-7) received during adjournment of the Senate in the Office of the President of the Senate on December 2, 2011; to the Committee on Environment and Public Works.

EC-4242. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Transportation Conformity Rule: MOVES Regional Grace Period Extension" (FRL No. 9499-1) received during adjournment of the Senate in the Office of the President of the Senate on December 2, 2011; to the Committee on Environment and Public Works.

EC-4243. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Use Rules on Certain Chemical Substances; Withdrawal of Two Chemical Substances" (FRL No. 9329-5) received during adjournment of the Senate in the Office of the President of the Senate on December 2, 2011; to the Committee on Environment and Public Works.

EC-4244. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District" (FRL No. 9499-4) received during adjournment of the Senate in the Office of the President of the Senate on December 2, 2011; to the Committee on Environment and Public Works.

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. SCHUMER:

S. 1977. A bill to amend the Fair Labor Standards Act of 1938 to provide that over-the-road bus drivers are covered under the maximum hours requirements; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BLUMENTHAL (for himself and Ms. MIKULSKI):

S. 1978. A bill to amend the Workforce Investment Act of 1998 to provide for community-based job training grants, to provide Federal assistance for community college modernization, and for other purposes; to the

Committee on Health, Education, Labor, and Pensions.

By Mr. CONRAD (for himself and Mr. MORAN):

S. 1979. A bill to provide incentives to physicians to practice in rural and medically underserved communities and for other purposes; to the Committee on the Judiciary.

By Mr. INOUE (for himself, Mr. BEGICH, Mr. WHITEHOUSE, Ms. SNOWE, Ms. MURKOWSKI, and Mr. ROCKEFELLER):

S. 1980. A bill to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 165

At the request of Mr. VITTER, the names of the Senator from Florida (Mr. RUBIO) and the Senator from Nebraska (Mr. JOHANNES) were added as cosponsors of S. 165, a bill to amend the Public Health Services Act to prohibit certain abortion-related discrimination in governmental activities.

S. 309

At the request of Mr. LUGAR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 309, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova.

S. 362

At the request of Mr. WHITEHOUSE, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 362, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 420

At the request of Ms. LANDRIEU, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 420, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 431

At the request of Mr. PRYOR, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 431, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first Federal law enforcement agency, the United States Marshals Service.

S. 453

At the request of Mr. BROWN of Ohio, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 453, a bill to improve the safety of motorcoaches, and for other purposes.

S. 513

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 513, a bill to amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors.

S. 543

At the request of Mr. WYDEN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 543, a bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on cell phone services, providers, or property.

S. 609

At the request of Mr. INHOFE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 609, a bill to provide for the establishment of a committee to assess the effects of certain Federal regulatory mandates.

S. 707

At the request of Mr. DURBIN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 707, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 798

At the request of Mr. TESTER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 798, a bill to provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record, and for other purposes.

S. 968

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 968, a bill to prevent online threats to economic creativity and theft of intellectual property, and for other purposes.

S. 979

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Illinois (Mr. KIRK) were added as cosponsors of S. 979, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 1231

At the request of Mr. LEAHY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1231, a bill to reauthorize the Second Chance Act of 2007.

S. 1236

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1236, a bill to reduce the trafficking of drugs and to prevent human smuggling across the Southwest Border by deterring the construction and use of border tunnels.

S. 1506

At the request of Mr. RUBIO, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1506, a bill to prevent the Secretary of the Treasury from ex-

panding United States bank reporting requirements with respect to interest on deposits paid to nonresident aliens.

S. 1537

At the request of Mr. INOUE, the names of the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from Massachusetts (Mr. KERRY), the Senator from New Mexico (Mr. UDALL) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 1537, a bill to authorize the Secretary of the Interior to accept from the Board of Directors of the National September 11 Memorial and Museum at the World Trade Center Foundation, Inc., the donation of title to The National September 11 Memorial and Museum at the World Trade Center, and for other purposes.

S. 1568

At the request of Mr. ALEXANDER, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1568, a bill to amend section 9401 of the Elementary and Secondary Education Act of 1965 with regard to waivers of statutory and regulatory requirements.

S. 1616

At the request of Mr. MENENDEZ, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1616, a bill to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real property interests, and for other purposes.

S. 1680

At the request of Mr. CONRAD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1680, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1701

At the request of Ms. SNOWE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1701, a bill to amend the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998, and for other purposes.

S. 1763

At the request of Mr. AKAKA, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1763, a bill to decrease the incidence of violent crimes against Indian women, to strengthen the capacity of Indian tribes to exercise the sovereign authority of Indian tribes to respond to violent crimes committed against Indian women, and to ensure that perpetrators of violent crimes committed against Indian women are held accountable for that criminal behavior, and for other purposes.

S. 1773

At the request of Mr. BROWN of Ohio, the names of the Senator from Oregon (Mr. WYDEN), the Senator from New Hampshire (Mrs. SHAHEEN) and the

Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1773, a bill to promote local and regional farm and food systems, and for other purposes.

S. 1866

At the request of Mr. RUBIO, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1866, a bill to provide incentives for economic growth, and for other purposes.

S. 1868

At the request of Mr. MENENDEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1868, a bill to establish within the Smithsonian Institution the Smithsonian American Latino Museum, and for other purposes.

S. 1900

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1900, a bill to amend title XVIII of the Social Security Act to preserve access to urban Medicare-dependent hospitals.

S. 1925

At the request of Mr. LEAHY, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1942

At the request of Mr. KOHL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1942, a bill to amend title 49, United States Code, to improve transportation for seniors, and for other purposes.

S. 1957

At the request of Mr. COBURN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1957, a bill to provide taxpayers with an annual report disclosing the cost of, performance by, and areas for improvements for Government programs, and for other purposes.

S. 1959

At the request of Mr. BURR, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1959, a bill to require a report on the designation of the Haqqani Network as a foreign terrorist organization and for other purposes.

S. 1961

At the request of Mr. REED, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1961, a bill to provide level funding for the Low-Income Home Energy Assistance Program.

S. 1964

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1964, a bill to amend the Internal Revenue Code of 1986 to exempt from the harbor maintenance tax certain commercial cargo loaded or unloaded at United States ports in the Great Lakes Saint Lawrence Seaway System.

S. RES. 252

At the request of Mr. LUGAR, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. Res. 252, a resolution celebrating the 60th Anniversary of the United States-Philippines Mutual Defense Treaty.

S. RES. 310

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the "Year of the Girl" and congratulating Girl Scouts of the USA on its 100th anniversary.

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Res. 310, *supra*.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUE (for himself, Mr. BEGICH, Mr. WHITEHOUSE, Ms. SNOWE, Ms. MURKOWSKI, and Mr. ROCKEFELLER):

S. 1980. A bill to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures; to the Committee on Commerce, Science, and Transportation.

Mr. INOUE. Mr. President, I am pleased to introduce the Pirate Fishing Elimination Act, a bill to implement the international Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated, IUU, Fishing as adopted by the United Nations Food and Agriculture Organization in November of 2009. The agreement is the first binding global instrument focused specifically on combating IUU, also known as pirate fishing, and the United States was a primary participant in its negotiation and was one of its first signatories.

Pirate fishing is a global problem that threatens healthy ocean ecosystems and sustainable fisheries both here and abroad. It is estimated that annual lost revenues from pirate fishing activities may be as much as \$23 billion worldwide and that as much as 40 percent of the total catch for some fish stocks is caught illegally. The impacts of these activities are felt throughout the fishery supply chain, from the fisherman through the consumer, and affect food security and socio-economic stability in many parts of the world. This includes the United States where our own sustainable domestic fisheries may be undermined through unfair competition with illegally caught international product.

The Pirate Fishing Elimination Act, and the underlying international agreement, would combat this threat by establishing an inspection regime that would raise global standards for access to seafood markets to levels similar to those that we set here in the U.S. It would also explicitly prohibit known pirate fishing vessels from entering our ports and from introducing

their tainted goods to our healthy seafood supply chain. As the world's third largest seafood importer, our actions can make a real difference by dramatically increasing the risks and costs associated with pirate fishing. I urge my colleagues to join me in supporting this crucial legislation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1458. Mrs. HUTCHISON (for herself, Mr. ROCKEFELLER, and Mr. BURR) proposed an amendment to the bill H.R. 1801, to amend title 49, United States Code, to provide for expedited security screenings for members of the Armed Forces.

TEXT OF AMENDMENTS

SA 1458. Mrs. HUTCHISON (for herself, Mr. ROCKEFELLER, and Mr. BURR) proposed an amendment to the bill H.R. 1801, to amend title 49, United States Code, to provide for expedited security screenings for members of the Armed Forces; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Risk-Based Security Screening for Members of the Armed Forces Act".

SEC. 2. SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Section 44903 of title 49, United States Code, is amended by adding at the end the following:

"(m) SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.—

"(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Department of Defense, shall develop and implement a plan to provide expedited security screening services for a member of the armed forces, and, to the extent possible, any accompanying family member, if the member of the armed forces, while in uniform, presents documentation indicating official orders for air transportation departing from a primary airport (as defined in section 47102).

"(2) PROTOCOLS.—In developing the plan, the Assistant Secretary shall consider—

"(A) leveraging existing security screening models used to reduce passenger wait times;

"(B) establishing standard guidelines for the screening of military uniform items, including combat boots; and

"(C) incorporating any new screening protocols into an existing trusted passenger program, as established pursuant to section 109(a)(3) of the Aviation and Transportation Security Act (49 U.S.C. 114 note), or into the development of any new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of individuals traveling in air transportation.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall affect the authority of the Assistant Secretary to require additional screening of a member of the armed forces if intelligence or law enforcement information indicates that additional screening is necessary.

"(4) REPORT TO CONGRESS.—The Assistant Secretary shall submit to the appropriate committees of Congress a report on the implementation of the plan."

(b) EFFECTIVE DATE.—Not later than 180 days after the date of enactment of this Act,

the Assistant Secretary shall implement the plan required by this Act.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I wish to announce that the Committee on Energy and Natural Resources will hold a business meeting on Thursday, December 15, 2011 at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the business meeting is to consider pending calendar business.

For further information, please contact Sam Fowler at (202) 224-7571 or Allison Seyferth at (202) 224-4905.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that John Daley, a detailee with the Foreign Relations Committee from the State Department, be granted floor privileges for the consideration of the Eisen and Aponte nominations.

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

UNANIMOUS CONSENT AGREE- MENT—S.J. RES 10 AND S.J. RES 24

Mr. REID. I ask unanimous consent, pursuant to the Budget Control Act of 2011, that following morning business on Tuesday, December 13, the Judiciary Committee be discharged from further consideration of the following joint resolutions proposing a balanced budget constitutional amendment and the Senate proceed to their consideration en bloc: S.J. Res. 10, S.J. Res. 24; further, that the titles of both joint resolutions be amended as follows so they comply with the Budget Control Act of 2011:

“Joint resolution proposing a balanced budget amendment to the Constitution of the United States”; that there be up to 8 hours of debate on the joint resolutions to run concurrently during Tuesday’s session, equally divided between the two leaders or their designees; that when the Senate resumes consideration of the joint resolutions en bloc, on Wednesday, December 14, there be up to 10 minutes of debate equally divided between the two leaders or their designees prior to votes on passage of the joint resolutions in the following order: first, S.J. Res. 24; and, secondly, on S.J. Res. 10; further, that there be 2 minutes, equally divided, between the votes; finally, that there be no amendments, motions or points of order to either joint resolution prior to the votes.

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

MEASURE READ THE FIRST TIME—H.R. 1633

Mr. REID. I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 1633) to establish a temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter, to limit Federal regulation of nuisance dust in areas in which such dust is regulated under State, tribal, or local law, and for other purposes.

Mr. REID. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for the second time on the next legislative day.

ORDERS FOR TUESDAY, DECEMBER 13, 2011

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow morning, Tuesday, December 13, 2011; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; and that following morning business, the Senate proceed to the consideration of S.J. Res. 10 and S.J. Res. 24, under the previous order; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus meetings.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask that it adjourn under the previous order.

There being no objection, the Senate, at 7:23 p.m., adjourned until Tuesday, December 13, 2011, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 12, 2011:

DEPARTMENT OF STATE

NORMAN L. EISEN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM DECEMBER 22, 2010, TO JANUARY 5, 2011.