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No. 12

## House of Representatives

The House was not in session today. Its next meeting will be held on Friday, January 29, 2010, at 12 noon.

## Senate

THURSDAY, JANUARY 28, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado.

### PRAYER

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

Let us pray.

For the beauty of the Earth, robed in the garb of providential love, we raise our morning hymn of praise.

Today, give our Senators vivid vision to know Your will and to follow Your leading. Lord, inspire them to engage in selfless service with courage and compassion, fulfilling their call to be instruments of Your glory. In these challenging times, drive them to their knees for the inner strength that will keep their faith from faltering when pressured. Provide them with the strengthening joys of Your spirit and the newness of life that only You can give.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MICHAEL F. BENNET led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, January 28, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. BENNET 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, there will be a period for the transaction of morning business for 1 hour. The time will be controlled by the two leaders or their designees. Senator SANDERS is going to control 15 minutes of the majority time. We have a half hour. So he will have 15 minutes of that time.

Following morning business, the Senate will resume consideration of H.J. Res. 45, the debt limit legislation, and proceed to a series of votes in relation to the following items: Brownback amendment; Sessions/McCaskill amendment; Reid amendment; Baucus for Reid amendment; and passage of H.J. Res. 45.

Following those votes, there will be 1 hour of debate prior to a cloture vote on the nomination of Ben Bernanke to be Chairman of the Board of Governors of the Federal Reserve. We are going to try to see if we can work with both Democrats and Republicans to have more time to debate prior to a vote on Ben Bernanke. If we can work that out, we will have an extended period of time, whatever Senators want, prior to Mr. Bernanke, and then we would have cloture and perhaps final passage. We don't have that worked out. At least the order before the Senate is that following the series of five votes, there will be an hour of debate prior to a cloture vote on Ben Bernanke.

Mr. President, I see the distinguished Judiciary chairman here. We have a half hour of time, and I will be happy to give to my friend whatever time he desires.

How much time does my friend need? Mr. LEAHY. Ten minutes.

Mr. REID. Ten minutes to the chairman of the Judiciary Committee, PAT LEAHY. I have already indicated Senator SANDERS will have 15 minutes of our time.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction

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



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of morning business for 1 hour, with the time equally divided between the two leaders or their designees, with the Senator from Vermont, Mr. SANDERS, controlling 15 minutes of the majority time.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my good friend from Nevada, the majority leader. Before I speak, I see the distinguished Republican leader. I will reserve my time and allow him to speak, of course.

#### RECOGNITION OF THE MINORITY LEADER

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

#### JOB GROWTH

Mr. MCCONNELL. Mr. President, I thank my friend from Vermont. I hope I will not inconvenience him. I have a very short opening statement. I thank him for giving me the opportunity to make this statement.

As always, we appreciate the President coming to the Capitol last night. I take him at his word when he says he wants to work with us on issues that benefit the Nation and in particular to grow jobs. I would like to speak this morning about two areas in particular that meet the criteria of bipartisan achievements and job growth—agreements to increase our exports and finding more American energy. Those are two areas upon which we ought to be able to find bipartisan agreement.

The President called for increased exports and for the Congress to pass trade agreements that have languished under the current majority in the Senate. Republicans agree with the need to increase trade and with the need to ratify trade agreements with Colombia and other important trading partners that so far have met resistance on the other side of the aisle. We also support passing a sensible bill to help Pakistan establish reconstruction opportunity zones that actually increase trade and do not impose self-defeating restrictions. We agree with the President's call to pass these agreements. We agree that these agreements will lead to more American jobs. The Congress should act on these agreements.

The President also called for producing more American energy. This is an area with a huge opportunity for American jobs that cannot—cannot—be sent overseas. We agree with his call for more clean energy produced here in America. We agree with his call for building more nuclear plants. We agree with his call for increased offshore exploration for oil and gas. We agree with his call for development of clean coal technologies. We should build a new generation of clean nuclear plants in this country. Senate Republicans support building 100 new plants as quickly as possible. We hope Democrats will join us in that effort, particularly now

with the President's call to action. The President could start by moving forward on the nuclear loan guarantee program that was included in the bipartisan 2005 Energy bill. He could also put forward a plan for dealing with the waste that comes from these plants in a safe and secure manner.

The President and I agree on the need to meet in the middle to find bipartisan agreement to grow jobs. I have outlined two specific areas where the President and Republicans in Congress agree. We know that increased American energy, without a new national energy tax, will grow good jobs. We know that increasing markets for our farmers, entrepreneurs, and manufacturers overseas through trade agreements will grow good jobs. We can get these done, and I hope the President will join us in calling on the majority to bring these issues to the floor in the Senate.

One thing we had hoped to hear more about from the President last night was the administration's handling of the attempted Christmas Day bombing. After 9/11, all Americans recognized the need to create and coordinate myriad tools of defense, security, and intelligence to protect us from future attacks. That is why Americans are so troubled by the fact that the administration seems to have lost sight of this essential requirement for national security out of a preoccupation with reading the Christmas Day bomber his Miranda rights. Apparently, there was little, if any, coordination among key components of the administration's national security apparatus on how to treat this terrorist who nearly killed 300 innocent people over Detroit on Christmas Day. Shockingly, the administration then made the hasty decision to treat him as a civilian defendant, including advising him of the right to remain silent, rather than as an intelligence resource to be thoroughly interrogated in order to obtain potentially lifesaving information.

Republicans have issued a letter to Attorney General Holder demanding answers to some of the vital questions that arise out of the administration's handling of this attempted attack. It is critical that Americans have a full and timely understanding of the policy and legal rationale upon which the ill-advised decision surrounding this narrowly averted calamity was made. Until these concerns are addressed, Republicans will continue to raise them on behalf of the American people.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand I have 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. LEAHY. Mr. President, I hope the American people watched and heard President Obama's speech last night and were reassured. I know I was. There are so many things that he covered, I will not try to repeat all of

them. I would like to expand on one of the very important matters he raised. On this, I will wear my hat as chairman of the Senate Judiciary Committee.

The Supreme Court's 5-to-4 decision last week in *Citizens United v. Federal Election Commission*. That decision threatens to allow corporations to drown out the individual voices of hard-working Americans in our elections. By overturning years of work in Congress, years of work by both Republicans and Democrats alike—campaign finance laws, and by reversing a century of its own precedent, the conservative, activist bloc on the Supreme Court reached an unnecessary and improper decision that is going to distort future elections. The *Citizens United* decision turns the idea of government of, by, and for the people on its head. It creates new rights for Wall Street at the expense of Main Street.

Congress, on behalf of the American people, struggled for years to enact campaign finance reform. Virtually every American wanted campaign finance reform. We finally did that in a bipartisan way in the landmark 2002 McCain-Feingold Act overcoming a filibuster and passing it with a bipartisan supermajority. This milestone campaign finance reform strengthened the laws, protecting the interests of all Americans by ensuring a fair electoral process. It was a matter of serious consideration by Congress, and was signed into law by President George W. Bush.

In the 2003 case *McConnell v. the Federal Election Commission*, the United States Supreme Court upheld the key provisions of the McCain-Feingold Act against a First Amendment challenge. That was consistent with 100 years of judicial precedent and law, including a longstanding criminal law prohibiting corporations from contributing to Federal election campaigns. We have long prevented corporate contributions to Federal campaigns, at least since the time of President Teddy Roosevelt. The prohibitions included in the Tillman Act were signed into law in 1907.

Now only 6 years after upholding 100 years of precedent, resolving the question in *McConnell*, and after a number of other Supreme Court opinions upholding these campaign regulations as needed to ensure fairness in elections, a thin majority of the Supreme Court, made possible by President Bush's appointment of Justice Alito, has thrown out important parts of the law, and they have run roughshod over a long line of longstanding Court precedent. This is a threat to the rule of law. It overrules congressional efforts to keep powerful, monied interests from swamping individual voices and interests. This decision puts the special interests of big oil, banks and insurance companies ahead of the interests of the American people, and it risks corrupting our political process. It shows no deference to Congress and no respect for the rule of law as reflected in

the precedents of the Supreme Court. I agree with Justice Stevens, who wrote in his extraordinary dissent in *Citizens United*:

[T]he court's ruling threatens to undermine the integrity of elected institutions across the nation. The path it has taken to reach its outcome will, I fear, do damage to this institution.

At his confirmation hearing, Justice Alito, under oath, testified that the role of the Supreme Court is a limited role. It has to do what it is supposed to do vigilantly but also has to be equally vigilant about not stepping over the bounds and invading the authority of Congress. That was then when he was seeking confirmation. This is now. As Justice Stevens' dissent makes clear, the narrow majority of the Justices, including Justice Alito, substituted their own preferences for those of the duly-elected Congress, despite 100 years of the Supreme Court's own precedents.

This is the most partisan decision since *Bush v. Gore*. That decision by the activist conservative bloc on the Supreme Court intervened in a presidential election. This decision is broader and more damaging in that they have now decided to intervene in all elections. Just as in *Bush v. Gore*, last week, the conservative activists currently on the Supreme Court unnecessarily went beyond the proper judicial role to substitute their preferences for the law. Last week's decision is only the latest example—yet perhaps the most extreme—of the willingness of a narrow majority of the Supreme Court to render decisions from the bench to suit their own ideological agenda.

I believe that the activist conservatives now on the Supreme Court got this decision dramatically wrong as a matter of constitutional interpretation and also common sense. Corporations are not the same as individual American men and women. They do not have the same rights, the same morals, the same ideals. They do not vote. They do not have the same role in our election as individual citizens. When the Supreme Court made its landmark decision to ensure election fairness through the constitutional protection of the principle of one-person-one-vote, it did the right thing. Last week, the conservative bloc undermined that core constitutional principle by imposing its view that moneyed corporations should dominate the airwaves and election discourse. Rather than abiding by the limitations that Congress has developed to ensure a multitude of voices in the marketplace of election contests, they decided that the biggest corporations should be unleashed so that they can be the loudest and most dominant at the expense of our democratic principles.

At the core of the first amendment is the right of individual Americans—individual men and women—to participate in the political process, to speak and, crucially, to be heard. That is what the campaign finance laws were designed to ensure; that American men

and women could be heard and fairly participate in elections. This right is fundamental to the legitimacy of our democracy—to our ability to govern ourselves because it is the foundation of our other rights.

Last week's decision puts these inalienable rights at risk by ignoring not only the extensive findings of Congress in passing the law but also logic and reality. The loud megaphones that can be bought by corporate money can drown out the unamplified voices of individual Americans. This is true even in an age when the Internet has vastly expanded avenues for citizens to speak to each other. The campaign finance laws passed by Congress reflected clear reasons for treating individuals and their free speech rights differently from corporations and their money. We have done so for at least 100 years. We sought additional reforms after the corruption of Watergate, and again at the turn of this new century. Those reforms and reasonable regulation are now left in tatters.

The purported principles of the conservative activists cannot be limited to section 441b of title 2 of the United States Code, as amended by section 203 of the McCain-Feingold Act. If corporations can use their wealth to make independent expenditures for electioneering because they are now suddenly being given, by five people on the Supreme Court, constitutional rights in elections, what can prevent them from contributing to individual campaigns? What principle allows us to bar foreign corporations—foreign corporations—from likewise engaging in campaign communications?

The largest companies garner annual profits of hundreds of billions of dollars. They are doing this even during one of the greatest financial disasters in our Nation's history. If even a fraction of that money were directed toward political activity, those companies would have the financial power to dominate and determine this country's elections and the laws of this country. To put this in perspective, as Doug Kendall of the Constitutional Accountability Center pointed out after the decision, if Exxon-Mobil diverted only two percent of the \$45 billion in profits it generated in 2008, "this one company could have outspent both presidential candidates and fundamentally changed the dynamic of the 2008 election." The same could be said for numerous other companies who will now be able to dwarf the contributions and voices of individual Americans.

The risks of this new ruling extend even further. The conservative activist majority in *Citizens United* fails to make clear whether the new "rights" it has conferred are limited to American corporations or if they apply to foreign corporations. Can the Chinese or subsidiaries of Chinese corporations or Saudi oil companies now also spend unlimited amounts of money and come in and decide, in effect, American elections?

Saudi Aramco is estimated to be worth \$781 billion. Petro China's estimated net worth is \$100 billion, with profits rivaling Exxon Mobil's, in the tens of billions each year. Likewise, Venezuelan oil takes in tens of billions a year. A German insurance company named Allianz is worth \$2.5 trillion. Another insurance concern, ING Group, is valued around \$2 trillion. HSBC Holdings is valued at almost \$2.5 trillion, with annual sales of almost \$150 billion. Bank of America itself has sales of over \$100 billion a year. Then there are the Wall Street firms and investment houses, which certainly will not support planned banking industry reforms.

It is hard to envision this is what the Founders, who threw off the shackles of oppression, meant to enshrine in the Constitution when they wrote the First Amendment. It is also hard to understand how these conservative activists, who sound incessant alarm bells about the dangers of applying foreign law and recognizing rights for noncitizens in our courts, now cannot understand the threat of this encroachment on the very core of our democracy. The *Citizens United* decision is disconnected from the plain text and history of the Constitution, the careful policy choices of the elected branches, and the guidance of the Supreme Court's own legal precedents and the rule of law.

I am also disappointed with the Justices, who as nominees before the Senate, when they were testifying under oath, proclaimed their belief in judicial modesty and judicial restraint, could then turn around and so brazenly ignore the proper judicial role and in so cavalier a manner overturn Supreme Court precedent and override the rule of law. In his dissent, Justice Stevens noted that "there were principled, narrower paths that a Court that was serious about judicial restraint could have taken." In deciding an unnecessarily broad question—when the parties themselves advanced numerous, narrower grounds of decision—the "majority has transgressed yet another 'cardinal' principle of the judicial process."

I cannot remember a time in my 36 years in the Senate when I have come to this floor to criticize even decisions I disagree with, but this one I am because it goes to the very core of our democracy, and it will allow major corporations, which should have laws written to control their effect on America, to instead control America. That is not the America I grew up in. It is not the America Vermonters believe in, where individuals have a right to speak but not mega corporations.

How did the Court come to the opposite conclusion about the rights of corporations to spend unlimited money on elections from that enshrined in our laws and prior Supreme Court decisions? Did we amend the Constitution to somehow equate corporations to people? No, we did not. Nowhere does the Constitution even mention corporations. Did we modify the first

amendment? No. The first amendment reads as it did 6 years ago—indeed, as it did 219 years ago, when the Bill of Rights was ratified, and the 14th State in the Union—Vermont—ratified the Constitution.

As Justice Stevens noted in his dissent:

The only relevant thing that has changed since Austin and McConnell is the composition of the court.

Six years ago Justice Sandra Day O'Connor, who was part of the Supreme Court's majority upholding the limits on corporate spending in the McCain-Feingold Act, retired. The meaning of the Constitution should not change from one year to another due to the replacement of one Justice. As the dissenting Justices noted:

[T]he final principle of judicial process that the majority violates is the most transparent: stare decisis. . . . But if this principle is to do any meaningful work in supporting the rule of law, it must at least demand a significant justification, beyond the preferences of five justices, for overturning settled doctrine.

As judicial nominees often testify, the rule of law depends on the stability provided by the consistent application and interpretation of the Constitution and the laws. So does the ability of Congress to act to pass laws. The Latin phrase that lawyers use to talk about the importance of respecting and following prior court rulings or precedent is "stare decisis."

As Justice Stevens wrote in the dissent:

Stare decisis protects not only personal rights involving property or contract but also the ability of the elected branches to shape their laws in an effective and coherent fashion.

That is why every Supreme Court nominee that I can recall who has appeared before the Judiciary Committee has been asked whether he or she is committed to following precedent. This is central to assuring us and the country that a Justice will be committed to the rule of law and understands the role of a judge. Courts should only depart from precedent with ample justification. As Justice Stevens wrote in dissent:

No such justification exists in this case, and to the contrary there are powerful prudential reasons to keep the faith with our precedents.

The same five Justices willing to overturn well-established precedent to create broad new rights for corporations in *Citizens United* had no trouble severely limiting free speech rights for individuals. In a 2007 case, *Morse v. Frederick*, Chief Justice Roberts, joined by Justices Scalia, Alito, Thomas and Kennedy, held that the First Amendment did not protect an 18-year-old student from being suspended for holding up a banner across the street from a school during the 2002 Olympic Torch Relay. They held the principal could suspend that student, a legal adult, for displaying the banner, not on school grounds, but across the street

from the school. All that was needed was for the school administrator to believe that the banner somehow promoted illegal drug use and was therefore against the school's policy. Perhaps if that student had incorporated, these five Justices would now find his First Amendment rights protected. These are the same Justices who recently reached out to ban the streaming of public trial proceedings on a matter of public interest, as well, on similarly flimsy grounds in order to impose their own preferences.

It is also difficult to understand the lack of concern in *Citizens United* for the potential of massive corporate spending to distort elections in light of the Supreme Court's ruling issued only months ago in *Caperton v. Massey*. In that case, Justice Kennedy wrote that the possibility of bias due to campaign contributions in a state judicial election meant that the judge was wrong not to recuse himself from deciding a case involving a defendant who had spent \$3 million supporting his election campaign to the bench. I agreed with that decision. There, Justice Kennedy wrote:

We conclude that there is a serious risk of actual bias—based on objective and reasonable perceptions—when a person with a personal stake in a particular case had a significant and disproportionate influence in placing the judge on the case by raising funds or directing the judge's election campaign when the case was pending or imminent.

What I do not understand is how these same standards and obvious logic were not applied to corporate spending in election campaigns.

Last week's decision and its troubling inconsistency with the Court's other interpretations of the Constitution leaves with us serious questions about how to ensure that our elections are not corrupted by unchecked corporate spending. It also reinforces the profound concern I have had about the real-world consequences of the Supreme Court's recent decisions for hard-working Americans—real Americans—on issues such as equal pay for equal work; the power of Congress under the 14th and 15th amendment, to pass civil rights laws, such as the Voting Rights Act; and issues thought to be long settled, such as the meaning of *Brown v. Board of Education*. The newly constituted Supreme Court seems determined to accrue to itself the powers given by the Constitution to Congress and to rewrite long-established precedents, certainly acting contrary to what these same Justices said in their sworn testimony when they were being confirmed. The Judiciary Committee has explored these concerns in a series of recent hearings, and we will hold a hearing soon to examine the impact of the *Citizens United* decision. This case is just the latest example of why every seat on the highest court affects the lives of everyday Americans.

I think every one of us, as Americans, must work to ensure that the system of checks and balances envisioned

by the Founders is not cast aside by the whimsical preferences of five Justices overriding the rights of 300 million Americans. I look forward to working with President Obama and Senators from both sides of the aisle as we try to restore the ability of every American to be heard and effectively participate in free and fair elections.

Again, I can only emphasize that I do not recall a time in my 36 years coming here to speak about Supreme Court decisions I disagree with, even though there have been many. But this is so egregious that, as chairman of the Senate Judiciary Committee, I would feel I was neglecting my duties if I did not come and speak against it.

I yield the floor.

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

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2960 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

#### DISCRETIONARY CAPS

Mr. SESSIONS. Mr. President, I would like to share a few comments on the Sessions-McCaskill discretionary caps amendment that would limit spending to the budget items and budget levels we passed.

Before doing so, I would like to say I was disappointed last night that the President and my good friend and very effective leader of the Judiciary Committee, Senator LEAHY, have politicized a very important decision of the Supreme Court of the United States. The Justices didn't take an oath not to reverse bad precedent. They swore an oath of fidelity to the U.S. Constitution, and the first amendment guarantees the right of free speech.

For over a decade, I warned against this, and others warned this legislation we were passing violated the first amendment of the U.S. Constitution. In fact, one of the supporters of the amendment, Senator FEINGOLD, at one point offered a constitutional amendment to amend the first amendment because he recognized this campaign restriction on spending during an election cycle ran afoul of the Constitution, but at some point they decided to go forward with it.

I would say two things about it. How it happened was this: During oral arguments on the showing as to whether a corporation which had produced a film about one of the Presidential candidates could show that film before an election and which was being blocked by the court—where they said you can't show a film about an election candidate, and they objected, saying: This is free speech—the Supreme Court asked this question during oral argument to the government's lawyer who was defending the statute we unwisely

passed, and the question was: Well, Counsel, what if a company produced a book and wanted to publish a book, would this statute prohibit that? What was the answer? Yes.

Well, the Supreme Court said: Wait a minute. This is a serious thing. So you—Congress—passed a law that prohibits a group of American citizens from publishing a book that might have something to do with an election? This is a big deal. We have laws that protect pornography and all kinds of things, but the first amendment was written for free political speech.

Anyway, I don't want to go into it today, I have talked a lot about it before, but I wanted to push back a little. I am very disappointed because my colleague and the President are attempting to politicize a very significant first amendment issue that we knew existed when this bill was passed. The New York Times, which supported it, was a corporation. They can write editorials on the day of an election. But if the Ford Motor Company gets tired of GM getting billions and billions of dollars from the Federal Government, can they not run an ad and say: Don't do this.

Anyway, we will be voting soon on a very important piece of legislation, and so I am pleased to be working with Senator CLAIRE McCASKILL, my Democratic colleague from Missouri, to say we need to do better about spending, and we do.

What happens in this body is, we too often find ways to get around the budgets we pass. Last year, we passed a budget that I thought spent too much, but it passed and it is our budget and it calls for spending over the next 5 years to have around 1 to 2 percent growth. But, historically, we have been violating that. Historically, we find this gimmick, this way to go above that. It is going above that, and I can demonstrate how baseline increases in spending compound themselves over the years and get us into serious financial trouble. What we need to do is stay with our budget.

We need to have an option to go outside the budget or above the budget in case of an emergency—there is no doubt about that—but we have too often been able to get around the budget through manipulation and through emergency spending designations. Our bill has a number of Democratic Senators who are supporting it, and I think most Republicans will support it. I think we have an opportunity to pass it, and it would provide some integrity to our process.

The American people aren't trusting us. I think they are right not to trust us and I am prepared to debate that. I can show they have a right not to trust the budget numbers we put out because we don't stick with them. So this amendment would say that for 5 years we will take the very numbers that were in last year's budget—the budget we are operating under today—and we would place them in a statute by num-

ber. The amendment would say how many millions of dollars we will allow to be spent this year in defense numbers and nondefense numbers. When we do that, if there comes an attempt to violate the budget and to spend more, then a Senator could raise a point of order and it would take a two-thirds vote of the Senate to override that point of order.

I think that is good, sound legislation. Make no mistake, it will put some teeth in the budget. There are those of us who know we have given in too often to the desire to spend more because we get multiple demands from our citizens and we sometimes are unable to say: Well, I do need to help you, but I am going to have to cut over here. What we do say is, I can't reduce anything. Now that would make those people uneasy and unhappy with me. But I want to help this person, so I will just increase my spending and go over on the debt and over the budget limit.

I am of the belief that this legislation, though modest, is very consistent with the numbers President Obama talked about last night. In fact, I think it is almost in perfect harmony with the freeze he suggested should happen last night. This would actually allow a 1- to 2-percent increase, as I said, in defense or nondefense spending. This would be the kind of thing that would be in harmony with the President's proposal.

The American people are cynical. We say these things—the President says these things, Members of the Senate say these things—but our spending, when we look back at it, doesn't do so well. Last year our domestic discretionary spending, the money we actually controlled in the Senate, increased 12 percent, which is a number above what we can realistically justify. Remember, we also had, on top of that, the stimulus package. A lot of that money hasn't been spent—maybe a third of it. That is pouring into the economy.

Now is the time for us to get hold of baseline spending. I believe we can do it. These are some of the objections we have had about it. Would it prevent the Federal Government from responding to emergencies? No. I point out the emergency spending bills that came up before Congress were consistently passed with huge majorities. For example, the Defense bill on the war against terrorism and tsunami relief, 100 to 0; on supplemental veterans health care, we had 99 to 1; the Katrina spending was passed by unanimous vote; the second emergency for Katrina, 97 to 0; another Katrina vote, 93 to 0; supplemental appropriations for disaster loans, no budget point of order even raised; another Hurricane Katrina supplemental, 80 to 14; Emergency Economic Stabilization Act, 74 to 25.

The votes have been high. But every one of these things does not need to be passed perhaps at the level initially proposed. Sometimes you may support Katrina or some other supplemental

and you think the numbers are too high and you are going to object and the appropriators can come back with a smaller number and it would pass. I say that is the process we work with.

We are violating the budget act too much. I urge my colleagues to consider this legislation and vote for it. Would it prevent Congress from adequately funding missions in Iraq and Afghanistan? The answer to that is no. The 67-vote threshold would not apply in Iraq and Afghanistan and our war against al-Qaida because the amendment explicitly states this rule does not apply "in the case of the defense budgetary authority, if Congress declares war or authorizes the use of force," which we have done in these situations.

In wartime it does not constrict our ability. We still have to vote for it and make sure we have the vote for it, but we don't have to have a supermajority for votes. I think that is the important part of it.

Some would say you are attempting to balance the entire budget by reducing nondefense discretionary spending, which is a relatively small part of the budget. I would say we know this will not fully balance the budget, but I can demonstrate, and have, that the growth in spending that is occurring on the discretionary accounts in the last several years has far exceeded the growth of Medicare and Social Security, and it is crowding out our ability to fund Medicare and Social Security. It is a threat to us, to those programs, as well as to the long-term fiscal status of our country.

Finally, I point out that I just left the Budget Committee hearing. Mr. Elmendorf, the CBO Director, testified today and indicated that, if several more things that are likely to occur, which he did not use in his calculations, take place the number would be much worse, much higher. He said we are facing a critical economically threatening force of debt that we have to act better about. Chairman CONRAD and Ranking Member GREGG said the same thing in their opening statements.

I point out what he reaffirmed, their score, that under the present path we are on, we now pay, in 2009, \$200 billion per year in interest. That is what we paid to people who loaned us money, the public debt. In about 2019, 10 years, that debt will triple from \$5.7 trillion to over \$17 trillion, and the interest we pay in 1 year on that debt is \$799 billion.

When you think about it, the Federal Highway Program is about \$40 billion or \$50 billion. The aid to education is not much more than that. This is going to crowd out all kinds of spending that so many of my colleagues would like to see happen. We are either going to have massive increases in taxes or major reductions in spending just so we can budget and pay for the interest on this debt. He says it is unsustainable. This is a nonpartisan person.

The Concord Coalition has a great focus on excessive spending in this

country. The Concord Coalition supports the amendment that Senator McCASKILL and I are offering; so does the Committee for a Responsible Federal Budget, a great bipartisan group that has been watching budget issues for many years and is composed of some of the previous budget directors and experts on these matters, a very responsible, respected group. The Heritage Foundation, a solid group of conservative scholars who have written persuasively about the dangers of debt, as well as the National Taxpayers Union, which represents individual Americans who realize the threat to our country from soaring debt and bigger and bigger spending, all support this legislation.

I think it is the kind of bipartisan legislation that will send a message not just to our Congress that we are going to contain spending but also to the whole world that we are putting in place some things that indicate we are going to be serious about avoiding this path we are on.

This is not made up. This is based on present commitments of the U.S. Government in law based on projections of income that we will receive and the spending levels that are surging. I hope our colleagues will seize on this. I think it will help the stock market. I think it will help our own focus. It would be a statement by Senators that we are serious about this, and we will work together to get it done. I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Nebraska is recognized.

Mr. JOHANNIS. Madam President, I rise today to speak about the same topic the last Senator spoke about. Let me, if I might, start my comments today by complimenting Senator SESSIONS. I look at that graph that was just up and the one thing it points out to me in very vivid detail is that spiraling cost, that straight-up cost, is only to pay the interest. It does not even start to pay down the principal.

I stand here today before offering some comments about this further, thinking how much we would unleash the potential of this country if we just sent a signal that we were getting serious about our spending, our debt load, and we were intent on addressing that.

That is what brings me to the floor of the Senate today. I rise today to speak against raising the debt ceiling. This is a decision that should not be taken lightly. No one in this body should take this decision lightly. It is a serious matter, enormously serious. Our country has debt, and it is important that we start to deal with these commitments and the spending that is just out of control.

Ralph Waldo Emerson once said: "Pay every debt as if God wrote the bill." Yet I could not support increasing the amount that the Treasury can borrow by \$1.9 trillion—it is the largest increase ever contemplated—in the

current environment of spending the people's money as if it meant nothing. You see, what is missing for me, to get to a point where you could raise the debt ceiling, is a commitment, a plan, a serious plan, a roadmap on how we get our spending under control.

The orchestra, sadly, continues to play oblivious to our government barreling down on this entitlement-and-spending iceberg which is coming our way. There is just no doubt about it.

If this increase passes, the debt limit will have increased about 35 percent in the last year. Think about that: 35 percent in the last year. We are not talking about a few million dollars or billion dollars. We are talking about trillions of dollars.

Let me repeat that. Since this administration took the reins, our debt ceiling will have increased by over one-third.

We as parents teach our children, we say: Money doesn't grow on trees. How many times did I tell my kids that? But it seems as if the U.S. Government has missed this sage lesson. The latest proposed increase is undoubtedly the largest increase in history, more than double the previous record of \$984 billion.

Since arriving here I have consistently argued for setting priorities and against wasteful spending. I would like to say again, and I have said this on the Senate floor, as my time as Governor of Nebraska went on I realized there were no easy choices in balancing the budget, but we had a constitutional mandate to balance the budget back home in Nebraska. What is more, our State constitution prohibited us from borrowing money.

What did that mean? I couldn't balance the budget by issuing debt. This whole idea of the Federal Government issuing more and more debt was a foreign concept back home.

When I came out here to join the President's Cabinet, I did not have to turn to the last Governor and say: I am sorry about all that debt I took on for the State. There is no debt in Nebraska. We pay our bills. Since arriving here, though, I have begun to realize this government tries to be all things to all people every day and all day. The U.S. Government simply cannot continue on that path. We believe back home that less government is better government.

Many of my colleagues would probably come to the floor and stand and disagree with that. They may believe that you have to literally spend your way out of these problems, you have to spend your way to wealth. But there is nothing in our heritage that would lead me to the conclusion that is the right approach.

Even if you disagree, we can have a respectful debate. I am hard pressed to find anyone, though, who would argue with the reality of the numbers. I used to tell my cabinet when I was Governor, when we were dealing with tough budget issues: Look, folks, this is not magic; it is math.

And the numbers do not lie. The numbers tell us that the Nation's fiscal course is not sustainable. By the end of this year, our debt held by the public will be more than 60 percent of the gross domestic product. Think about this. Among internationally recognized economic thresholds, 60 percent is generally known as the tipping point toward an unsustainable nation. The European Union actually treats it that way. You cannot even be a member of the European Union if your debt exceeds 60 percent of your gross domestic product. Think about this. This great Nation would not be eligible to join the European Union.

Looking down the road, within 10 years our publicly held debt will approach the 90-percent mark. You see, once that snowball gets going down that mountain, good luck of ever stopping the avalanche.

We will not be able to catch up with this runaway debt if we do not start dealing with it now. We are, in my judgment, on the verge of a vicious cycle that requires more taxes, more debt to be taken on by American families and sent overseas to foreign creditors. If we allow our country to slip into this cycle—and we are dangerously close to it now—then that shining city on the hill former President Reagan would often speak about is more dim, if not dark.

Instead of voting to increase the debt limit and simply kicking the fiscal can down the road, we need, first, to devise some concrete interventions. Unfortunately, the President's 2010 budget proposes a \$1 trillion deficit, on average, for each of the next 10 years. With that vision, debt limit increases are going to be very commonplace around here. The cost of bearing such debt will swallow up our Nation's resources. It will diminish productivity.

I know the temptation is great—I saw it last night in the President's speech. I say this very respectfully—the temptation is great to say, you know, folks, these are the last guy's problems. This is the problem I created. All I can say is this: What that reminds me of would be like me becoming the mayor of Lincoln—and I served two terms as mayor there—and this time of the year, you have terrible pothole problems. It would be like me saying: Those potholes there were caused by the last guy. I will fix the ones that arose during my tenure.

I think what the American people are asking us to do is to start working together to solve the problems. But, unfortunately, these are not just potholes in the road of our Nation's history, these are massive problems that are going to seriously impact our children and grandchildren and bring down their quality of life.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWBACK. Madam President, how much time is remaining on our side?

The PRESIDING OFFICER. Four minutes fifty-five seconds.

Mr. BROWNBACK. Madam President, I am happy to go back and forth if that would be the agreed-upon order of things. That would be certainly acceptable to me. I wanted to make sure what time we had on our side.

The PRESIDING OFFICER. Without objection, the Senator from Vermont is recognized.

#### NOMINATION OF BEN BERNANKE

Mr. SANDERS. In a little while we are going to be casting votes on an issue of enormous consequence, and that is whether we reappoint Ben Bernanke as Chairman of the Fed. I am here to argue that would be a very bad decision; that we should reject this nomination; that we need in this country a new Wall Street which understands its function is not simply to make as much money as it can for extraordinarily wealthy people on the Street, but to begin to interject the function of Wall Street into our productive economy, make credit available to small and medium-sized businesses so we can break out of this horrendous recession, which is causing so much pain from one end of this country to the other.

In order to create a new Wall Street, we need a new Fed, and we need a new Fed Chairman who is going to provide new leadership. The same old, same old is not going to work. Everybody in America agrees and understands that a little over 1 year ago, our Nation—in fact the world's financial system—came to the edge of a major collapse.

Everybody also understands that the function of the Fed is to protect the safety and soundness of our financial institutions. That is its main function. Can anybody deny with a straight face that the Fed and its Chairman, Mr. Bernanke, failed at its task? They failed. This is not a personal attack against Mr. Bernanke.

But while Wall Street became converted into the largest gambling casino in the history of the world, where was Mr. Bernanke and the Fed, whose job it is to protect the safety and soundness of our financial institutions? They were not there. It seems to me to be a very bad idea to reward somebody with reappointment who failed at an enormously important task which has driven this country into a severe recession so that 17 percent of our workforce today is either unemployed or underemployed.

Millions of our fellow Americans have lost their homes; they have lost their savings; they have lost their ability to send their kids to college; they have lost their hopes for the future. Mr. Bernanke failed at his job. He should not be rewarded with reappointment.

Further, many of us, after 8 years of the Bush administration, said it is time for a change. It is time to change the priority of this Nation, time to

move us in a new direction. The evidence is overwhelming that from an economic perspective as well as many other perspectives, the Bush administration failed.

Let me quote from the Washington Post earlier this month. This is what they said about the Bush economy:

The past decade was the worst for the U.S. economy in modern times. It was, according to a wide range of data, a lost decade.

Let me repeat.

A lost decade for American workers. There has been zero net job creation since December, 1999. Middle income households made less in 2008, when adjusted for inflation, than they did in 1999.

A lost decade. Standard of living for American workers down, creation of wealth down for American workers.

Ben Bernanke was appointed by George W. Bush to be Chairman of the Fed. He was a member of the Bush administration. In fact, he was the chairman of President Bush's Council of Economic Advisers.

Why do you want to reappoint someone who not only failed at his job as Chairman of the Fed, in terms of protecting the safety and soundness of our financial institutions, but was an architect of the Bush economy, which was a disaster for American workers? We need a new direction at the Fed.

It is not only looking back at the failures of Mr. Bernanke, it is looking forward and saying, how can the Fed respond to begin to protect the middle class and working families of our country? Here is something that has not been discussed enough. The Fed today has enormous powers.

Many will remember that as part of the bailout, Mr. Bernanke and the Bush administration not only pushed for a \$700 billion bailout for Wall Street, but on top of that Mr. Bernanke provided trillions of dollars—let me underline that—trillions of dollars in zero-interest loans to large financial institutions.

As a member of the Budget Committee, I had the opportunity to ask Mr. Bernanke which financial institutions received these trillions of dollars. I do not think that is an unreasonable question on behalf of the American people. Mr. Bernanke said, in so many words: Sorry, Senator, not going to tell you. The American people do not have to know who received trillions of dollars of their money. That to me is totally unacceptable. We need transparency at the Fed. Mr. Bernanke has not provided that transparency.

I have introduced legislation to bring that transparency to the Fed. Someone whose views are very different from mine on many issues, RON PAUL in the House, brought forth similar legislation. We need transparency. We need a Chairman of the Fed who will give us that transparency. That is something Mr. Bernanke can do tomorrow. In my State of Vermont, and I am sure in your state of New York, Madam President, people are calling you every single day and they are saying: We are

sick and tired of paying 25 or 30 percent interest rates on our credit cards from the same banks and bunch of crooks that we bailed out who got us into this recession in the first place.

Imagine that. You have people who act on Wall Street in a reckless, irresponsible, illegal way. Taxpayers bail them out, and they say: Thank you, taxpayers. By the way, we are going to raise your interest rates on your credit cards. Have a nice day.

All over America, people cannot believe that. They are outraged this is happening. Well, you know what. Mr. Bernanke and the Fed have the authority today to lower interest rates on credit cards. They could do that today, and that is what they should do, because one of their responsibilities is to protect consumers against outrageous and fraudulent activities. In my view, charging people 25 or 30 percent is outrageous and fraudulent and usurious.

All over this country—the President mentioned it last night, appropriately so—small and medium-sized businesses that are making a profit are crying out for low-interest loans in order to expand their businesses and to hire new workers.

One of the great economic problems we are having as a Nation—the President touched on it last night—is the need for small productive businesses to get the low-interest loans they need.

Well, Mr. Bernanke was there with zero-interest loans for large, failed, fraudulent, dishonestly run Wall Street firms, but he is not there for small businesses all over this country that desperately need low-interest loans. The Fed has the authority today—not tomorrow, today—to provide low-interest loans to small and medium-sized businesses so that we can begin to hire new workers and bring our economy out of this severe recession we are currently in.

The reason, as I understand it, that the taxpayers of this country, against my vote, I should say, were asked to bail out the crooks on Wall Street was because they were too big to fail. You see, if a small business goes under, that is okay. Someone has worked their whole life building the business, the business fails, no problem. We do not help them. But if you are a big financial institution and you engage in reckless, illegal behavior, we bail you out because if you go down, you are going to take a large part of the economy with you, you are too big to fail.

Many of my colleagues might be surprised to know that three out of the four largest financial institutions we bailed out because they were too big to fail are bigger today than they were before we bailed them out because they were too big to fail. That may make sense to somebody, not to this Senator.

It seems to me that what common sense suggests is that we break up these large financial institutions so, A, the American people are never again put in the position of having to bail them out because they are too big to



fail and, B, that we begin to understand what Teddy Roosevelt understood 100 years ago: concentration of ownership is dangerous for the economy.

Today, we have four major banks providing two-thirds of the credit cards in the country—four major financial institutions, two-thirds of all credit cards. We have four financial institutions writing half of all the mortgages in America. That is wrong. Break up the large financial institutions.

Ben Bernanke has the ability to begin to do that tomorrow. I have not heard one word from him to suggest he will do so.

The American people are angry. The American people are frustrated. What they are angry and frustrated about is that in many instances, they are working longer hours for lower wages than they used to, if they are fortunate enough to have a job. The American people are frustrated and angry because this immediate financial crisis and severe recession was caused by the recklessness and irresponsibility of a handful of people on Wall Street. The American people are frustrated and angry because they are not seeing the kind of accountability and change in terms of the activities on Wall Street they expect and demand to happen. Quite the contrary. After having bailed out people who acted in an illegal and irresponsible way, what they are seeing is Wall Street pumping millions of dollars into campaign contributions and lobbying so that we can bring them back to where they were before the bailout.

The American people want change in the way our financial institutions run. The American people want change at the Fed. I believe the American people want a new Chairman or Chairwoman at the Fed. Now is the time to say to the American people: We hear you. We are going to bring about change. We are going to deny the reappointment of Ben Bernanke as Chairman. We are going to ask President Obama to give us a new nominee who will stand up for the middle class and working class of this country rather than for the big-money interests on Wall Street.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I ask unanimous consent to add the following cosponsors to my amendment No. 3309: Senators BARRASSO, CRAPO, and JOHANNIS.

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

#### CARFA

Mr. BROWNBACK. Madam President, the CARFA bill that will be voted on shortly has passed this Senate every Congress since the 107th Congress. It has either passed by rollcall vote or unanimous consent. This is nothing new. It has passed this body multiple times. Now it counts. Now when people

vote on it, this will count. The CARFA bill breaks the Federal Government into four pieces. A fourth of the Federal Government is looked at each year, and then recommendations are made in a privileged motion that must be voted on. It is a spending commission. It is targeted at reducing Federal spending, which is clearly where the American public wants us to go. They don't want to raise taxes; they want to focus on getting wasteful spending under control.

This is a mechanism we have done before. It is a mechanism that has passed this Congress multiple times in the budget agreement. This time it counts. I ask my colleagues to look at this and say: If you voted for it in the past, do it now. We clearly need to do it.

Last night, the President spoke about the need to track the deficit. He was clear that we need to get the deficit under control. The first step in getting the deficit under control is to reduce spending, get spending under control.

Here is the latest chart on the gross Federal debt as a percentage of the GDP. This year, we passed the 90-percent threshold of debt to the economy. So of the total economy size, about \$14 trillion, 90 percent of that is going to be gross debt. This is publicly and privately held debt combined. This is the level at which economists say this starts hurting the economy. It can drive down growth as much as 4 percent per year. We have had many years where we haven't even had 4 percent growth. We could put ourselves in negative growth by carrying this level of debt. And we blew through that number this year, headed toward 100 percent of debt to GDP. That is this year's number. That is the one that is just out.

Here is a breakdown of that. Some will say we are at 60 percent debt to economic activity. That is of the publicly held debt. That is the piece the Chinese own, and others. But if we look at total debt—this is what we owe to ourselves, the Social Security trust fund, other trust funds that I think we ought to pay back—we ought to be responsible with that. That is way up here, up over the 90-percent level. It is in the danger zone. It is time to get it under control.

CARFA is the way to do it. CARFA is a simple mechanism. It is eight people appointed, four by this body, four by the House. It makes recommendations on elimination of programs. Those must pass by six of the eight members who vote on that. That then is reported to the committee structure that is in the applicable areas of the recommendations for elimination. The committee has 30 days to review the recommendations. They can't amend it, but they can review the recommendations, say to the public: Here is what this is going to do if we make these cuts. Then it is subject to a privileged motion. The actual report comes

before the body as a privileged motion. There is 10 hours of debate before we go to the bill. Then there is debate on the bill and a required vote with a 51-vote margin to pass it. That is all in the statute. This is the BRAC process, the Base Closure and Realignment Commission process used in the past to close military bases and to save us \$60 billion annually in spending on military bases, closing down bases, putting them in more efficient alignment. This will do the same at the Federal level.

It is not as if we don't have wasteful spending at the Federal level. This chart shows the scorecard the OMB does on Federal spending by agencies. We can see a bunch of agencies get Ds or Fs on program reviews. The Department of Labor, Department of Education get Fs on their spending as far as its utility and for what it was targeted to do. If we have entire agencies rated at F or D or D-minus, don't you think there are a few programs in there that ought to be eliminated and that probably we can do without, without hurting the overall government or people or the economy? Absolutely. That is what the American people are screaming for us to do. They don't want us to raise taxes; they want us to cut spending. That is what the public is doing in this process. This is very clearly the process we should follow.

This is the time that this vote counts. My colleagues have been willing to support this concept in the budget resolution. Now is the time that it would have the force of law, if we are able to get it through. This is one the public is going to hear more and more about, as everybody gets focused on spending and what we need to do there. This will be the type of process that we need to do and that we need to use.

I urge a "yes" vote on the CARFA amendment, and I would hope my colleagues would put that in the bill so we can get a process by which we could legitimately start cutting Federal spending in a responsible way.

I yield the floor.

#### INCREASING THE STATUTORY LIMIT ON THE PUBLIC DEBT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.J. Res. 45, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 45) increasing the statutory limit on the public debt.

Pending:

Baucus (for Reid) amendment No. 3299, in the nature of a substitute.

Reid amendment No. 3305 (to amendment No. 3299), to reimpose statutory pay-as-you-go.

Sessions amendment No. 3308 (to amendment No. 3299), to reduce the deficit by establishing 5-year discretionary spending caps.

Brownback amendment No. 3309 (to amendment No. 3299), to establish a Commission on Congressional Budgetary Accountability and Review of Federal Agencies.

AMENDMENT NO. 3309

The PRESIDING OFFICER. The Senator from Kansas.



Mr. BROWNBACK. I understand I have 2 minutes to speak on the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BROWNBACK. Madam President, I wish to show two other charts. This is not new information, but I think it is pretty dramatic in its presentation, the level of the massive addition of Federal debt at levels we have never seen before. We are looking at \$1.4 trillion in deficits. That is the annual addition. We have not seen numbers this size before. We haven't seen these percentages since World War II, the massive war effort we went into in World War II.

This is a critical situation at a critical time, and it must be addressed. The answer isn't to just extend the line of credit, which is what this bill—the base bill extends the line of credit by \$1.9 trillion. It is nice that we have the ability to say: OK, we will have the line of credit extended by \$1.9 trillion, but it doesn't address this, it just allows this to go on.

The CARFA bill gets at this line and starts cutting that. It starts cutting irresponsible Federal programs. It starts cutting duplicative Federal programs and programs that have accomplished their purposes. We have things we are funding that were started 50, 100 years ago, and they have actually accomplished what they were supposed to do and ought to be terminated. Yet they don't get terminated because there is no culling process that goes on. The Federal Government hasn't cut its own funding system for 100 years.

When I first came to Congress, we made a 1-year cut in Federal spending of 1 percent from one year to the next year. We eliminated some 200, 300 Federal programs. I used to give a speech asking people: Do you remember any of those programs we cut? Can you name two? I would pay people \$10 if they could name two we eliminated. They heard about the ice being delivered to Members' offices, so they got that one. But they could never get a second one. Think of the number of programs that are rated as failing that we could eliminate and nobody would notice. They would applaud the fact that we were actually cutting Federal spending which has been very difficult for this body to get done. Here is a mechanism with which we can get it done.

I urge a "yes" vote on my amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Montana.

Mr. BAUCUS. Madam President, the day before yesterday, the Senate voted on the amendment offered by the chairman and ranking Republican member of the Budget Committee to create a budget commission. The Senate rejected that amendment. The proponents fell 7 votes short of the 60 votes they needed.

I opposed that amendment because it would have forced the Senate to con-

sider the commission's recommendations using a fasttrack process. It would have outsourced our job to the commission.

The Senator from Kansas proposes a commission that also would create a fasttrack process. It would also put vital programs like Medicare, farm programs, and veterans' programs in the crosshairs. Thus, all who opposed the Conrad-Gregg commission on process grounds should oppose this amendment for the same reasons.

As well, the Brownback commission would address only the spending side of the budget. So those who wanted a broader commission should have that reason to oppose this commission, as well.

I have been advised that the chairman of the Budget Committee, Senator CONRAD, joins me in opposing this commission.

I urge my colleagues to oppose the amendment.

I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 3309.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

(Rollcall Vote No. 10 Leg.)

YEAS—51

Alexander	Enzi	McConnell
Barrasso	Graham	Merkley
Bayh	Grassley	Murkowski
Bennet	Hagan	Nelson (NE)
Bennett	Hatch	Nelson (FL)
Bond	Hutchison	Risch
Brownback	Inhofe	Roberts
Bunning	Isakson	Sessions
Burr	Johanns	Shaheen
Chambliss	Klobuchar	Shelby
Coburn	Kyl	Tester
Collins	LeMieux	Thune
Corker	Lieberman	Vitter
Cornyn	Lincoln	Voinovich
Crapo	Lugar	Warner
DeMint	McCain	Webb
Ensign	McCaskill	Wicker

NAYS—49

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Begich	Franken	Pryor
Bingaman	Gillibrand	Reed
Boxer	Gregg	Reid
Brown	Harkin	Rockefeller
Burris	Inouye	Sanders
Byrd	Johnson	Schumer
Cantwell	Kaufman	Snowe
Cardin	Kerry	Specter
Carper	Kirk	Stabenow
Casey	Kohl	Udall (CO)
Cochran	Landrieu	Udall (NM)
Conrad	Lautenberg	Whitehouse
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Menendez	

The PRESIDING OFFICER. On this vote the yeas are 51, the nays are 49. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

Who yields time?

The Senator from Missouri is recognized.

AMENDMENT NO. 3308 TO AMENDMENT NO. 3299

Mrs. MCCASKILL. Madam President, I wish to take a minute to speak in

favor of this amendment. This should not be as hard as it appears. All this amendment is doing is asking us to live up to our vote last year on the budget bill. What we all decided to do last year on the budget bill was set some limits on spending for the next few years. All we are doing with this amendment is saying we are going to have to live up to our vote. It has 2 percent increases every year.

People have said there is going to be a problem because of the 67-vote threshold. Well, I have looked over the emergency votes we have had in this Chamber and there has not been a time when we haven't gotten them—on Katrina or other things. It exempts anytime Congress authorizes force. I wish to emphasize that for my colleagues. Anytime Congress has authorized force of our military, it exempts it.

Somebody spoke about the veterans. Do my colleagues think we can't get 67 votes for the veterans in this Chamber?

Seriously, it is time we begin to live up to what we say, and in the budget bill we all voted to do this. So let's put it in the law as we had in the 1990s. Don't ask me why we let it expire in 2002. I wasn't here. But we had both pay-go and this kind of freeze in the 1990s and we balanced the budget and we created a surplus. Let's go back to that time for the sake of our grandchildren.

Madam President, I yield the remainder of the time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Madam President, let's make it clear. This is not the plan the President presented last evening. The President allows growth in Homeland Security. This amendment does not. The President's proposal doesn't put a cap on emergency spending. Yes, we have decided certain things are an emergency. Yet it doesn't mean that all of us will agree. He doesn't put a cap on that.

The President's plan will request more than \$700 billion for Defense. This amendment allocates \$614 billion. To exceed this amount, we need 60 votes. Does the Senate want to make the Defense budget subject to 60 votes?

As chairman of the committee, I agree that everyone should tighten their belts. The problem with this amendment is that all the tightening will be done on a small portion of the budget, while the revenues and mandatory spending will still be unchecked.

This is a flawed amendment. It is not the President's plan. I urge my colleagues to vote no.

I yield the floor.

The PRESIDING OFFICER. All time is yielded back.

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

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

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 11 Leg.]

#### YEAS—56

Alexander	Enzi	Murkowski
Barrasso	Graham	Nelson (NE)
Bayh	Grassley	Nelson (FL)
Begich	Gregg	Pryor
Bennet	Hagan	Risch
Bennett	Hatch	Roberts
Bond	Hutchison	Sessions
Brownback	Inhofe	Shaheen
Bunning	Isakson	Shelby
Burr	Johanns	Snowe
Carper	Klobuchar	Tester
Chambliss	Kyl	Thune
Coburn	LeMieux	Udall (CO)
Collins	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	McCain	Webb
DeMint	McCaskey	Wicker
Ensign	McConnell	

#### NAYS—44

Akaka	Feingold	Menendez
Baucus	Feinstein	Merkley
Bingaman	Franken	Mikulski
Boxer	Gillibrand	Murray
Brown	Harkin	Reed
Burris	Inouye	Reid
Byrd	Johnson	Rockefeller
Cantwell	Kaufman	Sanders
Cardin	Kerry	Schumer
Casey	Kirk	Specter
Cochran	Kohl	Stabenow
Conrad	Landrieu	Udall (NM)
Dodd	Lautenberg	Whitehouse
Dorgan	Leahy	Wyden
Durbin	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 44. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

The majority leader.

Mr. REID. Madam President, I ask unanimous consent that the next three votes be 10 minutes in duration.

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

#### AMENDMENT NO. 3305

Mr. REID. Madam President, let's not kid ourselves. We are in this financial situation and these pay-as-you-go rules are necessary because we spent the last decade spending money we did not have. We spent trillions on two wars, tax breaks for millionaires, corporations, and other red ink policies. Those days should be over. We simply can no longer afford it.

The idea behind pay-as-you-go is very simple. The rule we are proposing for the government is the same one Americans use every day in their individual lives, the same ones we teach our children: In order to spend a dollar, we have to have that dollar in our wallet. This law will enforce that common-sense approach.

Here is what it does not do. It does not block emergency spending. It does not keep businesses from creating jobs. And it does not prevent Congress from cutting taxes.

For all the Republican rhetoric on sensible spending, their recent choices call their seriousness into serious question. We drafted a health reform bill to

reduce the deficit by as much as \$1.3 trillion over the next 20 years. That is a fiscally responsible plan, and zero Republicans supported it.

Senators CONRAD and GREGG proposed a commission with the explicit responsibility of reducing our deficit even further. That is a fiscally responsible plan. And seven Republicans—I repeat, seven Republicans—voted no, even though they sponsored the legislation.

The legislation we voted on, the Conrad-Gregg amendment, would have created an entitlement commission to look at what is wrong with the financial condition of this country, and seven Republicans who supported that amendment by offering their name as cosponsors of it voted against it. Had we had six of those seven votes for that legislation—I will use leader time—had six of the seven voted for that legislation, it would have passed. We would now have a commission. It would have been similar to what we did with the base closings. We did some terrific things with base closings that we could never have done but for that legislation. But I repeat, seven Republicans who cosponsored the legislation voted against it.

The American people can see right through that doublespeak. I am confident, as we all are, that they are tired of it.

As the President pointed out last night, pay-as-you-go in the 1990s led to record surpluses. Its absence in the next decade led to record deficits.

The road back to economic recovery is a long one. If we are to travel it successfully and prudently, if we are to create jobs and government responsibility, pay-as-you-go must be one of the rules of that road.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, first, I thank the Democratic leader, the majority leader, for his endorsement of the Conrad-Gregg initiative, although that is not what this amendment is about.

This amendment is about pay-go. Pay-go is one of those terms of art around here that has a political life of its own, and its political life is independent of its substantive action.

Yes, pay-go worked when we had it in the nineties. We had a Congress which was willing to enforce it. Regrettably, over the last 2 years, when pay-go has been in place as a budgetary item—not much different than doing it statutorily—pay-go has been waived by the majority of this Senate and specifically by the majority party on an incredible number of occasions. It has been waived. It has been gamed. It has been gone around. It has been stepped on. It has been ignored to the tune of \$1 trillion. Madam President, \$1 trillion of spending has occurred in the last 2½ years which should have been subject to a pay-go point of order, which should not have survived a pay-go point of order but against which no

pay-go point of order was made because pay-go was gamed.

The idea that pay-go is a substantive exercise around here is politically inaccurate. It is political fraud. I mean, basically, pay-go is used to make a statement that you are going to be fiscally responsible, but it does not happen.

This is a nice political cover vote. I am going to vote for pay-go, and I am going to be tough on spending when, in fact, we know that whenever an item comes to this floor for all intents and purposes that should be subject to a pay-go point of order, it is not. Pay-go is not pay-go. Pay-go is Swiss-cheese-go. It is full of holes.

I have great respect for the other side of the aisle. So if they will rename this Swiss-cheese-go, I may vote for it. Therefore, I ask unanimous consent that we change the name of pay-go to Swiss-cheese-go, and then I might be willing to vote for it.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, I will use leader time.

This is not the time for being funny. This is a time for addressing the problems we have in this country with a debt that is going on and on.

No one can dispute what I said, and that is, during the nineties when we had pay-go, record deficits were gone. Because of pay-go, we created a situation in this country where we were spending less money as a government than we were taking in.

Think about that. As a result of that, we had unending optimism by the business community and economic growth that has been unparalleled. So this is not a time for jokes. This is a time for addressing a serious problem.

My friend, who has the knowledge of the financial situation of this country as much as anyone in the country, knows this is not a time for jokes and trying to be funny. We have a situation in America today that calls for action. Of course, we can waive the pay-go rules if there is an emergency, but it is up to this body to determine if there is an emergency.

I hope everyone understands this legislation does not block emergency spending, it does not keep businesses from creating jobs, and it does not prevent Congress from cutting taxes. I hope Republicans will join with us in restoring fiscal stability to our country.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. REID. Time is up.

Mr. GREGG. I am not the leader, so I do not get leader time. I ask unanimous consent for another minute so I might respond to the leader.

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

Mr. GREGG. Madam President, a little humor even in serious times does not hurt things, I do not think. The point is substantive, even if it was humorously presented, which is that pay-go around here has become farcical. It

is not used to discipline our budget process at all. That is why over \$1 trillion of spending has resulted which should have been subject to pay-go points of order.

I do not think you can present a pay-go statutory point of order as being something other than what it will be, which is basically something so full of holes it will have virtually no effect on our capacity to discipline ourselves because we have already shown we do not discipline ourselves under the present pay-go rules we have. From my standpoint, this proposal does not hold water as a way to discipline ourselves and bring our fiscal house in order.

I appreciate the courtesy of the leader in allowing me to take an extra minute. I did not hear him object to my offer, but I will withdraw it.

Mr. GRASSLEY. Mr. President, I cannot support this pay-go amendment because it would continue the double-standard that exists between taxes and spending. Under current law, more than a dozen mandatory programs will expire over the next 10 years. Extending these programs will cost nearly \$1 trillion according to CBO. But, unlike tax cuts that expire during these same years, pay-go does not apply to the cost of extending these mandatory programs. This double standard is unacceptable.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, pay-go, as we are attempting to legislate, has not been in effect. That is what we are trying to do. That is why this legislation is so vitally important. I appreciate the work of the Budget Committee and the Finance Committee getting us to the point we are today with the legislation we are attempting to pass.

We are going to bring about in this country something that people can understand. They are going to understand that we are going to proceed in this body as they do paying their car payment, their housing payment. That is what we are trying to do. That is what this legislation is for.

I am terribly disappointed in my Republican colleagues. Let's join and do something good for this country as it relates to the economy. This is a step in that direction.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3305.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 12 Leg.]

#### YEAS—60

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

#### NAYS—40

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

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 40. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

Under the previous order, the motion to reconsider has been made and is laid upon the table.

#### AMENDMENT NO. 3299

The PRESIDING OFFICER. There are 4 minutes, equally divided, prior to a vote on amendment No. 3299 offered by the Senator from Montana.

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the next amendment is about whether the United States will pay its bills. It is about whether the United States will continue to pay the interest it owes on the money it has borrowed. The spending laws that created the debt are behind us. The only question remaining is whether the government will honor its obligation to pay the bill. We have gone to the restaurant, we have eaten the meal, and now the only question is whether we will pay the check. It is that simple.

If Congress does not enact this legislation, the Treasury will default on its debt for the first time in American history, which means lower Social Security payments for a portion of those beneficiaries, and we would fail to pay full pay benefits to a portion of the beneficiaries of all other Federal programs.

But that would pale in comparison to the cataclysmic result in the financial markets if we don't honor our obligation. The value of Treasuries would plummet, leaving 401(k) plans and investors holding much less value. The value of the dollar would decline significantly. Ultimately, the question of America's sovereignty and the degree

to which we are controlling our future would be in doubt and other countries would be dictating the results and telling us what to do.

We must pay our bills; we must pay our debts; we must vote for this legislation.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. The Senator from Montana is right. We have to pay our bills. But we also have to make it clear we are not going to continue to run up bills we can't pay for. It is not responsible to raise the debt ceiling in this manner if we aren't going to put in place any responsible activity to bring under control the rising debt, and there is no proposal here to do that—in fact, just the opposite. The proposal from the administration, and passed by this Congress, was a budget that will increase the debt every year for the next 10 years by over \$1 trillion, on average.

There is no proposal to bring that down. The debt will double in 5 years. It will triple in 10 years under the budget passed by the Democratic leadership of this Congress and the President's budget. That is not fiscal discipline.

To raise the debt ceiling by \$1.9 trillion while doing nothing to address the debt and how it is being added to is totally irresponsible. It is like a drunken sailor asking to have the bar open all night.

Why are we going to this number, by the way? Why \$1.9 trillion? So that the Congress does not have to face up to the debt ceiling before the next election. We ought to have to face up to it again before the next election because the people of this country have a right to know whether this Congress is going to do something about controlling the rate of growth of the debt before the next election.

Instead, we are seeing this attempt to try to take this off the table by moving it past the next election. The American people do not believe it should be off the table. That is what Massachusetts was all about. They are worried about this debt. They are worried about what we are doing to the next generation of Americans—to our children—by running up this debt.

This is not correct. We should not vote for this massive increase in the debt ceiling until we get some responsible action around here on the issue of how we are going to control the debt and deficit.

The PRESIDING OFFICER (Mrs. HAGAN). The question is on agreeing to amendment No. 3299, as amended.

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

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

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

(Rollcall Vote No. 13 Leg.)

## YEAS—60

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

## NAYS—40

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

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 40. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to and the motion to reconsider is considered made and laid on the table.

Mr. LEAHY. Madam President, 2 days ago, Senator COBURN offered a series of amendments to the debt ceiling bill requiring \$120 billion in funding cuts, including \$1.3 billion from the State Department. During the debate on those cuts, Senator COBURN stated that the “foreign ops appropriations increased by . . . 33 percent last year.”

If that were accurate, I would share the Senator’s concern. But when the Senator purports to speak for the American people, as he often does, he should stick to the facts.

The Senator surely knew that by suggesting the State and Foreign Operations budget increased by 33 percent in a single year he was distorting the actual increase, and that he was not counting the billions in supplemental funding for these programs in fiscal year 2009, every dollar of which was added to the Federal deficit and will have to be paid in future years because the former Republican administration wanted to pretend to be spending less.

In its fiscal year 2010 budget, the Obama administration, responding to pressure from Congress, stopped the budget gimmickry of funding ongoing programs like aid for Iraq, year after year, in off budget “emergency” supplementals. Instead, the President requested funding for these programs in its regular fiscal year 2010 budget. If you compare the fiscal year 2010 budget request with the fiscal year 2009 budget request minus the fiscal year 2009 supplemental funding, as the Senator from Oklahoma did, you obviously get a dis-

torted result that suggests a much bigger increase than actually occurred. It makes a great talking point, it sparks cries of outrage, but it is not what actually occurred.

The actual increase for State and Foreign Operations from fiscal year 2009 to fiscal year 2010, if you count regular budget and supplemental appropriations, was 9 percent. And the bulk of that increase was for global health programs, to combat HIV/AIDS and H1N1, for humanitarian crises such as the funds we are using to save lives in Haiti today, and for personnel to fill vacancies at embassies and USAID missions around the world that have been short staffed—some by as much as 20 percent—due to transfers of personnel to priority posts such as Iraq and Afghanistan. These increases were supported by Republicans and Democrats alike.

As I said during the debate on the Coburn amendments, there may be programs that are not achieving the results they should and which can be eliminated. No one wants to waste money that could be better spent. But Senator GREGG, the ranking member, and I spend a good deal of time each year making the difficult choices that Senator COBURN declined to make when he proposed his 5-percent cut. It is easy to sit on the sidelines and accuse others of overspending when you do not take responsibility for determining what the actual needs are, and decide which programs to fund and which not to fund, whether they are requested by the President or by other Senators. If we had funded them all, we would have spent two or three times our allocation. We always stay within our allocation, which in fiscal year 2010 was close to \$900 million below the President’s budget. And we did it with no earmarks.

So let’s be honest about the budget. There was nothing close to a 33-percent increase last year, and it is important to set the record straight.

Mr. REED. Madam President, our Nation faces unprecedented fiscal and economic challenges. This situation did not happen overnight. It did not happen in 2009. It is a situation created by 8 years of mismanagement and complacency under President Bush. For a decade, the easy replaced the difficult, and instead of seizing the chance in 2001 to wipe out our national debt, President Bush and his supporters went in the opposite direction. They focused on the short term, they encouraged lax regulatory oversight, particularly of financial markets, and they adopted an economic doctrine that called for borrowing to fund virtually every major Presidential initiative—tax cuts that were skewed toward the rich, difficult and costly wars in Iraq and in Afghanistan, and a prescription drug program that failed to negotiate costs with drugmakers and still leaves many seniors without coverage.

Let’s be clear: When President Bush took office, he was handed a projected

10-year surplus of \$5.6 trillion, which was quickly frittered away. In 8 years, the Bush administration added more debt than all the previous administrations combined, all the while middle-income households saw their earning power decline.

Due to these failed and irresponsible economic and fiscal policies, the Obama administration inherited the worst recession since the 1930s and a \$1.3 trillion budget deficit. It should be no surprise to anyone that President Obama and Congress cannot reverse this mountain of bad decisions and deficits in a year, but we have been trying. Indeed, according to the very same nonpartisan agency, the Congressional Budget Office, that predicts our budget deficit for this year, the health care reform bill the Senate passed reduced health care spending and would have cut the deficit by \$130 billion in the first 10 years and over \$1 trillion over 20 years. We also had to take action on a recovery bill that kept States from cutting police, firemen, and teachers, gave our Governors funds to repair and rebuild our infrastructure, and provided \$288 billion in tax cuts to help middle-class families and businesses deal with the recession. These were not easy steps, but they were the right steps, and it is fair to note that the other side of the aisle’s answer to these proposals has been to oppose these measures and offer no coherent alternative.

Today, because of the shortcomings of the Bush administration and the recession that started in December 2007, we face the question of whether we want to default on the government’s financial obligations to Social Security recipients and those who have purchased U.S. bonds. If we follow the course proposed by the other side of the aisle and vote no, the outcome is an even worse economic situation. Ask any economist of any background whether the government should default on its obligation and the answer is a resounding no. Yet that is what is proposed by too many here in the Senate. Although it is troubling to have to raise the debt to pay for a series of irresponsible choices, tax cuts, and a war in Iraq—all of which I opposed—it would be irresponsible to reject this measure.

There is no doubt that we need to address the long-term fiscal challenges facing our Nation. However, we should not lose sight of the fact that producing a budget is not merely adjusting numbers on a ledger; it is allocating resources to serve people. Today, our first order of business has to be ensuring that economic recovery has taken root. While some areas of the country have shown signs of recovery, most Americans have not seen the benefits. In places such as Rhode Island, where State governments lack the resources to help people who are struggling to deal with crushing unemployment levels, the need for Federal assistance remains great.

To balance the budget, we will have to make very difficult decisions, but many of us here have made them before. In 1993, without any support from congressional Republicans, Democrats made the tough decisions and took politically difficult votes that brought the budget surpluses that were handed off to President Bush 8 years later and then quickly squandered. Through the tough decisions we made, we were able to not only turn the economy around but eliminate deficit spending and cut the debt. Indeed, I remember that in 2001 some on the other side used the argument that we were paying off the government's debt too quickly as one reason they supported President Bush's reckless tax cuts for the wealthiest. And I stand ready to work with those who want to do the hard work of making the compromises that are necessary when it comes to spending and revenues. I am ready to support a pay-go rule that says you cannot pass a new bill without offsetting its costs, and I would urge my colleagues to reconsider the largess of the last farm bill, the multibillion dollar giveaway to ethanol makers, and the host of tax cuts for oil companies and companies that shift American jobs overseas.

It is instructive to remember that in 1993 the challenge was met, as it should have been, through the normal legislative process, not by handing off the tough choices to a deficit commission. Congress can do better than give its responsibilities to a commission whose recommendations would very likely tilt toward cuts in programs that are crucial to our seniors and our young people. At the same time, the record shows that similar commissions have been unsuccessful in the past. It is only when elected representatives tackle the tough issues that we see positive results. Conversely, when these issues are ignored, as they were during the last administration, we see how quickly fiscal responsibility can unravel.

President Obama and this Democratic-led Congress have already begun to take the hard and decisive steps to get our fiscal house in order. In response to skyrocketing health care costs, the Senate passed a health care bill that would meet President Obama's goal of reducing health care spending below projected levels, reining in the deficit by \$132 billion over the next 10 years and by up to \$1.6 trillion over the next 20 years.

We have a difficult series of choices before us. Yet we can respond to the crisis of the moment and get our Nation on a path of fiscal soundness.

Mr. ENSIGN. Madam President, I came to the floor a little more than a month ago to discuss perhaps one of the most critical issues facing our great country: the skyrocketing national debt. I had hoped that once Democrats went home and heard the concerns of their constituents, they would return to Washington with a new perspective. Believe me, I heard from Nevadans in the townhall meetings I

held this month that increased spending and more debt is simply not acceptable.

Voters in Massachusetts echoed those same feelings last week when they voted to put a stop to a bloated health care bill and protest out-of-control spending. I don't see how the message can be any clearer. The debt we are accumulating is unsustainable; it will bankrupt this Nation and force future generations to suffer for our fiscal irresponsibility.

Based on the votes today on the Senate floor, it appears that Democrats have decided to turn a deaf ear to the concerns of American voters. We have voted to raise the debt limit once again to make room for more spending. Ironically, the debt limit was put into place to provide Congress with constitutional control of the American purse strings. The debt limit was designed as a form of fiscal accountability to be used by the President and Congress to ensure that the Federal Government does not spend or borrow more than it collects in revenue.

I, along with many Americans, have tried to impose this simple yet vital rule to our children. Don't spend more than you can afford. Don't go into debt. But Congress is teaching them the exact opposite lesson: spend what you want and someone else will take care of it.

Although the debt limit has increased regularly over the years in order to accommodate annual Federal deficits, it has absolutely skyrocketed in the last several years. For example, from 1996 to 2002, the debt limit increased by 16 percent. But from 2003 to 2009 the debt limit increased 84 percent. And if we pass this legislation before us, the total increase from 2002 to January of 2010 will be over 120 percent.

I would like to recap the last month and a half with regard to the debt limit. It was raised by \$290 billion in December of last year. Today, the Senate Democrats voted to raise the debt limit by another \$1.9 trillion. After just 1 year in office, the Obama administration's spending has left American families in quite the financial hole. Since his inauguration, the national debt has increased by \$1.7 trillion.

And when you look at the burden on hard-working American families, the news is just as bad. The Federal debt per household in 2009 was \$68,000, and that is projected to increase to \$137,000 in 2019 under the Obama administration's budget. Nevadans are hurting enough right now—they don't need this added burden. Under the Democrats' leadership, debt limit increases will become a regular occurrence. The debt subject to limit is projected to grow to \$24.5 trillion by 2019.

This vote accomplishes only one thing: passing the responsibility for paying for the massive spending to future generations. We need to do better than that—we need to think of our grandchildren's future when deciding how to vote.

Democrats claim the massive spending this year was necessary because of the "Republican recession," but the Democrats' wasteful spending this year does too little to create jobs. In fact, since President Obama's inauguration the private sector has lost 3.4 million jobs.

And Nevada right now is going through an unprecedented economic downturn. Our unemployment rate just went up again to 13 percent, and that number doesn't account for those who have stopped looking for work. We have to stop this spending and start focusing on the real solution to the slow economy—jobs.

Within 5 years, Democratic policies will more than double the amount of debt held by the public at the end of fiscal year 2008 and will more than triple it by 2019, according to both OMB and CBO estimates. A single Obama term will add about as much new debt held by the public as all other Presidents in U.S. history combined. That statistic should be shocking to everyone, even to the current White House.

And we should all remember that this debt is only one part of the crisis. The Federal Government has promised more than \$70 trillion in entitlements that it cannot pay for. That is a staggering number.

Between Medicare, Medicaid, Social Security, and other liabilities, each American household shoulders roughly \$600,000 in IOUs. That is separate and apart from each household's share of the national debt. Keep in mind that this does not include health care reform.

And where is all this borrowed money coming from? Well, almost half of it comes from foreign countries. China is our country's largest foreign creditor, holding roughly 10 percent of our Nation's debt. And like any loan that you or I would get at the local bank, the Chinese don't lend money for free. Federal interest payment on foreign-owned debt has nearly doubled since 2000. We are sending a whole lot of taxpayer money abroad.

Today, I introduced a bill, the Commission for Fiscal Sustainability Act of 2010, to take an effective step toward a solution. This legislation would establish a commission with the goal of fiscal sustainability to guarantee the long-term fiscal strength and economic security of the United States. The legislation would require that the commission focus solely on recommendations to decrease Federal spending without the need for tax increases.

Now we hear of a new proposal from the White House to freeze discretionary spending. I am hopeful that President Obama is sincere in his desire to freeze spending, but I find it very hard to believe that he will be able to contain the fiscally irresponsible Democratic majority which has yet to show restraint in this area.

I don't like to sound pessimistic because this is the greatest country in the history of the world. And I truly

believe that. And I believe that these challenges can be solved. But we must act. We must show leadership—fiscally conservative leadership and stop this out of control spending. American families have had to make tough choices to balance their budget. They understand that they cannot have it all. But we in Congress want to have it all—even when we can't pay for it. That is simply unsustainable.

The PRESIDING OFFICER. There is now 4 minutes of debate on passage.

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I think we all know where we are. I do not think anything else needs to be said. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back.

The question is on the engrossment of the amendment and third reading of the joint resolution.

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

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

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

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

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Wyoming (Mr. ENZI).

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

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 14 Leg.]

#### YEAS—60

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

#### NAYS—39

Alexander	Collins	Hutchison
Barrasso	Corker	Inhofe
Bennett	Cornyn	Isakson
Bond	Crapo	Johanns
Brownback	DeMint	Kyl
Bunning	Ensign	LeMieux
Burr	Graham	Lugar
Chambliss	Grassley	McCain
Coburn	Gregg	McConnell
Cochran	Hatch	Murkowski

Risch  
Roberts  
Sessions

Shelby  
Snowe  
Thune

Vitter  
Voinovich  
Wicker

NOT VOTING—1

Enzi

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 39. Under the previous order requiring 60 votes for the passage of this joint resolution, the joint resolution, as amended, is passed.

The joint resolution (H.J. Res. 45), as amended, was passed, as follows:

#### H.J. RES. 45

*Resolved*, That the resolution from the House of Representatives (H.J. Res. 45) entitled "Joint resolution increasing the statutory limit on the public debt.", do pass with the following amendment:

Strike all after the resolving clause and insert the following:

*That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof \$14,294,000,000,000.*

#### TITLE I—STATUTORY PAY-AS-YOU-GO ACT OF 2010

##### SEC. 1. SHORT TITLE.

*This title may be cited as the "Statutory Pay-As-You-Go Act of 2010".*

##### SEC. 2. PURPOSE.

*The purpose of this title is to reestablish a statutory procedure to enforce a rule of budget neutrality on new revenue and direct spending legislation.*

##### SEC. 3. DEFINITIONS AND APPLICATIONS.

*As used in this title—*

(1) The term "BBEDCA" means the *Balanced Budget and Emergency Deficit Control Act of 1985*.

(2) The definitions set forth in section 3 of the *Congressional Budget and Impoundment Control Act of 1974* and in section 250 of *BBEDCA* shall apply to this title, except to the extent that they are specifically modified as follows:

(A) The term "outyear" means a fiscal year one or more years after the budget year.

(B) In section 250(c)(8)(C), the reference to the food stamp program shall be deemed to be a reference to the *Supplemental Nutrition Assistance Program*.

(3) The term "AMT" means the *Alternative Minimum Tax for individuals under sections 55–59 of the Internal Revenue Code of 1986*, the term "EGTRRA" means the *Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16)*, and the term "JGTRRA" means the *Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108–27)*.

(4)(A) The term "budgetary effects" means the amount by which PAYGO legislation changes outlays flowing from direct spending or revenues relative to the baseline and shall be determined on the basis of estimates prepared under section 4. Budgetary effects that increase outlays flowing from direct spending or decrease revenues are termed "costs" and budgetary effects that increase revenues or decrease outlays flowing from direct spending are termed "savings". Budgetary effects shall not include any costs associated with debt service.

(B) For purposes of these definitions, off-budget effects shall not be counted as budgetary effects.

(C) Solely for purposes of recording entries on a PAYGO scorecard, provisions in appropriation Acts are also considered to be budgetary effects for purposes of this title if such provisions make outyear modifications to substantive law, except that provisions for which the outlay effects net to zero over a period consisting of the current year, the budget year, and the 4 subsequent years shall not be considered budgetary effects.

For purposes of this paragraph, the term, "modifications to substantive law" refers to changes to or restrictions on entitlement law or other mandatory spending contained in appropriations Acts, notwithstanding section 250(c)(8) of *BBEDCA*. Provisions in appropriations Acts that are neither outyear modifications to substantive law nor changes in revenues have no budgetary effects for purposes of this title.

(5) The term "debit" refers to the net total amount, when positive, by which costs recorded on the PAYGO scorecards for a fiscal year exceed savings recorded on those scorecards for that year.

(6) The term "entitlement law" refers to a section of law which provides entitlement authority.

(7) The term "PAYGO legislation" or a "PAYGO Act" refers to a bill or joint resolution that affects direct spending or revenue relative to the baseline. The budgetary effects of changes in revenues and outyear modifications to substantive law included in appropriation Acts as defined in paragraph (4) shall be treated as if they were contained in PAYGO legislation or a PAYGO Act.

(8) The term "timing shift" refers to a delay of the date on which outlays flowing from direct spending would otherwise occur from the ninth outyear to the tenth outyear or an acceleration of the date on which revenues would otherwise occur from the tenth outyear to the ninth outyear.

#### SEC. 4. PAYGO ESTIMATES AND PAYGO SCORECARDS.

(a) PAYGO ESTIMATES.—

(1) REQUIRED DESIGNATION IN PAYGO ACTS.—

(A) HOUSE OF REPRESENTATIVES.—To establish the budgetary effects of a PAYGO Act consistent with the determination made by the Chairman of the House Budget Committee, a PAYGO Act originated in or amended by the House of Representatives may include the following statement: "The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled 'Budgetary Effects of PAYGO Legislation' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage."

(B) SENATE.—To establish the budgetary effects of a PAYGO Act consistent with the determination made by the Chairman of the Senate Budget Committee, a PAYGO Act originated in or amended by the Senate shall include the following statement: "The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled 'Budgetary Effects of PAYGO Legislation' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage."

(C) CONFERENCE REPORTS AND AMENDMENTS BETWEEN THE HOUSES.—To establish the budgetary effects of the conference report on a PAYGO Act, or an amendment to an amendment between Houses on a PAYGO Act, which if estimated shall be estimated jointly by the Chairmen of the House and Senate Budget Committees, the conference report or amendment between the Houses shall include the following statement: "The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled 'Budgetary Effects of PAYGO Legislation' for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses."



(2) DETERMINATION OF BUDGETARY EFFECTS OF PAYGO ACTS.—

(A) ORIGINAL LEGISLATION.—

(i) STATEMENT AND ESTIMATE.—Prior to a vote on passage of a PAYGO Act originated or amended by one House, the Chairman of the Budget Committee of that House may submit for printing in the Congressional Record a statement titled “Budgetary Effects of PAYGO Legislation” which shall include an estimate of the budgetary effects of that Act, if available prior to passage of the Act by that House and shall submit, if applicable, an identification of any current policy adjustments made pursuant to section 7 of this Act. The timely submission of such a statement, in conjunction with the appropriate designation made pursuant to paragraph (1)(A) or (1)(B), as applicable, shall establish the budgetary effects of the PAYGO Act for the purposes of this Act.

(ii) EFFECT.—The latest statement submitted by the Chairman of the Budget Committee of that House prior to passage shall supersede any prior statements submitted in the Congressional Record and shall be valid only if the PAYGO Act is not further amended by either House.

(iii) FAILURE TO SUBMIT ESTIMATE.—If—

(I) the estimate required by clause (i) has not been submitted prior to passage by that House;

(II) such estimate has been submitted but is no longer valid due to a subsequent amendment to the PAYGO Act; or

(III) the designation required pursuant to this subsection has not been made;

the budgetary effects of the PAYGO Act shall be determined under subsection (d)(3), provided that this clause shall not apply if a valid designation is subsequently included in that PAYGO Act pursuant to paragraph (1)(C) and a statement is submitted pursuant to subparagraph (B).

(B) CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.—

(i) IN GENERAL.—Prior to the adoption of a report of a committee of conference on a PAYGO Act in either House, or disposition of an amendment to an amendment between Houses on a PAYGO Act, the Chairmen of the Budget Committees of the House and Senate may jointly submit for printing in the Congressional Record a statement titled “Budgetary Effects of PAYGO Legislation” which shall include an estimate of the budgetary effects of that Act if available prior to passage of the Act by the House acting first on the legislation and shall submit, if applicable, an identification of any current policy adjustments made pursuant to section 7 of this title. The timely submission of such a statement, in conjunction with the appropriate designation made pursuant to paragraph (1)(C), shall establish the budgetary effects of the PAYGO Act for the purposes of this Act.

(ii) FAILURE TO SUBMIT ESTIMATE.—If such estimate has not been submitted prior to the adoption of a report of a committee of conference by either House, or if the designation required pursuant to this subsection has not been made, the budgetary effects of the PAYGO Act shall be determined under subsection (d)(3).

(3) PROCEDURE IN THE SENATE.—In the Senate, upon submission of a statement titled “Budgetary Effects of PAYGO Legislation” by the Chairman of the Senate Budget Committee for printing in the Congressional Record, the Legislative Clerk shall read the statement.

(4) JURISDICTION OF THE BUDGET COMMITTEES.—For the purposes of enforcing section 306 of the Congressional Budget Act of 1974, a designation made pursuant to paragraph (1)(A), (1)(B), or (1)(C), that includes only the language specifically prescribed therein, shall not be considered a matter within the jurisdiction of either the Senate or House Committees on the Budget.

(b) CBO PAYGO ESTIMATES.—

(1) IN GENERAL.—

(A) ESTIMATES.—Section 308(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following new paragraph:

“(3) CBO PAYGO ESTIMATES.—

“(A) The Chairs of the Committees on the Budget of the House and Senate, as applicable, shall request from the Director of the Congressional Budget Office an estimate of the budgetary effects of PAYGO legislation.

“(B) Estimates shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(C) The Director shall not count timing shifts, as that term is defined at section 3(8) of the Statutory Pay-As-You-Go Act of 2010, in estimates of the budgetary effects of PAYGO Legislation.”

(B) SIDEHEADING.—The side heading of section 308(A) of the Congressional Budget Act of 1974 is amended by striking “Reports on”.

(2) GUIDELINES.—Section 308 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

“(d) Scorekeeping Guidelines.—Estimates under this section shall be provided in accordance with the scorekeeping guidelines determined under section 252(d)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985.”

(c) CURRENT POLICY ADJUSTMENTS FOR CERTAIN LEGISLATION.—

(1) IN GENERAL.—For any provision of legislation that meets the criteria in subsection (c), (d), (e) or (f) of section 7, the Chairs of the Committees on the Budget of the House and Senate, as applicable, shall request that CBO adjust the estimate of budgetary effects of that legislation pursuant to paragraph (2) for the purposes of this title. A single piece of legislation may contain provisions that meet criteria in more than one of the subsections referred to in the preceding sentence. CBO shall adjust estimates for legislation designated under subsection (a) and estimated under subsection (b). OMB shall adjust estimates for legislation estimated under subsection (d)(3).

(2) ADJUSTMENTS.—

(A) ESTIMATES.—CBO or OMB, as applicable, shall exclude from the estimate of budgetary effects any budgetary effects of a provision that meets the criteria in subsection (c), (d), (e) or (f) of section 7, to the extent that those budgetary effects, when combined with all other excluded budgetary effects of any other previously designated provisions of enacted legislation under the same subsection of section 7, do not exceed the maximum applicable current policy adjustment defined under the applicable subsection of section 7 for the applicable 10-year period.

(B) BASELINE.—Any estimate made pursuant to subparagraph (A) shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 257 of the BBEDCA. CBO estimates of legislation adjusted for current policy shall include a separate presentation of costs excluded from the calculation of budgetary effects for the legislation, as well as an updated total of all excluded costs of provisions within subsection (c), (d), or (e) of section 7, as applicable, and in the case of paragraph (1) of section 7(f), within any of the subparagraphs (A) through (L) of such paragraph, as applicable.

(3) LIMITATION ON AVAILABILITY OF EXCESS SAVINGS.—

(A) PROHIBITION ON USE OF EXCESS SAVING FOR INELIGIBLE POLICIES.—To the extent the adjustment for current policy of any provision estimated under this subsection exceeds the estimated budgetary effects of that provision, these excess savings shall not be available to offset the costs of any provisions not otherwise eligible for a current policy adjustment under section 7, and shall not be counted on the PAYGO scorecards established pursuant to subsections (d)(4) and (d)(5).

(B) PROHIBITION ON USE OF EXCESS SAVINGS ACROSS BUDGET AREAS.—For provisions eligible for a current policy adjustment under sub-

sections (c) through (f) of section 7, to the extent the adjustment for current policy of any provision exceeds the estimated budgetary effects of that same provision, the excess savings shall be available only to offset the costs of other provisions that qualify for a current policy adjustment in that same subsection. Each paragraph in section 7(f)(1) shall be considered a separate subsection for purposes of this section.

(4) FURTHER GUIDANCE ON ESTIMATING BUDGETARY EFFECTS.—Estimates of budgetary effects under this subsection shall be consistent with the guidance provided at section 7(h).

(5) INCLUSION OF STATEMENT.—For PAYGO legislation adjusted pursuant to section 7, the Chairman of the House or Senate Budget Committee, as applicable, shall include in any statement titled “Budgetary Effects of PAYGO Legislation”, submitted for that legislation pursuant to section 4, an explanation of the current policy designation and adjustments.

(d) OMB PAYGO SCORECARDS.—

(1) IN GENERAL.—OMB shall maintain and make publicly available a continuously updated document containing two PAYGO scorecards displaying the budgetary effects of PAYGO legislation as determined under section 308 of the Congressional Budget Act of 1974, applying the look-back requirement in subsection (e) and the averaging requirement in subsection (f), and a separate addendum displaying the estimates of the costs of provisions designated in statute as emergency requirements.

(2) ESTIMATES IN LEGISLATION.—Except as provided in paragraph (3), in making the calculations for the PAYGO scorecards, OMB shall use the budgetary effects included by reference in the applicable legislation pursuant to subsection (a).

(3) OMB PAYGO ESTIMATES.—If a PAYGO Act does not contain a valid reference to its budgetary effects consistent with subsection (a), OMB shall estimate the budgetary effects of that legislation upon its enactment. The OMB estimate shall be based on the approaches to scorekeeping set forth in section 308 of the Congressional Budget Act of 1974, as amended by this title, and subsection (g)(4), and shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31 of the United States Code.

(4) 5-YEAR SCORECARD.—The first scorecard shall display the budgetary effects of PAYGO legislation in each year over the 5-year period beginning in the budget year.

(5) 10-YEAR SCORECARD.—The second scorecard shall display the budgetary effects of PAYGO legislation in each year over the 10-year period beginning in the budget year.

(6) COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORTS ACT.—Neither scorecard maintained by OMB pursuant to this subsection shall include net savings from any provisions of legislation titled “Community Living Assistance Services and Supports Act”, which establishes a Federal insurance program for long-term care, if such legislation is enacted into law, or amended, subsequent to the date of enactment of this title.

(e) LOOK-BACK TO CAPTURE CURRENT-YEAR EFFECTS.—For purposes of this section, OMB shall treat the budgetary effects of PAYGO legislation enacted during a session of Congress that occur during the current year as though they occurred in the budget year.

(f) AVERAGING USED TO MEASURE COMPLIANCE OVER 5-YEAR AND 10-YEAR PERIODS.—OMB shall cumulate the budgetary effects of a PAYGO Act over the budget year (which includes any look-back effects under subsection (e)) and—

(1) for purposes of the 5-year scorecard referred to in subsection (d)(4), the four subsequent outyears, divide that cumulative total by five, and enter the quotient in the budget-year column and in each subsequent column of the 5-year PAYGO scorecard; and

(2) for purposes of the 10-year scorecard referred to in subsection (d)(5), the nine subsequent outyears, divide that cumulative total by



ten, and enter the quotient in the budget-year column and in each subsequent column of the 10-year PAYGO scorecard.

(g) EMERGENCY LEGISLATION.—

(1) DESIGNATION IN STATUTE.—If a provision of direct spending or revenue legislation in a PAYGO Act is enacted as an emergency requirement that the Congress so designates in statute pursuant to this section, the amounts of new budget authority, outlays, and revenue in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purposes of this Act.

(2) DESIGNATION IN THE HOUSE OF REPRESENTATIVES.—If a PAYGO Act includes a provision expressly designated as an emergency for the purposes of this title, the Chair shall put the question of consideration with respect thereto.

(3) POINT OF ORDER IN THE SENATE.—

(A) IN GENERAL.—When the Senate is considering a PAYGO Act, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) SUPERMAJORITY WAIVER AND APPEALS.—

(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313 (e) of the Congressional Budget Act of 1974.

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a PAYGO Act, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(4) EFFECT OF DESIGNATION ON SCORING.—If a provision is designated as an emergency requirement under this Act, CBO or OMB, as applicable, shall not include the budgetary effects of such a provision in its estimate of the budgetary effects of that PAYGO legislation.

**SEC. 5. ANNUAL REPORT AND SEQUESTRATION ORDER.**

(a) ANNUAL REPORT.—Not later than 14 days (excluding weekends and holidays) after Congress adjourns to end a session, OMB shall make publicly available and cause to be printed in the Federal Register an annual PAYGO report. The report shall include an up-to-date document containing the PAYGO scorecards, a

description of any current policy adjustments made under section 4(c), information about emergency legislation (if any) designated under section 4(g), information about any sequestration if required by subsection (b), and other data and explanations that enhance public understanding of this title and actions taken under it.

(b) SEQUESTRATION ORDER.—If the annual report issued at the end of a session of Congress under subsection (a) shows a debit on either PAYGO scorecard for the budget year, OMB shall prepare and the President shall issue and include in that report a sequestration order that, upon issuance, shall reduce budgetary resources of direct spending programs by enough to offset that debit as prescribed in section 6. If there is a debit on both scorecards, the order shall fully offset the larger of the two debits. OMB shall transmit the order and the report to the House of Representatives and the Senate. If the President issues a sequestration order, the annual report shall contain, for each budget account to be sequestered, estimates of the baseline level of budgetary resources subject to sequestration, the amount of budgetary resources to be sequestered, and the outlay reductions that will occur in the budget year and the subsequent fiscal year because of that sequestration.

**SEC. 6. CALCULATING A SEQUESTRATION.**

(a) REDUCING NONEXEMPT BUDGETARY RESOURCES BY A UNIFORM PERCENTAGE.—

(1) IN GENERAL.—OMB shall calculate the uniform percentage by which the budgetary resources of nonexempt direct spending programs are to be sequestered such that the outlay savings resulting from that sequestration, as calculated under subsection (b), shall offset the budget-year debit, if any, on the applicable PAYGO scorecard. If the uniform percentage calculated under the prior sentence exceeds 4 percent, the Medicare programs described in section 256(d) of BBEDCA shall be reduced by 4 percent and the uniform percentage by which the budgetary resources of all other nonexempt direct spending programs are to be sequestered shall be increased, as necessary, so that the sequestration of Medicare and of all other nonexempt direct spending programs together produce the required outlay savings.

(2) PROGRAMS AND ACTIVITIES IN UNIFIED BUDGET ONLY.—Subject to the exemptions set forth in section 11, OMB shall determine the uniform percentage required under paragraph (1) with respect to programs and activities contained in the unified budget only.

(b) OUTLAY SAVINGS.—In determining the amount by which a sequestration offsets a budget-year debit, OMB shall count—

(1) the amount by which the sequestration in a crop year of crop support payments, pursuant to section 256(j) of BBEDCA, reduces outlays in the budget year and the subsequent fiscal year;

(2) the amount by which the sequestration of Medicare payments in the 12-month period following the sequestration order, pursuant to section 256(d) of BBEDCA, reduces outlays in the budget year and the subsequent fiscal year; and

(3) the amount by which the sequestration in the budget year of the budgetary resources of other nonexempt mandatory programs reduces outlays in the budget year and in the subsequent fiscal year.

**SEC. 7. ADJUSTMENT FOR CURRENT POLICIES.**

(a) PURPOSE.—The purpose of this section is to provide for adjustments of estimates of budgetary effects of PAYGO legislation for legislation affecting 4 areas of the budget—

(1) payments made under section 1848 of the Social Security Act (referred to in this section as “Payment for Physicians’ Services”);

(2) the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986;

(3) the AMT; and

(4) provisions of EGTRRA or JGTRRA that amended the Internal Revenue Code of 1986 (or provisions in later statutes further amending the

amendments made by EGTRRA or JGTRRA), other than—

(A) the provisions of those 2 Acts that were made permanent by the Pension Protection Act of 2006 (Public Law 109–280);

(B) amendments to the Estate and Gift Tax referred to in paragraph (2);

(C) the AMT referred to in paragraph (3); and

(D) the income tax rates on ordinary income that apply to individuals with adjusted gross incomes greater than \$200,000 for a single filer and \$250,000 for joint filers.

(b) DURATION.—This section shall remain in effect through December 31, 2011.

(c) MEDICARE PAYMENTS TO PHYSICIANS.—

(1) CRITERIA.—Legislation that includes provisions amending or superseding the system for updating payments under subsections (d) and (f) of section 1848 of the Social Security Act shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between—

(A) estimated net outlays attributable to the payment rates and related parameters in accordance with subsections (d) and (f) of section 1848 of the Social Security Act (as scheduled on December 31, 2009, to be in effect); and

(B) what those net outlays would have been if—

(i) the nominal payment rates and related parameters in effect for 2009 had been in effect through December 31, 2014, without change; and

(ii) thereafter, the nominal payment rates and related parameters described in subparagraph (A) had applied and the assumption described in clause (i) had never applied.

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2014, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) estimated net outlays attributable to the payment rates and related parameters specified in that section of the Social Security Act (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those net outlays would have been if the nominal payment rates and related parameters in effect for 2009 had been in effect, without change, for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(d) ESTATE AND GIFT TAX.—

(1) CRITERIA.—Legislation that includes provisions amending the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986 shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections would have been if, on the date of enactment of the legislation meeting the criteria in paragraph (1), estate and gift tax law had instead been amended so that the tax rates, nominal exemption amounts, and related parameters in effect for tax year 2009 had remained in effect through December 31, 2011, with nominal exemption amounts indexed for inflation after 2009 consistent with subsection (g).

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2011, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those revenues would have been if the estate and gift tax law rates, nominal exemption amounts, and related parameters in effect for 2009, with nominal exemption amounts indexed for inflation after 2009 consistent with subsection (g), had been in effect for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(4) **DURATION OF POLICY ADJUSTMENT.**—Adjustments made pursuant to this subsection are available for policies affecting the estate and gift tax through only December 31, 2011. Any adjustments shall include budgetary effects in all years from these policy changes.

(e) **AMT RELIEF.**—

(1) **CRITERIA.**—Legislation that includes provisions extending AMT relief shall trigger the current policy adjustment required by this title.

(2) **ADJUSTMENT.**—The amount of the maximum current policy adjustment shall be the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), AMT law had instead been amended by making commensurate adjustments in the exemption amounts for joint and single filers in such a manner that the number of taxpayers with AMT liability or lost credits that occur as a result of the AMT would not be estimated to exceed the number of taxpayers affected by the AMT in tax year 2008 in any year for which relief is provided, through December 31, 2011.

(3) **LIMITATION.**—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2011, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those revenues would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), AMT law had instead been amended by making commensurate adjustments in the exemption amounts for joint and single filers in such a manner that the number of taxpayers with AMT liability or lost credits that occur as a result of the AMT would not be estimated to exceed the number of AMT taxpayers in tax year 2008 for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(4) **DURATION OF POLICY ADJUSTMENT.**—Adjustments made pursuant to this subsection are available for policies affecting the AMT through only December 31, 2011. Any adjustments shall include budgetary effects in all years from these policy changes.

(f) **PERMANENT EXTENSION OF MIDDLE-CLASS TAX CUTS.**—

(1) **CRITERIA.**—Legislation that includes provisions extending middle-class tax cuts shall trigger the current policy adjustment required by this title if those provisions extend 1 or more of the following provisions:

(A) The 10 percent bracket as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendments through December 31, 2009.

(B) The child tax credit as in effect for tax year 2010, as provided for under section 201 of EGTRRA and any later amendments through December 31, 2009.

(C) Tax benefits for married couples as in effect for tax year 2010, as provided for under title III of EGTRRA and any later amendments through December 31, 2009.

(D) The adoption credit as in effect in tax year 2010, as provided for under section 202 of EGTRRA and any later amendments through December 31, 2009.

(E) The dependent care credit as in effect in tax year 2010, as provided for under section 204 of EGTRRA and any later amendments through December 31, 2009.

(F) The employer-provided child care credit as in effect in tax year 2010, as provided for under section 205 of EGTRRA and any later amendments through December 31, 2009.

(G) The education tax benefits as in effect in tax year 2010, as provided for under title IV of EGTRRA and any later amendments through December 31, 2009.

(H) The 25 and 28 percent brackets as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendments through December 31, 2009.

(I) The 33 percent bracket as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendment through December 31, 2009, affecting taxpayers with adjusted gross income of \$200,000 or less for single filers and \$250,000 or less for joint filers in tax year 2010, with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(J) The rates on income derived from capital gains and qualified dividends as in effect for tax year 2010, as provided for under sections 301 and 302 of JGTRRA and any later amendment through December 31, 2009, affecting taxpayers with adjusted gross income of \$200,000 or less for single filers and \$250,000 for joint filers with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(K) The phaseout of personal exemptions and the overall limitation on itemized deductions as in effect for tax year 2010, as provided for under sections 102 and 103 of EGTRRA of 2001, respectively, and any later amendment through December 31, 2009, affecting taxpayer with adjusted gross income of \$200,000 or less for single filers and \$250,000 for joint filers, with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(L) The increase in the limitations on expensing depreciable business assets for small businesses under section 179(b) of the Internal Revenue Code of 1986 as in effect in tax year 2010, as provided under section 202 of JGTRRA and any later amendment through December 31, 2009.

(2) **ADJUSTMENT.**—The amount of the maximum current policy adjustment shall be the difference between—

(A) total revenues projected to be collected and outlays to be paid under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections and outlay payments would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), the provisions identified in paragraph (1) were made permanent.

(3) **LIMITATION.**—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) are not permanent, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected and outlays to be paid under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those revenue collections and outlay payments would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), the provisions identified in para-

graph (1) had been in effect, without change, for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(g) **INDEXING FOR INFLATION.**—Indexed amounts are assumed to increase in each year by an amount equal to the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, determined by substituting “calendar year 2008” for “calendar year 1992” in subparagraph (B) of such section.

(h) **GUIDANCE ON ESTIMATES AND CURRENT POLICY ADJUSTMENTS.**—

(1) **MIDDLE CLASS TAX CUTS.**—For purposes of estimates made pursuant to subsection (f)—

(A) each of the income tax provisions shall be estimated as though the AMT had remained at current law as scheduled on December 31, 2009 to be in effect; and

(B) if more than 1 of the income tax provisions is included in a single piece of legislation, those provisions shall be estimated in the order in which they appear.

(2) **AMT.**—For purposes of estimates made pursuant to subsection (e), changes to the AMT shall be estimated as if, on the date of enactment of legislation meeting the criteria in subsection (e)(1), all of the income tax provisions identified in subsection (f)(1) were made permanent.

## SEC. 8. APPLICATION OF BBEDCA.

For purposes of this title—

(1) notwithstanding section 275 of BBEDCA, the provisions of sections 255, 256, 257, and 274 of BBEDCA, as amended by this title, shall apply to the provisions of this title;

(2) references in sections 255, 256, 257, and 274 to “this part” or “this title” shall be interpreted as applying to this title;

(3) references in sections 255, 256, 257, and 274 of BBEDCA to “section 254” shall be interpreted as referencing section 5 of this title;

(4) the reference in section 256(b) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 5 of this title;

(5) the reference in section 256(d)(1) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 6 of this title;

(6) the reference in section 256(d)(4) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 5 of this title;

(7) section 256(k) of BBEDCA shall apply to a sequestration, if any, under this title; and

(8) references in section 257(e) of BBEDCA to “section 251, 252, or 253” shall be interpreted as referencing section 4 of this title.

## SEC. 9. TECHNICAL CORRECTIONS.

(a) Section 250(c)(18) of BBEDCA is amended by striking “the expenses the Federal deposit insurance agencies” and inserting “the expenses of the Federal deposit insurance agencies”.

(b) Section 256(k)(1) of BBEDCA is amended by striking “in paragraph (5)” and inserting “in paragraph (6)”.

## SEC. 10. CONFORMING AMENDMENTS.

(a) Section 256(a) of BBEDCA is repealed.

(b) Section 256(b) of BBEDCA is amended by striking “origination fees under sections 438(c)(2) and 455(c) of that Act shall each be increased by 0.50 percentage point.” and inserting in lieu thereof “origination fees under sections 438(c)(2) and (6) and 455(c) and loan processing and issuance fees under section 428(f)(1)(A)(ii) of that Act shall each be increased by the uniform percentage specified in that sequestration order, and, for student loans originated during the period of the sequestration, special allowance payments under section 438(b) of that Act accruing during the period of the sequestration shall be reduced by the uniform percentage specified in that sequestration order.”.

(c) Section 256(c) of BBEDCA is repealed.

(d) Section 256(d) of BBEDCA is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (5), and (6);

(2) by amending paragraph (1) to read as follows:

“(1) **CALCULATION OF REDUCTION IN PAYMENT AMOUNTS.**—To achieve the total percentage reduction in those programs required by section 252 or 253, subject to paragraph (2), and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply, with respect to the health insurance programs under title XVIII of the Social Security Act—

“(A) in the case of parts A and B of such title, to individual payments for services furnished during the one-year period beginning on the first day of the first month beginning after the date the order is issued (or, if later, the date specified in paragraph (4)); and

“(B) in the case of parts C and D, to monthly payments under contracts under such parts for the same one-year period; such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that period.”.

(3) by inserting after paragraph (1) the following:

“(2) **UNIFORM REDUCTION RATE; MAXIMUM PERMISSIBLE REDUCTION.**—Reductions in payments for programs and activities under such title XVIII pursuant to a sequestration order under section 254 shall be at a uniform rate, which shall not exceed 4 percent, across all such programs and activities subject to such order.”;

(4) by inserting after paragraph (3), as redesignated, the following:

“(4) **TIMING OF SUBSEQUENT SEQUESTRATION ORDER.**—A sequestration order required by section 252 or 253 with respect to programs under such title XVIII shall not take effect until the first month beginning after the end of the effective period of any prior sequestration order with respect to such programs, as determined in accordance with paragraph (1).”;

(5) in paragraph (6), as redesignated, to read as follows:

“(6) **SEQUESTRATION DISREGARDED IN COMPUTING PAYMENT AMOUNTS.**—The Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part, for purposes of computing any adjustments to payment rates under such title XVIII, specifically including—

“(A) the part C growth percentage under section 1853(c)(6);

“(B) the part D annual growth rate under section 1860D-2(b)(6); and

“(C) application of risk corridors to part D payment rates under section 1860D-15(e).”; and (6) by adding after paragraph (6), as redesignated, the following:

“(7) **EXEMPTIONS FROM SEQUESTRATION.**—In addition to the programs and activities specified in section 255, the following shall be exempt from sequestration under this part:

“(A) **PART D LOW-INCOME SUBSIDIES.**—Premium and cost-sharing subsidies under section 1860D-14 of the Social Security Act.

“(B) **PART D CATASTROPHIC SUBSIDY.**—Payments under section 1860D-15(b) and (e)(2)(B) of the Social Security Act.

“(C) **QUALIFIED INDIVIDUAL (QI) PREMIUMS.**—Payments to States for coverage of Medicare cost-sharing for certain low-income Medicare beneficiaries under section 1933 of the Social Security Act.”.

#### SEC. 11. EXEMPT PROGRAMS AND ACTIVITIES.

(a) **DESIGNATIONS.**—Section 255 of BBEDCA is amended by redesignating subsection (i) as (j) and striking “1998” and inserting in lieu thereof “2010”.

(b) **SOCIAL SECURITY, VETERANS PROGRAMS, NET INTEREST, AND TAX CREDITS.**—Subsections (a) through (d) of section 255 of BBEDCA are amended to read as follows:

“(a) **SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.**—Benefits

payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.), and benefits payable under section 231b(a), 231b(f)(2), 231c(a), and 231c(f) of title 45 United States Code, shall be exempt from reduction under any order issued under this part.

“(b) **VETERANS PROGRAMS.**—The following programs shall be exempt from reduction under any order issued under this part:

“All programs administered by the Department of Veterans Affairs.

“Special Benefits for Certain World War II Veterans (28-0401-0-1-701).

“(c) **NET INTEREST.**—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

“(d) **REFUNDABLE INCOME TAX CREDITS.**—Payments to individuals made pursuant to provisions of the Internal Revenue Code of 1986 establishing refundable tax credits shall be exempt from reduction under any order issued under this part.”.

(c) **OTHER PROGRAMS AND ACTIVITIES, LOW-INCOME PROGRAMS, AND ECONOMIC RECOVERY PROGRAMS.**—Subsections (g) and (h) of section 255 of BBEDCA are amended to read as follows:

“(g) **OTHER PROGRAMS AND ACTIVITIES.**—

“(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

“Activities resulting from private donations, bequests, or voluntary contributions to the Government.

“Activities financed by voluntary payments to the Government for goods or services to be provided for such payments.

“Administration of Territories, Northern Mariana Islands Covenant grants (14-0412-0-1-808).

“Advances to the Unemployment Trust Fund and Other Funds (16-0327-0-1-600).

“Black Lung Disability Trust Fund Refinancing (16-0329-0-1-601).

“Bonneville Power Administration Fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271).

“Claims, Judgments, and Relief Acts (20-1895-0-1-808).

“Compact of Free Association (14-0415-0-1-808).

“Compensation of the President (11-0209-01-1-802).

“Comptroller of the Currency, Assessment Funds (20-8413-0-8-373).

“Continuing Fund, Southeastern Power Administration (89-5653-0-2-271).

“Continuing Fund, Southwestern Power Administration (89-5649-0-2-271).

“Dual Benefits Payments Account (60-0111-0-1-601).

“Emergency Fund, Western Area Power Administration (89-5069-0-2-271).

“Exchange Stabilization Fund (20-4444-0-3-155).

“Farm Credit Administration Operating Expenses Fund (78-4131-0-3-351).

“Farm Credit System Insurance Corporation, Farm Credit Insurance Fund (78-4171-0-3-351).

“Federal Deposit Insurance Corporation, Deposit Insurance Fund (51-4596-0-4-373).

“Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51-4065-0-3-373).

“Federal Deposit Insurance Corporation, Noninterest Bearing Transaction Account Guarantee (51-4458-0-3-373).

“Federal Deposit Insurance Corporation, Senior Unsecured Debt Guarantee (51-4457-0-3-373).

“Federal Home Loan Mortgage Corporation (Freddie Mac).

“Federal Housing Finance Agency, Administrative Expenses (95-5532-0-2-371).

“Federal National Mortgage Corporation (Fannie Mae).

“Federal Payment to the District of Columbia Judicial Retirement and Survivors Annuity Fund (20-1713-0-1-752).

“Federal Payment to the District of Columbia Pension Fund (20-1714-0-1-601).

“Federal Payments to the Railroad Retirement Accounts (60-0113-0-1-601).

“Federal Reserve Bank Reimbursement Fund (20-1884-0-1-803).

“Financial Agent Services (20-1802-0-1-803).

“Foreign Military Sales Trust Fund (11-8242-0-7-155).

“Hazardous Waste Management, Conservation Reserve Program (12-4336-0-3-999).

“Host Nation Support Fund for Relocation (97-8337-0-7-051).

“Internal Revenue Collections for Puerto Rico (20-5737-0-2-806).

“Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect.

“Medical Facilities Guarantee and Loan Fund (75-9931-0-3-551).

“National Credit Union Administration, Central Liquidity Facility (25-4470-0-3-373).

“National Credit Union Administration, Corporate Credit Union Share Guarantee Program (25-4476-0-3-376).

“National Credit Union Administration, Credit Union Homeowners Affordability Relief Program (25-4473-0-3-371).

“National Credit Union Administration, Credit Union Share Insurance Fund (25-4468-0-3-373).

“National Credit Union Administration, Credit Union System Investment Program (25-4474-0-3-376).

“National Credit Union Administration, Operating fund (25-4056-0-3-373).

“National Credit Union Administration, Share Insurance Fund Corporate Debt Guarantee Program (25-4469-0-3-376).

“National Credit Union Administration, U.S. Central Federal Credit Union Capital Program (25-4475-0-3-376).

“Office of Thrift Supervision (20-4108-0-3-373).

“Panama Canal Commission Compensation Fund (16-5155-0-2-602).

“Payment of Vietnam and USS Pueblo prisoner-of-war claims within the Salaries and Expenses, Foreign Claims Settlement account (15-0100-0-1-153).

“Payment to Civil Service Retirement and Disability Fund (24-0200-0-1-805).

“Payment to Department of Defense Medicare-Eligible Retiree Health Care Fund (97-0850-0-1-054).

“Payment to Judiciary Trust Funds (10-0941-0-1-752).

“Payment to Military Retirement Fund (97-0040-0-1-054).

“Payment to the Foreign Service Retirement and Disability Fund (19-0540-0-1-153).

“Payments to Copyright Owners (03-5175-0-2-376).

“Payments to Health Care Trust Funds (75-0580-0-1-571).

“Payment to Radiation Exposure Compensation Trust Fund (15-0333-0-1-054).

“Payments to Social Security Trust Funds (28-0404-0-1-651).

“Payments to the United States Territories, Fiscal Assistance (14-0418-0-1-806).

“Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds.

“Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801).

“Postal Service Fund (18-4020-0-3-372).

“Radiation Exposure Compensation Trust Fund (15-8116-0-1-054).

“Reimbursement to Federal Reserve Banks (20-0562-0-1-803).

“Salaries of Article III judges.

“Soldiers and Airmen’s Home, payment of claims (84-8930-0-7-705).

“Tennessee Valley Authority Fund, except nonpower programs and activities (64-4110-0-3-999).

"Tribal and Indian trust accounts within the Department of the Interior which fund prior legal obligations of the Government or which are established pursuant to Acts of Congress regarding Federal management of tribal real property or other fiduciary responsibilities, including but not limited to Tribal Special Fund (14-5265-0-2-452), Tribal Trust Fund (14-8030-0-7-452), White Earth Settlement (14-2204-0-1-452), and Indian Water Rights and Habitat Acquisition (14-5505-0-2-303).

"United Mine Workers of America 1992 Benefit Plan (95-8260-0-7-551).

"United Mine Workers of America 1993 Benefit Plan (95-8535-0-7-551).

"United Mine Workers of America Combined Benefit Fund (95-8295-0-7-551).

"United States Enrichment Corporation Fund (95-4054-0-3-271).

"Universal Service Fund (27-5183-0-2-376).

"Vaccine Injury Compensation (75-0320-0-1-551).

"Vaccine Injury Compensation Program Trust Fund (20-8175-0-7-551).

"(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

"Black Lung Disability Trust Fund (20-8144-0-7-601).

"Central Intelligence Agency Retirement and Disability System Fund (56-3400-0-1-054).

"Civil Service Retirement and Disability Fund (24-8135-0-7-602).

"Comptrollers general retirement system (05-0107-0-1-801).

"Contributions to U.S. Park Police annuity benefits, Other Permanent Appropriations (14-9924-0-2-303).

"Court of Appeals for Veterans Claims Retirement Fund (95-8290-0-7-705).

"Department of Defense Medicare-Eligible Retiree Health Care Fund (97-5472-0-2-551).

"District of Columbia Federal Pension Fund (20-5511-0-2-601).

"District of Columbia Judicial Retirement and Survivors Annuity Fund (20-8212-0-7-602).

"Energy Employees Occupational Illness Compensation Fund (16-1523-0-1-053).

"Foreign National Employees Separation Pay (97-8165-0-7-051).

"Foreign Service National Defined Contributions Retirement Fund (19-5497-0-2-602).

"Foreign Service National Separation Liability Trust Fund (19-8340-0-7-602).

"Foreign Service Retirement and Disability Fund (19-8186-0-7-602).

"Government Payment for Annuitants, Employees Health Benefits (24-0206-0-1-551).

"Government Payment for Annuitants, Employee Life Insurance (24-0500-0-1-602).

"Judicial Officers' Retirement Fund (10-8122-0-7-602).

"Judicial Survivors' Annuities Fund (10-8110-0-7-602).

"Military Retirement Fund (97-8097-0-7-602).

"National Railroad Retirement Investment Trust (60-8118-0-7-601).

"National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306).

"Pensions for former Presidents (47-0105-0-1-802).

"Postal Service Retiree Health Benefits Fund (24-5391-0-2-551).

"Public Safety Officer Benefits (15-0403-0-1-754).

"Rail Industry Pension Fund (60-8011-0-7-601).

"Retired Pay, Coast Guard (70-0602-0-1-403).

"Retirement Pay and Medical Benefits for Commissioned Officers, Public Health Service (75-0379-0-1-551).

"Special Benefits for Disabled Coal Miners (16-0169-0-1-601).

"Special Benefits, Federal Employees' Compensation Act (16-1521-0-1-600).

"Special Workers Compensation Expenses (16-9971-0-7-601).

"Tax Court Judges Survivors Annuity Fund (23-8115-0-7-602).

"United States Court of Federal Claims Judges' Retirement Fund (10-8124-0-7-602).

"United States Secret Service, DC Annuity (70-0400-0-1-751).

"Voluntary Separation Incentive Fund (97-8335-0-7-051).

"(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

"Biomass Energy Development (20-0114-0-1-271).

"Check Forgery Insurance Fund (20-4109-0-3-803).

"Credit liquidating accounts.

"Credit reestimates.

"Employees Life Insurance Fund (24-8424-0-8-602).

"Federal Aviation Insurance Revolving Fund (69-4120-0-3-402).

"Federal Crop Insurance Corporation Fund (12-4085-0-3-351).

"Federal Emergency Management Agency, National Flood Insurance Fund (58-4236-0-3-453).

"Geothermal resources development fund (89-0206-0-1-271).

"Low-Rent Public Housing—Loans and Other Expenses (86-4098-0-3-604).

"Maritime Administration, War Risk Insurance Revolving Fund (69-4302-0-3-403).

"Natural Resource Damage Assessment Fund (14-1618-0-1-302).

"Overseas Private Investment Corporation, Noncredit Account (71-4184-0-3-151).

"Pension Benefit Guaranty Corporation Fund (16-4204-0-3-601).

"San Joaquin Restoration Fund (14-5537-0-2-301).

"Servicemembers' Group Life Insurance Fund (36-4009-0-3-701).

"Terrorism Insurance Program (20-0123-0-1-376).

"(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

"Academic Competitiveness/Smart Grant Program (91-0205-0-1-502).

"Child Care Entitlement to States (75-1550-0-1-609).

"Child Enrollment Contingency Fund (75-5551-0-2-551).

"Child Nutrition Programs (with the exception of special milk programs) (12-3539-0-1-605).

"Children's Health Insurance Fund (75-0515-0-1-551).

"Commodity Supplemental Food Program (12-3507-0-1-605).

"Contingency Fund (75-1522-0-1-609).

"Family Support Programs (75-1501-0-1-609).

"Federal Pell Grants under section 401 Title IV of the Higher Education Act.

"Grants to States for Medicaid (75-0512-0-1-551).

"Payments for Foster Care and Permanency (75-1545-0-1-609).

"Supplemental Nutrition Assistance Program (12-3505-0-1-605).

"Supplemental Security Income Program (28-0406-0-1-609).

"Temporary Assistance for Needy Families (75-1552-0-1-609)."

(d) ADDITIONAL EXCLUDED PROGRAMS.—Section 255 of BBEDCA is amended by adding the following after subsection (h):

"(i) ECONOMIC RECOVERY PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

"GSE Preferred Stock Purchase Agreements (20-0125-0-1-371).

"Office of Financial Stability (20-0128-0-1-376).

"Special Inspector General for the Troubled Asset Relief Program (20-0133-0-1-376).

"(j) SPLIT TREATMENT PROGRAMS.—Each of the following programs shall be exempt from any

order under this part to the extent that the budgetary resources of such programs are subject to obligation limitations in appropriations bills:

"Federal-Aid Highways (69-8083-0-7-401).

"Highway Traffic Safety Grants (69-8020-0-7-401).

"Operations and Research NHTSA and National Driver Register (69-8016-0-7-401).

"Motor Carrier Safety Operations and Programs (69-8159-0-7-401).

"Motor Carrier Safety Grants (69-8158-0-7-401).

"Formula and Bus Grants (69-8350-0-7-401).

"Grants-In-Aid for Airports (69-8106-0-7-402)."

## SEC. 12. DETERMINATIONS AND POINTS OF ORDER.

Nothing in this title shall be construed as limiting the authority of the chairmen of the Committees on the Budget of the House and Senate under section 312 of the Congressional Budget Act of 1974. CBO may consult with the Chairmen of the House and Senate Budget Committees to resolve any ambiguities in this title.

## SEC. 13. LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.

(a) LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any bill or resolution pursuant to any expedited procedure to consider the recommendations of a Task Force for Responsible Fiscal Action or other commission that contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act, or the taxes received under subchapter A of chapter 9; the taxes imposed by subchapter E of chapter 1; and the taxes collected under section 86 of part II of subchapter B of chapter 1 of the Internal Revenue Code.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

## TITLE II—ELIMINATION OF DUPLICATIVE AND WASTEFUL SPENDING

### SEC. 21. IDENTIFICATION, CONSOLIDATION, AND ELIMINATION OF DUPLICATIVE GOVERNMENT PROGRAMS.

The Comptroller General of the Government Accountability Office shall conduct routine investigations to identify programs, agencies, offices, and initiatives with duplicative goals and activities within Departments and government-wide and report annually to Congress on the findings, including the cost of such duplication and with recommendations for consolidation and elimination to reduce duplication identifying specific rescissions.

Mr. REID. I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

## STATUTORY PAY-AS-YOU-GO ACT OF 2010

Mr. CONRAD. Madam President, today the Senate passed the Statutory Pay-As-You-Go Act of 2010 as an amendment to H.J. Res. 45. As chairman of the Senate Budget Committee, I ask that the following section-by-section analysis of that act be printed in the RECORD.

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

# SECTION-BY-SECTION ANALYSIS OF THE STATUTORY PAY-AS-YOU-GO ACT OF 2010

Section 1—Short Title: The title of this Act is the “Statutory Pay-As-You-Go Act of 2010.”

Section 2—Purpose: The purpose of the Statutory Pay-As-You-Go Act (PAYGO) of 2010 is to reestablish a statutory procedure to enforce a rule of budget neutrality on new revenue and direct spending legislation.

Section 3—Definitions and Applications: Section 3 sets forth definitions of terms used in the PAYGO statute. Many terms are defined by cross-references to the standard definitions used in other budget laws, including the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act (BBEDCA) of 1985. Terms that are of particular importance include:

**Budgetary effects.** Budgetary effects are defined as the amount by which PAYGO legislation changes mandatory outlays or revenues relative to the baseline. The budgetary effects of changes in tax or mandatory spending law are measured relative to what revenues or mandatory spending would otherwise have been if not for the legislation, as measured by the baseline (as defined in section 257 of BBEDCA). Off-budget effects (i.e., Social Security trust funds and the Postal Service fund) and debt service are not counted as budgetary effects. “Mandatory spending” and “direct spending” (the term used in the statutory language) are synonymous.

**PAYGO legislation/PAYGO Act.** Legislation, or provisions thereof, that increases or reduces revenues, or increases or reduces the cost of mandatory programs, is called PAYGO legislation or a PAYGO Act. In this Act, the terms are used interchangeably. PAYGO legislation is subject to statutory PAYGO.

Legislation subject to PAYGO also includes provisions in annual appropriations bills that change revenue or mandatory spending law in appropriations bills. Changes in mandatory spending law are considered discretionary in the current and budget years because the Appropriations Committees can offset the costs or use the savings by adjusting funding levels for discretionary programs in those years. But mandatory spending provisions in appropriations bills having outyear budget authority effects—that is, effects in those years after the budget year—are considered PAYGO legislation. This is generally consistent with the existing point of order in the Senate against ChIMPs (Changes in Mandatory Programs). However, such provisions for which the mandatory outlay effects net to zero over the period consisting of the current year, the budget year, and the four subsequent years shall not be counted as having budgetary effects.

**Timing shift.** A timing shift involves a shift of costs from within the PAYGO window, i.e., the ten-year period covered by the PAYGO scorecard, to outside the window (or savings from outside the window to within the window). More technically, the term is defined to refer to a delay of the date on which mandatory outlays would otherwise occur from the ninth outyear (the last year taken into account in the PAYGO calculation) to the tenth outyear (not taken into account in the PAYGO calculation) or an acceleration of the date on which revenues or offsetting receipts or collections would otherwise occur from the tenth outyear to the ninth outyear. Timing shifts are not counted for purposes of statutory PAYGO to prevent gaming the PAYGO scorecard.

Section 4—PAYGO Estimates and PAYGO Scorecards: Section 4 establishes procedures for determining the budgetary effects of legislation subject to PAYGO. These budgetary effects are entered by OMB on the PAYGO

scorecards, as defined in section 4(d), and are used to determine whether a sequestration order must be issued.

Estimates of budgetary effects are made either by Congress or OMB. Subsection (a) establishes the procedures Congress must follow in order for its estimate of budgetary effects of legislation to be used for PAYGO enforcement. If Congress follows these procedures, the Congressional estimate of budgetary effects shall be used by OMB. If Congress does not follow these procedures, the budgetary effects of legislation subject to PAYGO shall be estimated by OMB. Subsection (b) establishes the procedures by which the House and Senate Budget Committees obtain estimates from CBO, and the procedures to be used by CBO for making estimates. Subsection (c) outlines the additional procedures to be followed by CBO or OMB, as applicable, when adjusting the estimates of budgetary effects for legislation that qualifies for a “current policy” adjustment under section 7 of this Act. Subsections (d)–(f) relate to procedures used by OMB for PAYGO estimates and enforcement. Subsection (g) addresses procedures for legislation designated as an emergency for the purpose of statutory PAYGO.

(a) PAYGO Estimates. Congress can establish the budgetary effects of PAYGO legislation by following a two-step process. First, the text of PAYGO legislation must include one of the statements prescribed in paragraphs (1)(A), (B), or (C). Second, the Chairman of the relevant Budget Committee must submit for printing in the Congressional Record a statement of the budgetary effects of the legislation, also referred to as the “cost estimate” or “score.” A Congressional estimate must satisfy both of these requirements to be valid. If Congress fails to follow this procedure for legislation that is subsequently enrolled and signed by the President, or chooses not to provide an estimate of budgetary effects, the OMB estimate of a PAYGO Act’s budgetary effects is used for PAYGO enforcement.

The statements prescribed in paragraphs (1)(A), (B), or (C) establish a reference in the legislative text of PAYGO legislation to an estimate of budgetary effects to be submitted for printing in the Congressional Record before a vote on passage. The statement may be included in the original text of the legislation, or by amendment as may be allowed under the regular procedures in either House. The estimate need only be submitted for printing in the Congressional Record before a vote on passage. The actual estimate of budgetary effects is never inserted into the legislative text of PAYGO legislation. This process avoids the need to amend PAYGO legislation to include an updated estimate of budgetary effects if amendments are adopted.

The Chairmen of the Budget Committees in each House are responsible for submitting estimates of budgetary effects for printing in the Congressional Record. Printing the statement in the Congressional Record ensures that the estimate of budgetary effects is, at the time of the vote on the bill that is enacted into law, unambiguous, fixed, and knowable, for Members, for OMB, and for the public.

This two-step process avoids the Constitutional concerns identified in *Bousher v. Synar*, 479 U.S. 714 (1986) and *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983) because Congress will establish the budgetary effects of the PAYGO Act through the legislative process, not after enactment. An unambiguous and fixed estimate available prior to a vote is incorporated by reference in the PAYGO legislation. Matters incorporated by reference are binding on the executive branch. See *Hershey Foods v. USDA*,

158 F. Supp. 2d 37, 41 (D.D.C. 2001), *aff’d* on other grounds, 293 F.3d 520 (D.C. Cir. 2002); see also *United States v. Sharpnack*, 355 U.S. 286, 293 (1958).

1. Required Designation in PAYGO Acts: One of three statements must be included in legislation subject to PAYGO for the Congressional estimate to be entered by OMB on the PAYGO scorecard. The statements provide the basis in the legislative text for incorporating the Congressional estimate by reference into the PAYGO Act.

The three statements address three possible scenarios under which a PAYGO Act may be signed by the President: (1) legislation is originated by the House and passed without amendment by the Senate; (2) legislation is originated by the Senate and passed without amendment by the House; and (3) legislation is agreed upon by both Houses after differences are resolved by a conference committee or by amendments between the Houses.

Statement (1)(A) refers to an estimate provided by the House Budget Committee Chairman. This statement would be included in legislation originated in the House of Representatives. If the House Budget Committee Chairman submits a statement of budgetary effects for printing in the Congressional Record before the vote on passage in the House, the budgetary effects of that legislation will have been set by the House. If the Senate then passes the House bill without amendment, the House PAYGO estimate will be placed on the PAYGO scorecard by OMB. Similarly, if the Senate originates and passes PAYGO legislation with the statement prescribed in (1)(B), and the Chairman of the Senate Budget Committee submits a statement of budgetary effects for printing in the Congressional Record before the Senate votes, the House of Representatives will have accepted the Senate estimate as controlling if it passes the Senate bill without amendment.

One House may strike the statement inserted in the legislative text by the other House and replace it with the statement referring to the estimate submitted by the Chairman of its Budget Committee. In doing so, the second House has rejected the first House’s estimate. A disagreement between the Houses on the estimate of budgetary effects becomes a matter in dispute between the Houses to be resolved by the House and Senate Budget Committees.

The statement in (1)(C) refers to an estimate of budgetary effects jointly submitted to the Congressional Record by the Chairman of the House and Senate Budget Committees. This statement must be included in a conference report, or amendments between the Houses, when the Houses resolve the differences in their budgetary estimates. Where differences between the Houses are to be resolved in a process of amendments between the Houses, the requirement of a joint statement prevents the House acting first from having an advantage in negotiations. The joint statement also underscores that different estimates of the budgetary effects of legislation must be resolved to the satisfaction of the Chairmen of both Budget Committees if Congress wants a Congressional estimate to be placed on the PAYGO scorecard.

Presumably not all PAYGO legislation will contain a Congressional estimate of budgetary effects. For example, the budgetary effects of a particular PAYGO Act may be so small that Congress chooses not to complete an estimate. It is also possible that the Houses cannot come to an agreement on an estimate of budgetary effects. Absent a designation pursuant to section 4(a)(1) and estimate submitted pursuant to section 4(a)(2), the estimate made by OMB post-enactment will be entered on the PAYGO scorecards.

In some cases, one piece of PAYGO legislation could have multiple designations and estimates throughout the legislative process—the first by the originating House, the second by the second House acting upon the legislation, and a third by the conference committee. For the purpose of directing OMB as to what amounts are to be entered on the PAYGO scorecards, the only estimate that matters is the one contained in the version of the legislation passed by both Houses and presented to the President for signature. Conversely, the omission by one or both Houses of a designation and estimate earlier in the legislative process, for whatever reason, has no bearing on the validity of an otherwise valid estimate appropriately referenced in a PAYGO Act signed by the President.

2. **Determination of Budgetary Effects of PAYGO Acts:** In order for Congress's estimate of budgetary effects to bind OMB, a valid statement must be submitted for printing in the Congressional Record by a Chairman of the Budget Committee, or by the Chairmen jointly, as applicable. However, the Chairmen are not obligated to submit a statement. The statement, if submitted, must be titled "Budgetary Effects of PAYGO Legislation."

The Chairmen of the Budget Committees retain full discretion over the Congressional estimate of budgetary effects for the purposes of enforcing this Act, consistent with Section 312 of the Congressional Budget Act. The Congressional Budget Office will continue to provide estimates to the Budget Committees.

It is the responsibility of the Budget Committee Chairmen to ensure that statements of budgetary effects are submitted for the Congressional Record in a timely manner, and that they identify with specificity any previously submitted statement for the same legislation that it supersedes. A previous statement is no longer valid and is superseded when that House adopts an amendment to a PAYGO Act after the statement has been submitted. Any subsequent amendment, regardless of its budgetary effects, will invalidate a previously submitted estimate.

In the case of a conference report, a statement of budgetary effects is not valid if it is first submitted for printing in the Congressional Record after one House passes the report. It is incumbent on both Houses to ensure that prior to a vote in either House on PAYGO legislation leading to enrollment and presentation to the President, there is an unambiguous, fixed, and knowable statement of budgetary effects.

3. **Procedure in the Senate:** It is in order in the Senate for the Legislative Clerk to read the statement of budgetary effects into the record of proceedings once it has been submitted by the Chairman of the Senate Budget Committee. This reading provides an added assurance that all Senators have been given notice of the Congressional estimate of the budgetary effects prior to a vote on passage of legislation. Notice to Senators will also be provided by printing the estimate in the Congressional Record. As a practical matter, votes on some legislation subject to PAYGO may be taken after the statement has been submitted for the Congressional Record, but before it has been printed. If the vote will be taken after the statement has been printed, the Senate may waive the reading of the estimate by unanimous consent.

4. **Jurisdiction of the Budget Committees:** When Congress follows the procedure set forth in this section, the designated legislation is not subject to a point of order under section 306 of the Congressional Budget Act. (Section 306 generally bars the consideration of legislation dealing with matters within the jurisdiction of the Budget Committee un-

less it has been reported by the committee, or the committee has been discharged from further consideration.) The inclusion of the statements specified in (1)(A), (B), and (C)—without modification—in legislation subject to PAYGO avoids a point of order under section 306. If different language is used, for example, or if an authorizing committee includes some other budgetary provision, a point of order under section 306 would be in order. This is consistent with Senate precedent that "directed scoring" language in legislation is within the jurisdiction of the Budget Committees.

(b) **CBO PAYGO Estimates.** Subsection (b) amends Section 308 of the Congressional Budget Act of 1974 to establish a procedure by which Congress may request that CBO estimate the budgetary effects of PAYGO legislation. Consistent with section 312 of the Congressional Budget Act, and existing Congressional practice and procedure, the Chairmen of the Budget Committees are responsible for requesting estimates from the Congressional Budget Office. CBO shall prepare its estimates consistent with section 257 of BBEDCA, but shall not count timing shifts as those are defined in section 3(8) of this Act. CBO estimates shall also be scored in accordance with the scorekeeping guidelines determined under section 252(d)(5) of BBEDCA.

(c) **Current Policy Adjustments for Certain Legislation.** Section 4(c) establishes procedures for making adjustments to the estimates of budgetary effects for legislation in four policy areas: (1) physician payments under section 1848 of the Social Security Act; (2) the Estate and Gift Tax; (3) the Alternative Minimum Tax; and (4) certain middle class tax cuts provided in EGTRRA and JGTRRA. The criteria for determining whether legislation, or provisions of legislation, qualify for current policy adjustments are set forth in section 7.

1. **In General:** If the Chairman of either Budget Committee determines that legislation meets the criteria set forth in section 7 of this Act, that Chairman shall request that CBO adjust its estimate of budgetary effects. If OMB estimates the budgetary effects of legislation that meets the criteria of section 7 because Congress has not provided a valid estimate, then OMB shall adjust its estimate of budgetary effects.

2. **Adjustments:** For qualifying legislation or provisions of legislation, CBO or OMB, as applicable, shall exclude from the estimate of budgetary effects no more than the amount of the budgetary effects of that legislation or provision as allowed in the applicable part of section 7. The amount that may be excluded is determined with reference to the amounts previously excluded pursuant to the same subsection of section 7. In other words, if the cost of a particular provision, when added to the costs or savings of all other provisions that previously qualified for an adjustment under that subsection of section 7 exceeds the maximum amount allowable for the subsection, the excess costs shall not be excluded from the estimate of budgetary effects. In implementing these adjustments, CBO shall use CBO's baseline estimates; this requirement is not intended to apply to estimates prepared by OMB. If CBO makes an adjustment, its estimate shall state the unadjusted and adjusted costs, and an updated total of all costs previously excluded under the same provisions of section 7.

3. **Limitation on Availability of Excess Savings:** The intent of the current policy adjustment is to give Congress flexibility to extend certain current policies with budgetary effects over specified periods of time. Savings from the extension of current policies with budgetary effects less than allowed

under section 7—in other words extensions that generate savings in comparison with the extension of current policy—cannot be used to offset costs of other legislation. This paragraph establishes two rules that reinforce the prohibition on the fungibility of savings relative to the current policy extensions.

A. Excess savings cannot be used to offset the budgetary effects of PAYGO legislation that would not otherwise qualify for a current policy exemption under section 7. For example, if Congress were to enact only a one-year fix for the Alternative Minimum Tax, the difference in revenue generated by a two-year and one-year fix of the AMT cannot be used to offset the cost of a new entitlement program.

B. Excess savings in one of the policy areas specified in section 7 cannot be used to offset the budgetary effects of a more expensive policy extension in another policy area. For example, if Congress were to enact only a one-year fix for the Alternative Minimum Tax, the difference in revenue generated by a two-year and one-year fix of the AMT cannot be used to offset a reduction in the estate and gift tax that costs more than is otherwise provided in section 7. In other words, savings among the policies in sections 7(c), (d), (e), and (f), and among the subparagraphs of section 7(f)(1), are not fungible.

4. **Further Guidance on Estimating Budgetary Effects:** To determine adjustments for the budgetary effects for qualifying legislation, CBO or OMB, as applicable, shall use the conventions concerning the stacking order of estimates of the interactive effects of AMT relief and extension of the middle class tax cuts set forth section 7(h).

5. **Inclusion of Statement:** Any adjustments for current policy legislation shall be explained by the appropriate Chairman of the Budget Committee in the statement "Budgetary Effects of PAYGO Legislation" submitted for printing in the Congressional Record.

(d) **OMB PAYGO Scorecards.** The subsection outlines OMB's responsibilities under statutory PAYGO. OMB will maintain two "PAYGO scorecards," available to the public, that maintain a running tally of the budgetary effects of enacted legislation subject to PAYGO. In making entries onto the scorecards, OMB will use the "look-back" and "averaging" rules discussed below.

OMB will use the Congressional estimate of the budgetary effects of a PAYGO Act if one was incorporated pursuant to section 4(a). If not, OMB will enter its own estimates on the scorecards.

The scorekeeping and baseline rules for current policy adjustments are the same as those that apply to CBO and OMB for estimating all legislation subject to PAYGO. OMB estimates must be consistent with the scorekeeping approaches described in section 308 of the Congressional Budget Act, as amended by section 4(b) of this Act, and the current policy adjustments in section 7. In other words, OMB and CBO estimates should be made using the same rules and scorekeeping conventions. However, CBO will use the baseline as defined by section 257 of the Congressional Budget Act, while OMB will use the economic and technical assumptions included in the latest budget submitted by the President.

OMB will maintain two PAYGO scorecards, one covering a five-year period and the other covering a ten-year period beginning in the budget year.

OMB shall not include on either PAYGO scorecard any net savings generated by subsequently enacted legislation titled "Community Living Assistance Services and Supports Act" (CLASS Act). The CLASS Act was included in the Senate- and House-



passed health care reform bills and would establish a federal insurance program for long-term care. OMB shall also not include any net savings generated by subsequent amendments to that Act, if enacted.

(e) Look-Back to Capture Current Year Effects. To take into account any budgetary effects of PAYGO legislation in the current year (i.e., the year of enactment if before October 1st), a “look back” rule is included. The rule provides that budgetary effects in the current year are to be treated as if they were budgetary effects in the budget year (which is the year subsequent to the current year). This is why the averaging provision described below actually sums eleven years of costs (the current year, the budget year, and the nine outyears) and divides the sum by ten. This look-back provision similarly applies to the five-year scorecard.

(f) Averaging Used to Measure Compliance Over 5-Year and 10-Year Periods. For the budget year and the applicable four or nine outyears, OMB is to enter the annual average budgetary effect associated with PAYGO legislation. For instance, a bill that pays for itself over ten years will have a total, and thus average, score of zero, so zero would be entered in each column of the ten-year PAYGO scorecard. If a bill enacted in FY10 costs a net of \$10 billion over FY2010-FY2020, OMB would insert +\$1 billion in each of the ten columns on the PAYGO ledger (FY11 through FY20). The same PAYGO legislation could well have different averages over five years and over ten. For example, if a bill enacted this session costs \$2 billion through 2015 and \$10 billion through 2020, the five-year scorecard would record entries of \$0.4 billion for each of 2011 through 2015, while the ten-year scorecard would record entries of \$1 billion for each of 2011 through 2020.

(g) Emergency Legislation. If legislation subject to PAYGO contains an emergency designation, the budgetary effects of provisions that are designated as emergencies shall not be placed on the PAYGO scorecards by OMB. The designation should refer to subsection (g)(1) of this Act. The procedure for challenging a statutory emergency designation for PAYGO enforcement reflects the current practices for challenging emergency designations under Congressional budget rules. In the Senate, an emergency designation is subject to a point of order that may be waived upon a vote of 3/5 of the members duly chosen and sworn. If the Senate does not waive this point of order, the emergency designation is struck from the legislation.

Section 5—Annual Report and Sequestration Order: Section 5 defines the timing of the annual PAYGO report and, if one is needed, the sequestration order. OMB is to produce an annual PAYGO report, which shall include up-to-date PAYGO scorecards and a description of any sequestration if required. The report is to be released no more than 14 days (excluding weekends and legal holidays) after Congress adjourns to end a session.

If the annual report shows a debit (i.e., net budgetary cost) on either PAYGO scorecard for the budget year, the President is required to issue an order sequestering budgetary resources from non-exempt mandatory programs sufficient to fully pay off that debit. If it shows a debit on both the five-year and ten-year scorecards, the sequestration must pay off the larger debit. If the President issues this order, then the PAYGO annual report must contain its details, including such information as the outlay reductions that would occur in the budget year and the subsequent fiscal year for each affected account.

Because the PAYGO statute creates a permanent law, the two scorecards are permanent. In effect, they will record all PAYGO legislation enacted from the date the bill be-

comes law. The cost estimates of individual PAYGO bills, however, will eventually slide off the scorecards since only the five-year or ten-year costs are recorded on those scorecards. For example, a PAYGO bill enacted later this year will show cost or savings entries of the same size (the average amount through 2015) for each fiscal year 2011 through 2015 on the five-year scorecard. Next year, new PAYGO legislation will add entries to the five-year scorecard covering years 2012–2016. The entries made this year in the 2012–2015 columns of that scorecard will remain on that scorecard, however. If those entries are net savings, the savings will be available to cover costs in new legislation, but if they are net debits, avoiding a sequestration at the end of each of the next four sessions of Congress will require that the net debits be worked off by the enactment of new offsetting savings. The same approach applies to the ten-year scorecard.

Section 6—Calculating a Sequestration: Section 6 describes how sequestration is to be implemented if triggered. Many mandatory programs, such as Social Security, veterans' disability and other benefits, and major low-income entitlements, such as Supplemental Security Income and Medicaid, are totally exempt from sequestration. Only programs in the unified budget are subject to sequestration.

With the exception of Medicare, non-exempt mandatory programs would be cut by a uniform percent, such that the outlay savings produced in the budget year and the subsequent fiscal year would be sufficient to fully offset the budget-year debit on the PAYGO ledger. Medicare can be cut by no more than four percent. If a larger cut is needed to offset the debit on the PAYGO ledger, the uniform percentage cut to the other non-exempt mandatory programs would be increased so that the sequester of Medicare and the other non-exempt programs would together produce sufficient savings to offset the budget-year debit. Sequestrations are temporary, not permanent, and with a few exceptions occur only in the budget year.

For most non-exempt mandatory programs, the uniform sequestration percentage reduces budgetary resources by a specified percent over the course of the entire fiscal year. If a sequestration starts a month or more into the fiscal year because Congress adjourns in November or December, then the reduction during the remaining 9, 10, or 11 months of the fiscal year will be larger than the uniform percentage so that the average sequestration over the year equals the required uniform percentage. In the case of Medicare, the sequestration lasts for a full 12 months even if it takes effect after the beginning of the fiscal year, in which case it will run into the start of the next fiscal year. This means the uniform percentage cut in payments to providers or insurance plans will not be higher at any time than the four-percent limit (or the calculated uniform percentage, if lower).

In the case of price support payments for crops, the sequestration for any given crop will start at the beginning of the next crop year. As a consequence, sequestrations for crops will not all be running concurrently, and some sequestrations may occur partly in the following fiscal year.

Section 7—Adjustments for Certain Current Policies:

(a) Purpose. Section 7 establishes a temporary rule to adjust the estimates of the budgetary effects of PAYGO legislation in four policy areas: Medicare physician payments, the estate tax, the Alternative Minimum Tax, and the 2001 and 2003 income tax cuts for the middle class. In each of these areas, current policies have either expired at

the end of 2009 or will expire by the end of 2010. This section allows for an adjustment so that the cost of extending specified individual policies for a defined period (two years for estate tax and AMT, five years for Medicare physician payments, and permanently for the middle-class tax cuts) is not counted for statutory PAYGO purposes.

This scoring rule applies only for the purposes of statutory PAYGO. For other purposes, including the Congressional Budget Act and the congressional PAYGO rules, existing scoring rules and points of order apply.

General approach. The statute authorizes a maximum adjustment to the estimate of budgetary effects of PAYGO legislation in the four specified policy areas equal to the difference between:

The cost of continuing a specified policy under current law as of December 31, 2009, consistent with baseline calculations under section 257 of BBEDCA, which, for each of the four policy areas, would assume that the specified policy has expired (AMT and estate tax), or will expire by the end of 2010 (all other policies); and

The projected cost of the specified policy assuming the policy continues beyond its scheduled expiration date.

The cost of continuing these policies over the specified period is larger than the cost of letting them expire, as would happen under current law. The adjustment allows Congress to address these policies without having the cost added to the PAYGO scorecard. The difference between these two estimated costs is the maximum adjustment that may be used to offset the cost of legislation addressing each specified policy for the purposes of PAYGO enforcement. If the estimate of the legislation has a greater budgetary effect than the maximum amount of the adjustment, then the adjustment can be used to offset a portion of its cost. The additional cost would be counted for statutory PAYGO purposes. If a less costly policy is enacted, any remaining amount in the adjustment cannot be used to offset the cost of policies in other areas (as specified in Section 4(c)(3) of the PAYGO statute).

In addition, the adjustments in each policy area are further limited to prevent using the full amount of the available adjustment to offset the cost of a more generous policy for a shorter period. Under this limitation, the amount of the adjustment is estimated consistent with the time period covered by the eligible policy action.

(b) Duration. This section expires on December 31, 2011, so any policies eligible for an adjustment must be enacted by that time in order to receive the adjustment.

(c)–(f) Policy areas eligible for adjustment. For statutory PAYGO purposes, legislation addressing four policy areas qualifies for a current policy adjustment to the estimate of that legislation's budgetary effects.

(c) Medicare Physician Payments. Under current law, the Sustainable Growth Rate (SGR) formula requires physician payments under Medicare part B to be cut automatically by over 21 percent after February 28, 2010. Section 7(c) provides a maximum adjustment equal to the difference between the cost of freezing through December 31, 2014, the Medicare Part B payment rates to physicians at the 2009 rate, and the cost of allowing the automatic cuts to occur after February 28, 2010. Legislation providing relief from the scheduled SGR cut—including legislation that reforms or supersedes the SGR formula—would only be scored for PAYGO purposes to the extent that it costs more than this five-year freeze at 2009 levels. If legislation to reform or supersede the SGR formula through or beyond 2014 is enacted that costs less than a five-year freeze in the



years through 2014, any remaining amount in the adjustment could be used to offset costs of that policy after 2014, but the total adjustment cannot exceed the maximum adjustment amount of a five-year SGR freeze.

(d) Estate and gift tax. Under EGTRRA, the estate tax exemption was gradually increased and the tax rate gradually lowered so that by 2009, the exemption level was \$3.5 million for an individual, with amounts above the exemption level taxed at a 45 percent rate. In 2010, the estate tax is repealed, replaced with a new tax on inherited assets with unrealized capital gains. In 2011, with the expiration of EGTRRA, the estate tax will return, with the pre-2001 law parameters of a \$1 million exemption for an individual and a top rate of 55 percent.

The maximum adjustment in section 7(d) is equal to the difference between the revenues expected from continuing the 2009 estate tax policy, with the nominal exemption level indexed for inflation, through December 31, 2011, and the revenues expected under the 2010 repeal and 2011 return to pre-2001 law. In other words, legislation restoring the estate tax would be scored for PAYGO purposes only to the extent that it costs more than implementing the 2009 policy (indexed) in 2010 and 2011. Because the cost of estate tax policy through 2011 will have budgetary effects beyond 2011, this section clarifies that the adjustment is intended to capture the full budgetary effects in all years resulting from the two-year policy change.

(e) Alternative Minimum Tax. A "patch" for the AMT was provided in the Recovery Act, increasing the 2009 AMT exemption to \$70,950 for couples and \$46,700 for singles in order to prevent the number of taxpayers affected by the AMT from exploding from about four million to about 30 million. This patch expired at the end of 2009.

Section 7(e) provides a maximum adjustment equal to the difference between the revenues expected from adjusting the the AMT exemption levels through 2011 in order to hold the number of taxpayers affected by the AMT at 2008 levels (about 4.2 million), and the revenues expected assuming the expiration of the 2009 AMT patch. Because the cost of AMT relief through 2011 will have budgetary effects beyond 2011, this section clarifies that the adjustment is intended to capture the full budgetary effects in all years resulting from the two-year policy change.

(f) 2001 and 2003 middle-class tax cuts. The 2001 and 2003 income tax reductions enacted under EGTRRA and JGTRRA, as subsequently amended through December 31, 2009, are scheduled to expire at the end of 2010. Section 7(f) provides 12 adjustments for policies benefiting the middle class as they are in effect in 2010. The specific middle-class policies are:

- 10 percent bracket;
- Child Tax Credit, including the expansion in the Recovery Act;
- Marriage penalty relief, including the relevant EITC expansion in the Recovery Act;
- Adoption credit;
- Dependent care credit;
- Employer-provided child care credit;
- Education tax benefits;
- 25 percent and 28 percent brackets;
- 33 percent bracket, but only for individuals with incomes of \$200,000 or less, and couples with incomes of \$250,000 or less;

Reduced rates on capital gains and dividends, but only for individuals with incomes of \$200,000 or less, and couples with incomes of \$250,000 or less;

Repeal of the personal exemption phase-out and the limitation on itemized deductions, but only for individuals with incomes of \$200,000 or less, and couples with incomes of \$250,000 or less; and

Section 179 expensing for small businesses, allowing up to \$125,000 of qualified property to be expensed, phasing out for property over \$500,000.

The maximum adjustment for the policies in section 7(f) is equal to the difference between the revenues expected if the specified policy were in place after 2010 and the revenues expected if the related provisions expired as scheduled.

(g) Indexing for Inflation. Amounts indexed for inflation are done in accordance with the cost-of-living adjustment rules in section 1(f)(3) of the Internal Revenue Code of 1986. That provision in the Code designates the Department of Labor's Consumer Price Index for all-urban consumers (usually expressed as CPI-U) as the measuring standard. Amounts indexed for inflation in this Act are the nominal exemption amount under the estate tax, as well as the income thresholds for income tax brackets, the rates for capital gains and dividends, the personal exemption phase-out, and the limitation on itemized deductions.

(h) Guidance on Estimates and Current Policy Adjustments. Estimates of budgetary effects of certain tax policies can vary depending on the order in which those policies are enacted into law. The PAYGO statute lays out three rules for addressing costs associated with the interaction of these various provisions.

1. For the interaction between AMT relief and the middle-class tax cuts, all interaction costs are scored as part of AMT relief. Specifically, estimates for determining the AMT adjustment must assume that all of the middle-class tax cuts eligible for a PAYGO adjustment have been enacted, even if these tax cuts have not yet been enacted.

2. Estimates for determining the adjustment for the middle-class tax cuts must assume that AMT relief follows current law as of the end of 2009—that is, they must assume that the 2009 AMT patch expired at the end of 2009, even if AMT relief beyond 2009 has already been enacted.

3. To address the interaction between individual middle-class tax provisions included in the same piece of legislation, provisions must be scored in the order in which they appear in the legislation.

Section 8—Application of BBEDCA: Section 8 specifies how various provisions of BBEDCA, including the special sequestration rules in section 256 of BBEDCA and the baseline rules in section 257 of BBEDCA, apply to this new PAYGO statute.

Section 9—Technical Corrections: Section 9 corrects typographical errors in the text of BBEDCA.

Section 10—Conforming Amendments: Section 10 makes conforming amendments to section 256 of BBEDCA. This section establishes special rules for sequestration for certain mandatory programs or updates the special rules to reflect programs as they now exist.

Section 11—Exempt Programs and Activities: Section 11 lists mandatory programs and activities that are exempt from sequestration. Exemptions under this Act are consistent with the exemption list that was first created in 1990.

That said, the exemption list has been updated to address accounts that have had their account names or numbers changed since 1990, or have been merged or divided. Further, new accounts (since 1990) have been treated the same way that analogous accounts were treated. For example, in the 1990 law the major low-income programs such as Medicaid were exempted from sequestration. The Children's Health Insurance Program (CHIP), new since 1990, is in the same category as Medicaid and also exempt.

The list has been expanded to clarify the treatment of certain transportation pro-

grams, notably federal-aid highways and grants-in-aid for airports. The budgetary treatment of these programs is split. They receive mandatory contract authority through authorization bills, but are treated as discretionary programs because their annual spending is controlled by obligation limitations in appropriations bills. These programs are exempt from sequestration to the extent they are controlled by obligation limitations. Remaining mandatory resources in these programs are subject to sequestration.

Finally, as noted in Section 6, non-exempt accounts are subject to a single, uniform percentage cut if a sequestration is required (except Medicare, where the cut is limited to four percent). Under the 1990 law, if a small sequestration was needed, four programs would have been the first ones sequestered: special milk, vocational rehabilitation state grants, student loans, and foster care / adoption assistance. Because this PAYGO statute eliminated this rule, the first three of those programs are treated as any non-exempt account would be treated. But the foster care account is included in the exempt list on the grounds that it is like other low-income programs that were exempted from sequestration in the 1990 law.

Section 12—Determinations and Points of Order: Section 12 affirms that nothing in this Act is intended to limit the authority of the Budget Committee Chairmen to make determinations and estimates of the costs or savings of legislation. In addition, the section authorizes CBO to consult with the Budget Committees to resolve any ambiguities in the interpretation of the Act.

The PRESIDING OFFICER. The majority leader.

#### ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that the order with respect to debate prior to the cloture vote on the Bernanke nomination be modified to provide that the debate prior to the cloture vote be extended until 3:20 this afternoon, with the majority controlling 60 minutes of that time and the remaining time under the control of the Republicans; that at 3:20, the Senate proceed to vote on the motion to invoke cloture on the nomination; that if cloture is invoked on the Bernanke nomination, then all postcloture time be yielded back and the Senate then immediately vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

#### EXECUTIVE SESSION

NOMINATION OF BEN S. BERNANKE TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

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

The assistant legislative clerk read the nomination of Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System.

Mr. REID. Madam President, we want to make sure that all Senators understand, we will be debating through the respective meetings the two caucuses are having. It is important we get this done in the time allotted, so people will not be able to wait until after 3:20 to do their speeches.

On the Democratic side, I yield 3 minutes to the Senator from South Dakota, TIM JOHNSON.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Madam President, I rise in support of the reconfirmation of Chairman Ben Bernanke to serve another term as Chairman of the Federal Reserve Board of Governors. As the administration and Congress continue to look for ways to restore our Nation's financial stability, promote economic recovery, and work on legislation to ensure that another economic crisis like the one we faced last year never happens again, we need Chairman Bernanke's steady leadership.

While there has certainly been criticism of the Federal Reserve for not doing enough to protect consumers and for the unprecedented actions it took during the financial crisis, there is also consensus that Mr. Bernanke kept our Nation out of a depression and has kept inflation in check.

As our Nation recovers and faces additional challenges in the months ahead, there is no doubt that having one of the world's foremost experts on the Great Depression at the helm of the Fed is a benefit to our Nation.

But it cannot be business as usual for the Fed. Like the many banks on Wall Street, the Fed must be more transparent and more accountable for its actions. The Federal Reserve cannot just be the organization that picks up after a financial institution fails while placing our entire economy at risk in doing so. The status quo at the Fed is not acceptable, and our Nation needs a central bank that is proactive in addressing concerns within financial institutions and the economy.

I believe Mr. Bernanke is committed to these goals, and I support Mr. Bernanke's confirmation.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

Mr. SHELBY. Madam President, I rise today to oppose—to oppose—the reappointment of Ben Bernanke for a second term as Chairman of the Board of Governors of the Federal Reserve System.

The principal reason for my opposition to this nomination is that I believe in accountability. In particular, I believe it is the duty of this body; that is, the Senate, to hold accountable those regulators whose poor oversight of our financial institutions and mar-

kets helped produce the greatest economic crisis this country has experienced in some 80 years.

Because the Federal Reserve, during Chairman Bernanke's tenure, failed to take the steps to ensure that our financial institutions were properly regulated and would not need Federal bailouts to survive, I do not believe Mr. Bernanke should be confirmed for another term.

Prior to the recent financial crisis, as a member of the Board of Governors, Dr. Bernanke advocated monetary policies that contributed to excessive risk taking. Subsequently, as Board Chairman, he ignored or downplayed serious emerging risks. He failed to use regulatory authority available to the Fed to prevent housing speculation and unsound lending practices, often misjudged the nature of problems in markets, contributed to market turbulence by appearing to act inconsistently and in an ad hoc manner. He failed to ensure transparency of actions and basically took actions damaging to the political independence of the Federal Reserve and of our Nation's monetary policy.

I do not believe Chairman Bernanke has executed sound judgment and oversight over the Fed's monetary policy, lender of last resort, and regulatory and supervisory functions. I will explain.

Chairman Bernanke advocated a policy of remarkably low interest rates for an extended period of time following the 2001 recession, providing an environment that helped fuel a speculative bubble in real estate lending. Subsequently, in the face of rising home prices and risky mortgage underwriting practices, the Fed failed to act under Bernanke's watch by choosing not to use its rulemaking authority over mortgages to arrest the risky practices and address growing risks. Yet, amazingly, given a history of failure in supervision and regulation, Chairman Bernanke now continues to actively campaign for maintaining and further expanding the regulatory powers of the Federal Reserve.

The financial panic our markets experienced in 2008 was the most severe, as I said, in modern memory. Its repercussions have resulted in our unemployment rate surging to more than 10 percent and the worst economic growth in a generation. Our present economic problems, however, are no accident. In large measure, they stem directly from the actions of our financial regulators.

It is the responsibility of our financial regulators to ensure that our financial institutions are properly supervised and that they promote, rather than threaten, our national economy. Unfortunately, the recent financial crisis demonstrated that our financial regulators did not do their jobs. Our banks were undercapitalized, mortgage lending standards were far too loose, and expectations of government bailouts were too prevalent.

Dr. Bernanke's Federal Reserve played a key role in setting the stage for the financial crisis we are in now.

First, under his leadership, the Federal Reserve failed to ensure that our financial institutions were adequately capitalized, as I mentioned a minute ago. Indeed, the Federal Reserve, our Federal Reserve, led the effort to reduce capital in our largest financial institutions through the adoption of the Basel II capital accords. The Fed even considered abandoning the leverage ratio, which ensures that all banks maintain at least 4 percent of capital.

Think about it a minute. As a result, when the crisis struck, many of our financial institutions did not have the capital necessary to withstand the downturn. Not surprisingly, the Federal Reserve then argued that a taxpayer bailout of the banks was the only way to prevent an economic collapse. But rather than do its job and ensure that our financial institutions were adequately capitalized, the Fed waited until the crisis was at hand and then rescued its banks with taxpayer funds.

Think about it a minute. Ben Bernanke's Federal Reserve also failed to detect and address the decline in lending standards and growing use of subprime loans. At the core of our financial crisis is the fact that far too many home loans were made that borrowers will be unable to pay, probably ever.

The failure of Bear Stearns, Lehman, Washington Mutual, and AIG largely stems from the sharp declines in mortgage values. Although Congress gave the Federal Reserve authority to address lending standards and subprime loans when it passed the Home Ownership and Equity Protection Act in 1994, the Fed failed to enact strong regulations until 2008—more than 2 years into Chairman Bernanke's term.

In addition, Ben Bernanke's Federal Reserve has failed to adequately supervise many of our largest financial institutions, most notably Citigroup. For years, it has been no secret that the problems of Citigroup have been well known everywhere, but the Federal Reserve always sought to look the other way rather than deal with its complicated problems.

By failing to address Citigroup during the good times, the Federal Reserve left our largest financial institution at that time highly vulnerable to the next downturn. In the end, the Federal Government had to inject \$40 billion and guarantee more than \$300 billion of Citigroup's assets. The Fed's failure as a supervisor—the regulator—placed U.S. taxpayers and our economy directly at risk.

Regardless of how Chairman Bernanke performed during the financial crisis, the record of the Fed leading up to the crisis should not be ignored by the Congress. A close examination of Chairman Bernanke's performance during the financial crisis reveals that he was too slow to recognize how serious the situation was, and

when he did react, he acted in an ad hoc fashion that greatly exacerbated the crisis.

After the housing market bubble began to burst in 2006, Chairman Bernanke was slow to entertain possible spillovers from housing into the general economy and the financial system itself. Even after Bear Stearns failed, Chairman Bernanke did little to prepare for additional failures. In other words, Bernanke fiddled while our markets burned.

In the 6 months between the failures of Bear Stearns and Lehman, the Federal Reserve did very little to prevent either another taxpayer bailout or a sudden and disorderly collapse of Lehman, even though the problems were well known to the Fed and to everybody else. As a result, when Lehman was ultimately allowed to fail, our markets responded sharply because they could not understand why the Fed let Lehman fail but rescued Bear Stearns.

Markets need clarity about policy, especially in times of crisis. Yet just when our markets needed clarity about Fed policy, Chairman Bernanke's ad hoc responses left our markets in the dark. Consequently, the failure of Lehman was far more disruptive and damaging than it needed to be.

Bernanke's response to the financial crisis also raises questions about his judgment. In October 2008, he appeared before the Banking Committee in the Senate to urge the passage of TARP. He testified that the government purchase of toxic assets from banks was the best way to respond to the financial crisis.

At the time, as a lot of you know, I opposed TARP because I did not believe purchasing toxic assets was a workable solution or we should bail out anybody. I argued that it risked making our financial problems worse by indirectly causing the failure of other financial institutions, and it did.

Despite Chairman Bernanke's urging that an asset purchase was the best solution, just days after the passage of TARP, the Treasury Department and the Federal Reserve abandoned the very asset purchase plan that he judged to be the best course forward when he testified before Congress. Equity injections were employed because the asset purchase plan was proven to be unworkable, he said.

The full story of AIG is yet to be told. Unfortunately, the Fed and other regulators have gone out of their way to hide what really has gone on at AIG both before and after the bailout from Congress. What is clear, however, is that the Fed knew more about AIG's problems than it has admitted so far.

The Fed has repeatedly stated that it did not learn of AIG's problems until the weekend of September 12, 2008, and that it was stunned to learn of its problems. Really? Yet in his recent book, "Too Big to Fail," Andrew Ross Sorkin reports that the CEO of AIG met with then-New York Fed President Tim

Geithner about AIG's problems on at least two occasions prior to September 12, 2008.

On one occasion, AIG's CEO gave Mr. Geithner, at that time, documents detailing AIG's financial condition and its exposures to other financial institutions. We still do not know what Treasury Secretary Geithner, at that time, did upon learning about the problems at AIG, or whether Chairman Bernanke knew of AIG's meeting with the New York Fed at that time, Mr. Geithner.

The fact that the Fed may have known about the problems at AIG before its collapse raises serious questions about whether they ignored early warnings and failed to take action before the situation became untenable without massive taxpayer bailouts.

Many have said that if Chairman Bernanke is not reappointed, financial markets will be rattled. The notion seems to be that continuity of leadership will be valued more by markets than the assurance of responsible and accountable leadership at the Fed. I believe this perspective is short-sighted and wrong. I believe it is more important to find the most competent person available for the job than to simply adhere to the status quo.

It is also wrong to speculate as to what might happen should someone other than Mr. Bernanke serve as Chairman. I believe it is far more important to consider the facts surrounding Chairman Bernanke's record than it is to speculate about the impact of his departure. The record clearly indicates that considerable economic devastation occurred as a result of Chairman Bernanke's loose monetary policy and weak regulatory oversight. Millions of people are now out of work in this country and trillions of dollars in savings have been lost.

Those who try to frighten others with notions of what might happen are ignoring the hard reality of what already has happened. If we don't hold Chairman Bernanke accountable, what precedent are we setting for future regulators? What incentive will they have to take the tough steps necessary to ensure that our financial institutions are adequately regulated? I fear that the prospects of a high-paying job on Wall Street will diminish a lot of the incentives to be a good regulator unless they know Congress will hold them accountable if they fail to do their job. How can we ever expect our regulators to perform if, after the greatest financial crisis in living memory, not a single culpable regulator is held accountable?

Unfortunately, this is a theme that is repeated too often in Washington. Something terrible happens, and although Congress exposes both institutional and individual failures, nobody is held accountable, and the only thing that ever seems to happen is the failed institutions, along with their failed leaders, get more authority and more money. This needs to end.

The American people rightly believe that any one of us who neglects to do

our job should be held to account, not rewarded. I intend to do my job and vote no on a second term for Ben Bernanke.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Connecticut.

Mr. DODD. Mr. President, I yield 15 minutes to my colleague from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Thank you, Mr. President. Let me thank my distinguished chairman of the Banking Committee for yielding time.

I rise in support of a man whose position I do not envy. Chairman Bernanke has faced some extraordinary economic circumstances and he has kept a steady hand on the tiller in a perfect economic storm that has threatened this Nation's underlying financial stability. Faced with an economy that was headed in a downward spiral, Chairman Bernanke and the Fed had what appeared to be a set of Hobson's choices: Make tough decisions or preside over a global economic meltdown. I think most of us agree that doing nothing was not an option.

Having said that, I do believe there was more the Fed could have done to mitigate the housing bubble, supervise the banks, enact muscular consumer protections, and provide credit to small businesses. I believe—and Chairman Bernanke admitted himself—he could have done more to mitigate risk and require higher capital standards.

In the future, I expect the Fed will be more responsive to the needs of Main Street, where there is small business innovating, selling something or creating the new jobs of the 21st century, and to the needs of American families across this country. I expect it will be more vigilant to prevent a repeat of the economic crisis we have experienced and will get ahead of future challenges we will face, such as commercial loans and credit card defaults.

But despite these reservations, I will be voting in favor of confirmation because it is my belief that history will show the recession would have spiraled into a depression had Chairman Bernanke been timid or equivocal in his actions. I am voting yes because, in my view, Chairman Bernanke has proven his leadership and his value to this Nation during this unprecedented crisis. To vote against confirmation would unnervingly investors and exacerbate economic uncertainty in an economy that needs confidence and stability, not volatility.

I believe Chairman Bernanke is an astute scholar of the Great Depression and is now arguably the first and foremost expert on the great recession. At this moment in history, someone who has learned from two of the most devastating economic disasters in American history is certainly qualified to lead the Fed.

I will vote yes because, in my view, what we should not do is change leadership at the Fed at a time when what

we need most is a steady, experienced hand at what appears to be the very beginning of an economic recovery. I will vote yes because, recently, Chairman Bernanke has committed to more muscular regulatory reform that will corral the bulls on Wall Street. He has had the will to take politically unpopular strategic action, which history will show was necessary under the economic circumstances created by the last 8 years of runaway, laissez-faire financial regulatory policies. He understood the importance of keeping inflation low, forcing down interest rates, and stabilizing the financial system. At this time, his work is not yet done, and I believe we need the wisdom of patience. As Elizabeth Barrett Browning said: "Measure not the work until the day's out and the labor done."

I will vote yes because Chairman Bernanke has vowed, in a letter to acting Comptroller General Gene Dodaro, to provide all records necessary for a GAO audit of the Fed to give a clear understanding of his and the Fed's actions in the \$182.3 billion bailout of AIG. I will vote yes because I believe he understands the danger of exacerbating the crisis by tightening monetary policy at the wrong time.

President Kennedy said: "In knowledge's light we must think and not act only for the moment but for our time."

He told the story of a man who asked his gardener to plant a tree, but the gardener objected saying the tree was a very slow-growing tree and that it would not reach maturity for 100 years, to which the man replied: In that case, there is no time to lose. Plant it this afternoon.

Let us not step back and succumb to the urge to act for the moment but do what is right for our time. Solving our economic crisis surely will not take 100 years, but the seeds of recovery that are taking place right now need to be nurtured by an experienced hand.

I urge my colleagues to join me in voting to ensure confidence and stability at the Fed, not volatility; the type of confidence and stability that is necessary for our time.

I yield back the remainder of my time to the chairman.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I yield myself such time as I may consume. I have up to 30 minutes, but I don't think I will use that.

Four years ago, when Chairman Bernanke was first nominated to be Chairman of the Federal Reserve, I was the only Senator to vote against him. In fact, I was the only Senator to raise serious concerns about his nomination. I opposed him because I knew he would continue the legacy of Alan Greenspan, and I was right. But I did not know how right I would be, and I could not imagine how wrong he would be in the following 4 years. From monetary policy to regulation, consumer protection, transparency, and independence, Chairman Bernanke's time as Fed Chairman

has been a failure. We must put an end to his and the Fed's failure, and there is no better time than now.

The Greenspan legacy on monetary policy was breaking from the Taylor rule to provide easy money and, thus, inflate bubbles. Not only did Chairman Bernanke continue that policy when he took control of the Fed, but he supported every Greenspan rate decision when he was a Fed Governor before he became Chairman. Sometimes he even wanted to go further and provide more easy money than Chairman Greenspan. Yet, even to this day, Chairman Bernanke continues to deny that Fed actions played any role in inflating the housing bubble, despite overwhelming evidence and the consensus of economists to the contrary. In his efforts to keep filling the punchbowl—which is a term used by Chairman Bernanke himself—he cranked up the printing presses to buy mortgage securities, Treasury securities, commercial paper, and other assets from Wall Street. Those purchases, by the way, led to some nice profits for the Wall Street banks and dealers who sold them to the Fed.

On consumer protection, Chairman Bernanke went along with the Greenspan policy before he was Chairman and continued it after he was promoted. The most glaring example is it took him 2 years to finally regulate subprime mortgages, after the Fed had already done nothing for the prior 12 years. Even then, he only acted after pressure from Congress and after it was clear subprime mortgages were at the heart of the economic meltdown. On other consumer protection issues such as credit cards, he only acted as the time approached for his confirmation to another term at the Fed.

As the economy started to slide and the housing bubble peaked and then burst, Chairman Bernanke failed to notice the problems or do anything about them until it was too late. During that time, he made many statements showing how much he did not understand what was going on in the economy or how severe the crash would be. I wish to read a few of those statements so everyone understands how wrong he has been.

In March of 2007, this is what Chairman Bernanke said:

The impact on the broader economy and financial markets of the problems in the subprime markets seems likely to be contained.

Then, in May of that year, he said:

We do not expect significant spillovers from the subprime market to the rest of the economy or to the financial system.

The following February he said:

Among the largest banks, the capital ratios remain good and I don't expect any serious problems of that sort among the large, internationally active banks that make up a very substantial part of our banking system.

A few months later, in June of 2008, he said:

The risk that the economy has entered a substantial downturn appears to have diminished over the past month or so.

Then, in July of 2008, he said Fannie Mae and Freddie Mac are "adequately capitalized" and "in no danger of failing."

Finally, in May of last year, speaking about the unemployment rate, he said:

Currently, we don't think it will get to 10 percent.

Well, we all wish he had been right on that one.

I could read a few more quotes, but I think those are enough to show how wrong he has been on major economic issues. Of course, everyone makes mistakes, so I asked Chairman Bernanke about these errors in written questions I gave him after his confirmation hearing. His answers did not make me feel any better. He said the Fed did not understand the relationships between financial firms, how the problems in the financial sector would move to the real economy or how severe the financial crisis would be. That is in his written response to me. I thought those were the kinds of things regulators and the Fed, in particular, were paid to understand and address. We shouldn't be paying Fed Chairmen to learn on the job.

Just like with consumer protection, Chairman Bernanke did not take the job of regulating the banks under the Fed's authority seriously. Instead of close supervision of the biggest and most dangerous banks, he allowed them to grow their balance sheets and increase risk. The same is true on derivatives. After taking over the Fed, he did not see any need for serious regulation of derivatives until it was clear we were headed to a financial meltdown thanks, in part, to those products.

Even worse than the failures and flawed policies I just mentioned, Chairman Bernanke destroyed the independence of the Fed. He bowed to the political pressures of the Bush and Obama administrations and turned the Fed into an arm of the Treasury. Walking arm-in-arm with the Treasury, Chairman Bernanke bailed out all the large financial institutions, including many foreign banks. And he put the printing presses into overdrive to fund the government's spending and hand out cheap money to Wall Street. Instead of taking that money and lending to consumers and cleaning up their balance sheets, the banks started to pocket record profits and pay out billions of dollars in bonuses.

And now it appears that Chairman Bernanke is compromising the independence of the Fed to get votes for his confirmation in the Senate. After a meeting with Chairman Bernanke, the majority leader issued a statement saying that he had expressed concerns to Chairman Bernanke about things that the Fed was not doing and that Chairman Bernanke committed to take action. The majority leader also went on to state that his support for Chairman Bernanke was "not unconditional". I do not question the majority leader's intent or actions here, and I certainly do not have a problem with a

Senator telling the Fed Chairman about his concerns or urging him to take actions. I have done so myself on many occasions. And it is not a problem for the Fed Chairman to agree that he and the Fed need to address concerns raised by a Senator. But what is not appropriate is the Fed Chairman making commitments in order to secure votes for himself. I hope that is not what happened in this case.

Now with great power goes the responsibility to use that power in an open and transparent way. We have all heard Chairman Bernanke talk a lot about transparency, but his actions speak a lot louder than his words. He promised Congress more transparency when he first became Chairman, and he promised us more transparency when he came begging for TARP. While he has published some more information than before, those efforts fall short and he still refuses to provide details on all of the Fed's actions over the last 2 years.

After his confirmation hearing, I asked Chairman Bernanke for a list of documents for us to review, all of which are reasonable for Congress to see. For example, the list included documents about the bailouts of Bear Stearns and AIG, information about the Fed's regulation of banks before and during the crisis, and transcripts of monetary policy meetings that have not yet been made public. But his answer made it clear that he is not going to open up the Fed's actions to review by Congress or the taxpayers. Instead of providing those documents, what I got in return was a folder full of paper they printed off the Fed's web page. That kind of response is not only disrespectful to the Senate, but it raises the question of what they are hiding.

Following the markup of Chairman Bernanke's nomination, Chairman DODD did arrange for Banking Committee members and staff to review some of the documents surrounding the AIG bailout. I thank him for doing that, and I took him up on the offer and went down to the Fed myself to look at them. In reviewing those documents, some interesting and useful facts came to light that will be helpful as we craft banking reform legislation. More important for what we are talking about today, some of those documents contain new information that raises serious questions about Chairman Bernanke's judgment, leadership, and personal role in the AIG bailout. Unfortunately, under the agreement with the Fed to get access to those documents, I am not allowed to talk about the details and I was not able to bring copies back to show to other Senators. I think that every Senator should be able to see these documents prior to voting, and I asked Chairman DODD to subpoena them this week, but that has not happened. Senators should be especially concerned about voting now because last week Chairman Bernanke himself asked the GAO to conduct a review of these same documents, but that

review will not be completed and made public until after the vote has been taken here in the Senate.

While all of the reasons I just mentioned are enough to vote against Chairman Bernanke, the simplest reason is that a vote for Ben Bernanke is a vote for bailouts. Chairman Bernanke has been in the middle of all of the financial bailouts during this crisis. It was his Fed that bailed out Bear Stearns in March of 2008. It was his Fed that bailed out AIG in September of 2008. And it was Chairman Bernanke along with Secretary Paulson who came to Congress begging for TARP. So if you like those bailouts, by all means vote for Chairman Bernanke. But if you want to put an end to bailouts and send a message to Wall Street this vote is your chance.

I urge you to vote no on the confirmation of Chairman Ben Bernanke for another 4-year term as Fed chairman.

I yield the floor and reserve my time. The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I will address the Senate for 3 minutes, if I can, and then reserve the remainder of my time for later in this debate.

Let me say to my friend and colleague from Kentucky, a member of our committee, and a worthwhile member of the committee, that while we disagree on this nomination, I am appreciative and he raises good questions with a great deal of passion and conviction on these matters. I appreciate his gracious comments about my efforts to try to accommodate his legitimate interests in learning as much as we can about the matter affecting AIG, where \$180 billion of taxpayer money was involved.

There are a lot of investigations going on by the GAO, as well as by the independent commission, as well as individual Senators getting information. While it may not be satisfactory to everyone, there is an effort being made to make sure people can be as informed as they possibly can about that matter. There is a hearing that went on on the House side on this issue.

The matter before us is obviously whether to confirm Mr. Bernanke as Chairman of the Federal Reserve for a second term. I am a strong supporter of this nomination. I will explain why briefly, and then I will complete my remarks a little later in the debate.

I have yet to meet a nominee I have voted for that I was 100 percent for. But when it comes to a nominee with a record that is not going to necessarily be embraced by all 100 people here, the issue of certainly looking back is important to do. But the most important issue relative to the questions of looking back or forward is—and I think most Americans would agree—where are we today, and where are we going in these matters. I believe over the last year—or a little more than a year—the chairmanship of Ben Bernanke has, in no small measure, made it possible for

this Nation to avoid a catastrophe that I think would have looked maybe larger than the Great Depression did because of the global decisions that needed to be made. Had it not been for Ben Bernanke, I think we would be looking at a very different America today.

It wasn't my choice that Mr. Bernanke become Chairman of the Federal Reserve. The previous administration nominated Mr. Bernanke, and I voted for him. When I became chairman of the Banking Committee in January 2007 for the first time, I went through a very frustrating year on that committee. On February 7 of 2007, I had my first hearings in the issue of the mortgage crisis in the country. We had 12 such hearings in this committee over the remaining 10 months—almost 1 every month on this issue. Yet, I could not get the Chairman of the Federal Reserve to pay as much attention as I thought he should have. Beginning in the latter part of 2007 and going forward, his leadership, in my view, was absolutely critical in avoiding the kinds of problems this country faced.

I will speak for a few more minutes later. I think we would make a great error indeed if we were to reject this nomination, if we do not terminate this filibuster and vote up or down on this nominee and provide the confidence and stability our markets demand. This economy, as fragile as it is, will get back on its feet again. To do otherwise would do great damage to our Nation at this critical moment.

I yield the floor and withhold the balance of my time.

I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I wish to comment today on the nomination of Ben Bernanke for a second term at his critical post on the Federal Reserve.

As our Nation continues to recover from the worst financial crisis since Black Tuesday in 1929 and the deepest recession since the Great Depression, the chairman of the Federal Reserve is one of the most important positions in the Federal Government.

Earlier this month, Goldman Sachs—the Wall Street behemoth—announced a bonus pool of \$16.2 billion. JP Morgan recently handed out a \$9.3 billion set of bonus payments. The Wall Street Journal reports that Bank of America is expected to match the bonus level that it paid in 2007—prior to the collapse of the financial bubble and the taxpayer bailout.

These bonuses make it clear that Wall Street has recovered from the economic downturn—a recovery further indicated by the TED spread, which fell today to 0.17, signaling recovery for the banking system.

In contrast to the restored prosperity being enjoyed on Wall Street, Americans on Main Street still struggle through the aftermath of the Bush recession. Unemployment nationwide

hovers around 10 percent. In some especially distressed areas, such as my State of Rhode Island, the employment situation is even worse. Rhode Island's official unemployment rate was 12.9 percent last month and the proportion of Rhode Islanders who are underemployed, working part time, or at jobs below their skill level is considerably worse than that.

Families in my State and across the Nation are struggling to pay for groceries and to stave off foreclosure. The economic distress is so widespread in places such as Rhode Island that hardly anyone remains untouched, directly or indirectly. It is heartbreaking to drive around parts of Providence, where nearly every house on the block is boarded up, where families have been evicted from their homes, and the neighborhood is now in physical decay. The explosion of the housing bubble left wreckage across this Nation, which will take years, perhaps even decades, to clean up.

Ben Bernanke bears considerable responsibility for the lax regulation that brought about the housing bubble. There is no *mea culpa* he can profess that will erase that fact from history. And to make matters worse, a quick review of his public statements in the months leading up to the crisis demonstrates a troubling pattern of false confidence.

On February 27, 2008, months before the start of our great recession, Chairman Bernanke said this:

The nonfinancial business sector remains in good financial condition with strong profits, liquid balance sheets, and corporate leverage near historic lows. . . . By 2010, our most recent projections show output growth picking up to rates close to or a little above its longer term trend, and the unemployment rate edging lower.

Here we stand in 2010, and it could not be more clear that Mr. Bernanke was wrong.

Regarding the housing crisis, on May 17, 2007, Chairman Bernanke said:

We do not expect significant spillovers from the subprime market to the rest of the economy or to the financial system.

Again, he could not have been more wrong.

Regarding the strength of our financial sector, on February 28, 2008, Chairman Bernanke said:

Among the largest banks, the capital ratios remain good and I don't expect any serious problems.

We need a Fed Chairman with the foresight to anticipate problems and to take action before they occur. Chairman Bernanke has clearly not demonstrated this capability.

As the President of the United States noted in his State of the Union Address last night, the bank bailout was about as popular as a root canal. It appears Chairman Bernanke will be reconfirmed, but I want to express with my vote that the leaders of President Obama's economic team must pivot from the necessary rescue of our major financial institutions to equally if not

more necessary help to America's families.

In prioritizing the recovery of Wall Street, I believe leaders at the Fed and the Treasury made significant errors in several key areas:

First, failing to establish a due process mechanism to legally make adjustments to Wall Street pay, bonuses, and counterparty liabilities, so they all had to be paid 100 cents on the dollar.

Second, hoarding the TARP reserve for banks, long after banks were secure, when families were desperate for help. But, no, they clung to that reserve just in case the banks needed it, never mind the present need of American families.

Third, allowing the banks to prevent families—and this Chamber fighting against it—access to bankruptcy courts to readjust their home mortgage debts the way any other debtor can do for any debt, including the big banks themselves.

Fourth, giving banks and investment banks unlimited access to zero-percent loans at the Fed window to use for arbitrage, while profitable small businesses are desperate for credit to use for jobs. Other nations—the UK and France—have announced special taxes on banker bonuses to help pay for bailouts. Not here. If you are a scorekeeper of our recovery, it looks as if it can be summarized in a two-word phrase: bank wins. That is not a balanced score.

I will conclude by saying that whoever leads the Fed for the next 4 years, I urge that we start prioritizing help for the middle class. The Fed has enormous powers that could be used to help people. It can regulate credit card rates. It can force big banks to reduce principal on underwater mortgages. It can provide credit to small businesses. If our Nation's central bank is to regain the confidence of the American people, its priorities must serve the American people.

I thank the distinguished chairman. I yield the floor.

THE PRESIDING OFFICER. The Senator from New Hampshire is recognized.

MR. GREGG. Mr. President, I believe my time is being yielded off of Senator SHELBY's time.

I rise in support of the confirmation of Chairman Bernanke to another term as head of the Fed. There are a lot of reasons. Let's begin with the most obvious one because I think it is also one of the most important.

In the fall of 2008, we were looking over a precipice of massive disaster to our financial structures in this Nation. We were at a point where it was a distinct possibility that the entire financial system of this country was going to implode. What would have been the implications of that had it occurred? What would have been the outcome of that had it occurred? Not only would we have lost the basic superstructure of our banking system in this country, which is at the essence of a strong

economy, a good banking system, because credit, especially in our capitalist system, is a critical element in order to create prosperity—people have to be able to get credit in order to take risk and create jobs—but equally important, the implications to everyday Americans would have been overwhelming.

I understand it is difficult for people to appreciate how severe that was because the event did not happen. But had it occurred, had the financial system collapsed, as I believe it probably would have, then everybody in this country would have found their lifestyle and their quality of life reduced, I suspect, because the capacity to just basically operate a business would have been significantly constricted. Just getting money from your bank would have been a problem. The ability to get loans would have disappeared for a while. It would have created a massive disruption in our economic structure which, it is projected by some, would have led to unemployment rates of as high as 25 percent. I don't know if that is true, but those are the projections from some realistic people.

This did not happen. Yes, we went into a very severe recession and, yes, that recession is still hurting Americans. There are still Americans hurting as a result of it. But the massive collapse did not occur. It did not occur because a few people stood up and took very aggressive action, much of which was totally new and out of the box in the way it proceeded.

One of the two key players in this effort was the Secretary of the Treasury. The other key player was the Chairman of the Fed. Two Secretaries of the Treasury stood up and made the tough calls—Treasury Secretary Paulson and Treasury Secretary Geithner. But there was only one Fed Chairman throughout this whole period. He took the Fed down a path which it had never been down before. He injected over \$2 trillion of liquidity into the economy. He basically allowed the Fed to become the lender of the Nation. Nobody had ever done that. The way he did it was extraordinary in its creativity, and the results were that the country's financial system did not collapse. Many Americans' everyday lives were not fundamentally disrupted because of the actions of Chairman Bernanke. He deserves credit for having been willing and courageous enough to have made these types of decisions. That was the type of leadership we needed—strong, definitive leadership at a moment of acute crisis. That is what Chairman Bernanke gave our Nation. He deserves to be confirmed just for that action alone.

There is no question but you can Monday morning quarterback what he did and you can analyze it and you can probably say he should have done this better or that better. No question about that. But the fact is, the results of what he did accomplished the goal,



which was to stabilize the financial institutions of this country. The way I describe it is as if you are coming to a bridge in a car with your family in it and the superstructure of that bridge is about to collapse. But somebody comes along and they fix the bridge just as you get on it. You drive over the bridge, and you did not even know it got fixed, but it was fixed. And if it had not been fixed, you would have had a disaster. That is what Chairman Bernanke and Treasury Secretaries Paulson and Geithner did for our Nation. He deserves to be reconfirmed for that reason.

The second reason he needs to be reconfirmed, in my opinion, is because as we look forward, we are still looking at some very tough times. The money, the liquidity that was required to be put into the system—this \$2 trillion—as the system recovers becomes a risk for the system. We all know that. If that liquidity is allowed to play itself out and to multiply, we could end up with a fairly significant inflationary event. As we all know, inflation is the cruelest tax of all because it devalues people's savings and it undermines the productivity of a nation.

How this liquidity comes out of the markets, how we get this \$2 trillion-plus, as it has been multiplied, out of the system is going to be a very complicated but very important undertaking, and it is going to be primarily the responsibility of the Fed to do that. Chairman Bernanke has outlined fairly clearly, and I think in a very positive way, how he intends to accomplish that, how the Federal Reserve will start to draw down that liquidity. As far as I know, it is the only proposal out there that has any legitimacy, and it is an important proposal as we go prospectively. We need him in that spot not only out of respect because he did such a great job, an important job, and a successful job in stabilizing the financial situation of the late 2008 and 2009 period but also because we need him to deal with the prospective problem. That is another reason to confirm him.

Some will argue that he should not be confirmed because for years he participated, along with Chairman Greenspan, in keeping the money supply, the rates on interest too low.

That is a debatable point. I tend to think the rates were too low for too long. I think it is one of the reasons we ended up with this huge bubble in the real estate industry and it is one of the drivers, but I don't think that was the primary driver of what caused this financial downturn in this huge real estate bubble. The primary driver was a decoupling of the responsibility to lend constructively from the people who were actually doing the lending. We had a breakdown in underwriting standards, to put it quite simply. Because we had all these different people originating loans who had no real interest or vested interest in the loans because they were selling them and be-

cause a lot of our banking institutions had become lax in their underwriting standards, loans were being made to people who could not pay the loans back on assets which did not have the value to support the loan. People were not looking at the loans; they were looking at the fees they were going to get, and then they were selling the loans. When loans got sold, they got securitized, subdivided, and multiplied as to the implications. That was not the Fed's failure. To some degree, in their oversight of bank holding companies, one can argue it was the Fed's failure. I tend to put that more on the bank supervisor as the authorities who were specifically on the ground.

So, yes, interest rates were kept too low too long, in my opinion. But is that a reason to reject him as Fed Chairman? I do not think so. That, again, is Monday morning quarterbacking. The real test of his ability to manage the money supply and to live up to the primary commitment of the Fed, which is to have sound money and a strong economy, was how he handled the crisis of late 2009 and, as a corollary into that, how he intends to handle the impending problems with the liquidity that is in the market and needs to come out of the market.

As I said before, if I was looking around for someone to do this job, this would be the person I would want to have because I think he is the best person for the job. Is he perfect? No. Nobody is perfect anywhere. But has he proven himself to be an extraordinarily talented and aggressive leader who saw a crisis, managed it, and kept a lot of Americans from having a much more severe impact on their lifestyle as a result of his actions? Yes, he has, and I think that is the test.

I certainly hope my colleagues will vote for him. I understand there is this populist fervor around here now. Populism has always been a heavy strain in our body politic in America. I understand populism usually has to have an enemy, and usually it has to be an enemy that can be hyperbolized into a conspiratorial group. And so the Fed, since it is separate from the formal government—intentionally so, and it has to be because we do not want the Congress managing our money supply. That would be a disaster. Look at what we do with the fiscal house. Think what we would do with the money supply. The Fed is a separate entity, and it is insular to a significant degree, and therefore it becomes an easy target for those who want to fire the flames of populism, both on the left and the right.

I honestly regret that the President has joined in this exercise because I think he has thrown kerosene on the fire. Regrettably, the fire was blowing through his own Fed Chairman nominee. But it was a foolish thing to do because you don't know where the fire is going to go when populism gets ignited.

Populism usually involves exaggeration, and it almost always involves

misapplied purposes. The substance usually is very significantly different than the actual description of what the events are, and in this case that is true. The Fed is not some secretive institution which is trying to undermine the quality of life in America; just the opposite. The Fed is a very public institution that is audited, fairly completely, with the exception of the open market window, which shouldn't be audited because we don't want Congress managing money supply, and an audit of that responsibility would put the Congress in the business of managing the money supply.

Not only does it not undermine America's prosperity, it is the key to America's prosperity—or one of the keys—because it maintains a sound money supply and because, in a time of crisis—such as we had in late 2008—it is there to step up and make the tough decisions, independent of the political process, and it has proven it can do it.

I would hope we wouldn't allow all this fervor to find fault with people to overwhelm an extremely talented nominee who deserves to be reconfirmed and whom we, quite honestly, need in that position—as Chairman of the Federal Reserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, I rise to oppose the nomination of Ben Bernanke as Chairman of the Fed. I do so as a member of the Banking Committee who voted against his nomination in that committee because I researched his record, and on that record I believe Ben Bernanke is not the right person to lead the Fed. In short, Ben Bernanke's decisions over the last 8 years as a member of the Federal Reserve Board, as Chairman of the Council of Economic Advisers, and as Chairman of the Fed helped set the fire that destroyed our economy.

Mr. Bernanke is a calm and unassuming man, responsive and thorough in his explanations, and very likable. In addition, to keep the analogy, he has done a good job with the firehose over the last year. He understood that tightening credit during a collapsing bubble in the economy would be akin to turning off the fire hydrant in the middle of a fire. He did keep the fire hydrant turned on, and I give him credit for that. But now we need to rebuild our economic house. That takes an architect, not a fireman; that takes a builder, not someone turning on a fire hydrant. Based on his performance over the last 8 years, I do not believe Ben Bernanke is the right architect to rebuild our economy, an economy that will work for working families.

Consider the following: Ben Bernanke failed to react to the enormous danger from an interlocking web of derivatives that created high-speed channels for massive financial contagion. Simply put: Derivatives turn our financial institutions into a set of dominoes in which, if one falls, others fall, and Ben



Bernanke did not respond to the growing threat of derivatives.

Bernanke failed to respond to the increase of proprietary trading that amplified risk in both depository lending institutions and our financial system as a whole. Again, let me put this more simply. Gambling on stocks and bonds and derivatives is fundamentally incompatible with bank stability. But Bernanke did not respond. Ben Bernanke supported and advocated for policies that reduced capital and increased leverage in both commercial banks and investment banks, greatly magnifying risk across the system.

He supported Greenspan's philosophy of deregulation and self-regulation. He advocated for Basel II. What was Basel II? Basel II was to say to the largest banks in America: You can set your own leverage ratios. What did that result in? That resulted in banks going to a 30-to-1 leverage. If you invest money 30 to 1 in an up market, it is a killing. You make all kinds of money. But when you are at a 30-to-1 leverage and the market turns down, you blow up immediately.

There is not an analyst in America who can tell you at any one moment when the market will go up and when the market will go down. But they can tell you it will go up and down over a period of time. What goes up must come down. There is never going to be a steady upward climb forever. So if you allow 30-to-1 leverage, you are going to make a lot of financial institutions very happy. They are going to make a lot of money, until the market turns down. Well, Ben Bernanke set loose the leverage requirements that paved the path, that set this fire, that burned down our economy.

Ben Bernanke ignored the housing bubble. He failed to protect homeowners from deceptive practice committees. Why is this important? Let me explain what happened over those 8 years. Families went to their real estate agent and the real estate agent followed a strict code of conduct—a strict code of ethics—and they arranged to buy a house. They then went to a broker and assumed there would be a similar strict code of ethics and they were going to get a loan for their house. The broker said: You know what, home ownership has gotten very complicated; mortgages have gotten very complicated; I am going to be your adviser. I am going to be your adviser, trust me, and sign this loan right here. This will be the best one for you.

What was wrong with that was the homeowner did not know the broker was getting paid a large sum of money, called a yield spread premium, also known as a steering payment because they were designed to steer people into certain loans, also known as a kick-back. The broker was receiving those, and families who qualified for prime loans ended up in subprime loans.

What institution was responsible for consumer protection on mortgages? The Fed was responsible. Ben Bernanke

did not do a thing to protect consumers from this gross conflict of interest that torpedoed the financial prospects of millions of America's families for which he had direct responsibility.

In the Fed, monetary policy has been in the penthouse, as it must be. That is a primary responsibility—safety and soundness in the upper floors and consumer protection in the basement. We cannot leave consumer protection in the basement.

So I will close with this. Ben Bernanke was not alone in helping to set this fire. He had a lot of company. But over 8 years, he made critical mistake after critical mistake that, in the short-term, large financial institutions loved, but it set the conditions for our economy to burn down. The consequences for families were extraordinary—loss of jobs, loss of retirement, loss of savings. With the loss of a job came the loss of health care. That is an extraordinary amount of damage. Now we need someone to rebuild our economy, and Ben Bernanke is not that man.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

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

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

#### DEPARTURE OF ROBERT RUSSELL

Mr. PRYOR. Mr. President, Holmes had Watson, Mat Dillon had Chester, even Andy had Barney; for the past 20 years, I have had Bob Russell. Bob has long been a trusted friend, and for the past 7 years he has been my great chief of staff, providing valuable counsel, know-how, and humor. Bob is headed to the private sector, but I could not let him leave without thanking him for his public service in the Arkansas attorney general's office and in the Senate.

Bob was instrumental in assembling an exceptional team of talented aides, many of whom are in the gallery today. Over the last 7 years, he led that team as we steered a number of legislative initiatives to success, including legislation to improve children's safety, help military families, and strengthen Arkansas communities. None of these accomplishments would have been possible without Bob's hard work, integrity, and deliberation.

Bob believes in the "do right" rule. He came to the Senate to get these done for Arkansas, and when he realized that partisanship was getting in the way, he took action. Along with Tom Ingram, former chief of staff to LAMAR ALEXANDER, he formed the bipartisan chiefs of staff group. This informal group meets regularly to facilitate working relationships across the aisle. These friendships translate into solutions instead of barriers.

The so-called Gang of 14 is a prime example, where Bob and Tom recognized early on that common ground on Federal judges was more favorable than Senate gridlock. Just a few weeks

later, 14 Senators, including myself, struck a deal that enabled the Senate to move forward with the judicial nominations and conduct regular business. That is the type of unseen influence Bob Russell has had on this place for the last 7 years.

I love Bob and I trust him. He is a good family man and he is a good Southern Baptist. On many Mondays, we would come in and say: Tell me about your sermon on Sunday. I will miss his presence and his insights. He has been a good mentor and adviser to me and to many on my staff and has made many lifelong friendships here in Washington. He is more than a chief of staff, he is my friend.

Frank Broyles is an Arkansas hero, well-loved for coaching the Razorbacks to a national championship and famous for developing assistant coaches. One of his players was Jimmy Johnson, who would later coach as an assistant at Arkansas under Broyles. It is tough to let an assistant coach go, but when he is that good, he deserves to go out and do great things on his own. I feel the same way about Bob, especially since I know that Ecclesiastes says:

For everything there is a season, and a time for every matter under Heaven.

Johnson went on to win a national championship and two Super Bowls. I know Bob will go on to a highly successful career in his own right.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to speak in opposition to the nomination of the Honorable Ben Bernanke to be Chairman of the Board of Governors of the Federal Reserve System.

I am somewhat conflicted about Dr. Bernanke's nomination for a second term as Chairman of the Federal Reserve. Our Nation's economy is still reeling from a significant downturn, during which home values plummeted and foreclosures rapidly increased, wreaking havoc on our financial system. Markets tumbled, banks and businesses failed, and millions of jobs were lost. Ultimately, the American people have borne the brunt of this recession, watching jobs, homes, and life savings vanish, while seeing their hard-earned tax dollars bail out the bad actors that caused it.

That being said, the financial crisis could have been worse. It could have turned into a depression. So far, we are not there. I believe some of what Dr. Bernanke did was good. He is an expert on the Great Depression. He unleashed an arsenal of financial tools to combat the recession, he tried to inject liquidity into the financial sector, and did much to try to keep our markets afloat. While I commend him for that, I am very concerned about some of the precedent that has been set in this crisis.

I am especially troubled by the continuing expansion of TARP. Almost immediately after its passage, the Treasury Department deviated from the intent of the program. Instead of

purchasing troubled assets, which we were told would be the purpose, the Treasury purchased equity stakes in over 300 of our Nation's financial institutions. It expanded the TARP to non-financial companies, pouring billions into AIG, General Motors, and Chrysler.

We must begin the effort to wind down TARP. With banks paying back their TARP receipts, we need to unwind TARP and pay down the deficit. Although some have suggested TARP is a revolving fund, the legislation was never sold as such—not ever. Americans are tired of excessive spending. If there is anything we ought to do right now, it is to stop spending TARP and stimulus funds that are not allocated and show the American people we have heard the message in Washington.

TARP was designed as a one-time injection of assistance to prevent financial institutions from collapsing and taking down the larger economy. Now that those financial institutions have gained their footing, we should pay back the American taxpayer. In bailing out our Nation's financial system and large banks, we have left the very real impression that no bank is too big to fail. This policy has allowed those who contributed to bringing our economy to its knees to right their ship at taxpayers' expense. It has helped these institutions access cheap capital from the government, adversely affecting safe and sound institutions such as community banks.

I am also concerned about the path our country is on in our recovery. In September, Chairman Bernanke said our recession was over. While our economy may be recovering, many Americans do not see it. At 10 percent, our national unemployment is still extraordinarily high, despite huge spending measures such as the stimulus package, which was supposed to create jobs. The debt and deficits our Nation has incurred over the past 2 years has sent our Nation's debt on an unsustainable trajectory.

Our debt is at \$12.394 trillion. Earlier today, the Senate voted to once again raise the ceiling by an astonishing almost \$2 trillion, the fifth time to do so in 18 months.

Under Chairman Bernanke's leadership, I do not think the Fed has paid enough attention to—nor has he talked enough about—the mounting debt and the immense burden it is going to place on our economy today and certainly on our children and grandchildren.

Fiscal sustainability is not on the horizon. Instead, we see endless spending as far as the eye can see: health care reform, cap-and-trade energy legislation, a possible second stimulus. All will be huge government programs which will not only raise our government spending but raise costs on individuals and businesses in the form of new taxes and mandates. I am concerned about the consequences this increase in spending will have on our economy.

I will not support Chairman Bernanke's nomination. I am conflicted, as some of the things he did were good, but his actions to save our economy have helped set a very dangerous precedent for the future. The precedent of massive spending is not the answer.

I will continue to examine the Fed's exit strategy and will most certainly encourage further action from Chairman Bernanke on our debt and our Nation's finances.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I ask 4 minutes be taken from the Democratic side's time?

Mr. DODD. That is fine. I know the Senator from North Dakota had asked to be heard.

Mr. SCHUMER. I thought I was next.

Mr. President, it was only a little over a year ago, with the collapse of Lehman Brothers, that we faced a financial crisis the likes of which few have seen in our lifetime. We were truly standing on the edge and staring into the abyss. For all intents and purposes the financial system was on the cusp of a total breakdown. A Great Depression loomed.

Now, a year later, while we cannot diminish the very real and large problems that remain in front of us, we did succeed in preventing the catastrophe that seemed very possible if not probable in the fall of 2000. Nobody was more important in preventing the collapse of the financial system and the rescue of the economy from what looked like imminent freefall than was Chairman Bernanke.

I was there at many of the meetings, and I saw his steady hand and guidance. That is why I am going to vote to reconfirm him as Chairman of the Federal Reserve Board.

The Fed certainly made mistakes in the runup to the financial crisis: failing to use its regulatory authority to rein in a skyrocketing credit boom, failing to adequately fulfill its responsibility to protect consumers from predatory lending practices in mortgages and elsewhere, and allowing too risky activities with too little protection.

While most of these policies began under the previous Chairmen, Chairman Bernanke presided over the Fed and continued them. That is something I am sure he is not proud of, but he has acknowledged that he has many lessons to learn from the crisis and he is working hard to make sure the same mistakes are not repeated in the future.

I also want to say a word about the consequences of failing to reconfirm him. Our economy, while struggling to return to solid ground, remains fragile. Unemployment is way too high. We have yet to turn the corner on sustained job growth. Businesses, small and large, are still having a hard time getting access to credit they need to

expand and grow, or even, in many cases, doing business as usual.

Singling out Chairman Bernanke and the Fed for punishment might be temporarily satisfying for some, but it will not help a single business add jobs. It will not prevent a single homeowner from being kicked out of his or her house. Instead, it will accomplish just the opposite. By sending a message that the Federal Reserve and its monetary policy decisions are under the thumb of Congress, businesses will be faced with the prospect that the Fed might not be able to do what is necessary for the economy because of pressure from Congress.

Economists tell us one of the major things holding the economy back is uncertainty about the policies that Washington will pursue. This would exacerbate that concern and create a very bad outcome for the economy and the country. I have said it before, and I will say it again: If you don't like monetary policy when the Fed does it, just wait until the politicians get their hands on it.

I am going to vote to reconfirm Chairman Bernanke as Fed chairman, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, when I think of what a Federal Reserve Chairman is supposed to do, I think of two key responsibilities: maintaining stable prices and keeping our dollar strong. Unfortunately, Chairman Bernanke's Federal Reserve has not performed well on either count.

Consumer inflation, as measured by the Bureau of Labor Statistics, increased 2.9 percent from June to December 2009.

Manufacturers' cost of production is up 4.4 percent versus last year; up 5 percent in the past 6 months; and up 9.5 percent in the past 3 months.

Other measures of inflation, such as the 5-year, 5-year forward, clearly show an accelerating trend. Inflation is the last thing our economy needs right now.

As for the dollar, during the last year, its value dropped more than 10 percent. Much of this weakness is attributable to the Federal Reserve setting short-term interest rates at virtually zero.

As such, gold prices have surged, as investors worry that the dollar is no longer a reliable store of value.

OPEC has contemplated designating oil in a currency other than the dollar, and foreign economists have suggested that we issue our own government debt in yen, euros, or yuan, rather than dollars.

While neither of these actions is likely, it is clear that the Federal Reserve needs to pay greater attention to the dollar's value when making monetary-policy decisions. The preeminence of the dollar is synonymous with American prestige abroad. Nothing represents our Nation's soft power more than its strength.

Another chief concern of mine is that, during Chairman Bernanke's tenure, the Federal Reserve and other banking regulators showed an inability to use bank examinations to distinguish between good and bad loans.

Before the housing crisis, banking regulators were permitting financial institutions to lend to individuals who obviously did not have the ability to repay the money they borrowed. Had they been more vigilant, the crisis may have been less severe.

Now, however, in seeking to be more cautious, bank regulators are making another mistake: They have been telling institutions in my home State of Arizona, and throughout the country, not to make loans to even the most creditworthy individuals and businesses.

I have heard numerous stories, from both lenders and borrowers in my State, about bank examiners deciding to downgrade a performing loan because, on paper, the underlying collateral was worth less than its purchase price.

As a result, the banks had to either raise more money, which is incredibly difficult, or else the borrower had to contribute more cash to keep from technically defaulting on the loan.

Why would we have policies that punish responsible borrowers? Why would it be in our interest to force those who are current on their loans into a situation that could lead to bankruptcy? Doing so makes a bad situation worse and creates problems that ripple through our economy.

I am also troubled that Chairman Bernanke refuses to take responsibility for the housing bubble and disputes that the Federal Reserve's lax monetary policy helped create it.

As the respected columnist Bob Robb of the Arizona Republic recently explained:

[Chairman] Bernanke is intellectually shadow boxing. . . . When a bubble occurs in a commodity which is almost universally purchased using extensive borrowing, such as homes, it's fatuous to claim that easy money doesn't play a significant role.

Chairman Bernanke strongly supported this lax monetary policy, and he should own up to its role in the financial crisis.

These are all reasons to oppose his renomination or confirmation. Nonetheless, I must vote to reconfirm Chairman Bernanke, simply because I am concerned that another nominee chosen by President Obama would be less independent than Chairman Bernanke and would direct the Federal Reserve's resources to support the administration's policy interests, and, therefore, bypass congressional approval for appropriated funds.

This administration has a history of nominating partisan, out-of-the-mainstream individuals for key jobs, and replacing Chairman Bernanke would be another opportunity for it to do so.

I would hope that if Chairman Bernanke is confirmed, he will take ac-

tion to remedy the problems I have just addressed. They demand his attention.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I rise in support of the confirmation of Mr. Bernanke to continue as Chairman of the Federal Reserve. I do so, acknowledging that he contributed to the crisis, but also recognizing that without his strong leadership the crisis might have become a conflagration.

How did we get to the brink of financial collapse? I might say to some of my colleagues, they should look in the mirror because they, too, contributed to the forming of the bubble. How? An overly loose fiscal policy under the control of the Congress and the administration.

The previous administration ran up massive deficits, doubled the debt. That is a loose fiscal policy. It was accompanied by a loose monetary policy after 9/11.

After 9/11, the Federal Reserve kept interest rates very low, flooded the system with money, and the combination of an overly loose fiscal policy and an overly loose monetary policy created the seed bed for bubbles to form. Indeed they did.

We didn't just have a housing bubble, we had an energy bubble—oil prices went to \$100 a barrel. We had a commodity bubble—wheat went to more than \$20 a bushel. These are examples and evidence of bubbles being formed. When you have an overly loose monetary policy and an overly loose fiscal policy, bubbles are going to form and ultimately bubbles burst. When they do, there is enormous economic wreckage. That is what has occurred here—all of it coupled with an era of deregulation.

Under the previous administration—and, yes, the Federal Reserve has responsibility here as well—there was too little regulation of major financial institutions and of major financial instruments. Trillions of dollars of derivative instruments were floating around the world unregulated, even unrecorded. Of course there was danger there.

Warren Buffett warned that derivatives constituted a nuclear time bomb hanging over the global economy. Ultimately the bubbles burst, and ultimately the economic wreckage built. Bernanke bears some responsibility for that, without doubt. But once the crisis developed he took charge in a way that is unprecedented. He took step after step to provide liquidity to this global economy to prevent and avert a collapse.

I believe when the history of this period is written, in terms of the response to the dangerous cloud hanging over this global economy, Bernanke will prove to have been one of the heroes of the piece. In instance after instance, he took unprecedented action to avert a collapse.

His academic study was the Great Depression.

He resolved as a young man to do everything he could to prevent any future collapse of that magnitude. He proved to be the right man at the right time. He deserves to be confirmed in this vote this afternoon. I ask my colleagues to please be judicious. Let's recognize that he made serious mistakes. Let's also admit the Congress and the administration, the previous administration, made very serious mistakes: overly loose fiscal policy, overly loose monetary policy, a lack of regulation, the creation of bubbles, bubbles that burst that created enormous wreckage. But Ben Bernanke helped avert a global financial collapse. I believe history will prove that is the truth.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I join my colleague, the Senator from North Dakota, in rising to support the confirmation of Chairman Ben Bernanke to a second term as Chairman of the Federal Reserve. As has been pointed out throughout the course of this debate, his position at the Federal Reserve prior to September 2008 gave him the opportunity and the obligation to look carefully at a building crisis.

His response was not as perceptive or as adroit as we all in hindsight would wish to see. He did recognize, however, by August of 2007 that this economy was slowing down, and he applied the traditional macroeconomic tools by beginning to lower the interest rate.

By December of 2008, the interest rate was virtually zero, the Federal rate. That has helped, I think, keep the economy moving and has helped us move forward. But the point that so many of my colleagues have made is when it came to critical moments during the fall of 2008, Chairman Bernanke understood the problem and was able to use extraordinary measures, first persuading the Federal Reserve to follow his lead, and then using extraordinary measures to begin to blunt the worst effects of this economic crisis we faced, and continue to face, and his efforts to ensure that there was liquidity in the system—precisely what was done incorrectly in 1929, 1930 through the early 1930s, where the Federal Reserve pulled back, accelerating the depression rather than cushioning the economy from further decline.

He took innovative steps that seem sort of esoteric, but helped restore stability in capital markets. But he also took very decisive intervention with respect to the money market mutual funds, when the Reserve Fund broke the buck, as they say, when its net asset value dropped below a dollar, there was a tremendous sense of not only uncertainty but potential chaos as everyone was plotting to withdraw their funds from money markets, which would have created huge problems and which would have affected every American in this country. But he moved decisively and aggressively,

along with the Treasury Department, to provide stability and support. He also helped create programs like the TALF program to restart markets for auto, home, credit card, student loan, and small business loans, his ability to interject liquidity into the system, gave us a break, if you will, from a rapidly deteriorating situation.

I sense, and my colleagues have said, that in the future his reaction—calm, decisive, innovative, imaginative—was one of the things that prevented this catastrophic situation from becoming even worse. That is an important aspect that we must consider in regards to his renomination.

There is something else too. If the Chairman is not confirmed, there will be a period of uncertainty as to who is leading the Federal Reserve and what direction will it take. The last thing we need today is uncertainty in our economic future. If the ability of individuals and institutions to invest, to commit their capital and their effort and their work is put on hold, then the progress we have seen—and it is not sufficient but we have seen some—in fact, there are expectations that the reports on gross domestic product tomorrow will show significant increases rather than significant contractions, which is what we saw under the last administration.

But if we inject this uncertainty, if we go months and months with no one clearly in charge at the Federal Reserve, it will have a very tangible, rapid, and unfortunate effect on our ability to move forward with the economy.

There is another issue here I think that is important to note. That other issue is that, having done all of these remarkable innovative programs to increase liquidity, to keep the engine of the economy running, albeit not at the level and speed and power we might want, but keep it moving, at some point those programs have to be unraveled, pulled back, because we will face another danger.

We face a danger, perhaps, in terms of inflation rate effects. We face a danger in terms of currency issues, in terms of value of the dollar. This is something we all recognize, this great pivot, as I call it, moving away from low interest rates and liquidity infusion, to higher interest rates, the dismantling of some of these programs. For example, the Fed already announced that it intends to begin to slowly get out of its support for the mortgage market in a few weeks.

All of that has to be as tacitly managed, as carefully understood, as these programs were in the fall of 2008 and 2009 when the Chairman was moving forward. As a result, I think we need someone who understands these programs, and understands them not just theoretically but literally from trial and error, from understanding what worked, what did not work, what the consequences are.

No one has that type of knowledge and insight at this juncture other than

Chairman Bernanke. He is, of course, as an individual, a man of remarkable integrity and character who is committed to public service, and who is a pragmatist, not an ideologue, someone who will continue to provide not only guidance but leadership at a place we sorely need it, at the Federal Reserve. From my talks with Chairman Bernanke, I think he understands that people are hurting, and that his role in getting our country back to full employment is just as important as his role in monetary policy. The engines of our economy are small businesses and jobs, and this is what people in my state of Rhode Island expect from the Federal Reserve. At this critical juncture, I hope that my colleagues will support Chairman Bernanke for a second term.

I yield the floor.

Mr. AKAKA. Mr. President, I support the confirmation of Chairman Ben Bernanke. Chairman Bernanke has demonstrated tremendous skill in handling extraordinary economic challenges. We were very fortunate that the Chairman of the Federal Reserve Board of Governors during the economic chaos last fall was an individual whose area of academic expertise is the Great Depression. The Federal Reserve took unprecedented emergency actions that helped stabilize the economy and prevent further collapse of the financial markets.

During my first meeting with the Chairman, he shared with me his experience as a school board member of trying to improve the availability of financial education. I have always greatly appreciated Chairman Bernanke's dedicated efforts to improve the financial literacy of students and consumers. The true costs of financial illiteracy have been made all too apparent by the financial crisis. One of the core causes of the crisis was that families were steered into mortgages with risks and costs they could not afford or even understand. Chairman Bernanke and I share a firm commitment to trying to improve the lives of working families through improved consumer protections and financial literacy.

Chairman Bernanke has led efforts at the Federal Reserve to better protect and inform consumers. During Chairman Bernanke's tenure, the Federal Reserve has increased consumer protections in the subprime mortgage market and limited questionable practices in the broader mortgage market. Additionally, the board has proposed further limitations on loan originators, brokers, and loan officers.

Also during Chairman Bernanke's tenure, the Federal Reserve developed improved rules to restrict credit card practices, enhance overdraft fee disclosures, strengthen student loan disclosures, and restrict gift card fees.

I have also greatly appreciated the efforts of Chairman Bernanke and the Federal Reserve to promote the use of financial institutions for lower cost remittances. Too often consumers fail to

take advantage of lower cost remittance services found at banks and credit unions. Remittances can be helpful in providing opportunities for the unbanked to utilize mainstream financial institutions.

I look forward to continuing to work with Chairman Bernanke and the Federal Reserve to better protect, educate, and empower consumers.

Mr. LEVIN. Mr. President, we have been asked by the President to confirm Ben Bernanke to a second term as Chairman of the Federal Reserve. Given the current state of the economy, and the nature of the crisis that led to the recession from which we are struggling to recover, this request has generated a great deal of controversy. I am conflicted by this nomination, and I want to explain my decision to support it.

The most striking feature of the economic crisis is that it was, to a large extent, a collective failure of financial regulation. It was not a function of the normal waxing and waning of the economic cycle. Instead, our financial institutions engaged in ever-more complex, highly dubious, and risky transactions, and when the risk was exposed, it set off a chain reaction that dragged down our entire economy.

The lack of adequate financial regulations was a major cause of the crisis. We must reform that system on an urgent basis. Consumers' rights need to be protected.

But in addition to the failures of the system, part of the crisis was made possible by collective failures of those entrusted to oversee the financial system. Chairman Bernanke was one of those people. He and others should have been more forceful in reining in the greed-driven abuses and excesses of our financial sector.

Some of my colleagues who share this view believe that this fact alone should justify a "no" vote on Chairman Bernanke. But I believe that we must weigh both Chairman Bernanke's role and actions before the crisis, but also those since the crisis began. In other words, was he a bigger part of the problem or the solution?

First, while Chairman Bernanke should have acted more forcefully to try to prevent the crisis, most of the abuses that brought it about occurred in areas outside the Federal Reserve's primary areas of oversight. I also believe that Chairman Bernanke's and the Federal Reserve's recent support for enhanced financial regulation are crucial to correcting some of the structural failures that lead to the crisis.

Second, the Federal Reserve's actions helped to prevent this tragic recession from becoming a second Great Depression. This is no small thing. As bad as the last several months have been, they would have been even worse but for Chairman Bernanke's leadership.

Lastly, it is clear that Chairman Bernanke's role in preventing a deeper crisis has earned him some confidence in our financial markets. A defeat of

his renomination carries the risk of shaking these markets, at the very moment we need them to operate in a stable fashion so as to help boost our fragile economic recovery.

When making the decision of whether to support this nomination, I end up believing that Chairman Bernanke's performance in addressing the economic crisis and his current efforts to significantly enhance financial regulation to help prevent future crises, outweigh his past mistakes. On balance, I believe that Chairman Bernanke should be given the opportunity to continue to help pull us through this difficult period, and I will vote in favor of his confirmation.

Mr. GRASSLEY. Mr. President, I want to express my concern about the nomination of Ben Bernanke as Chairman of the Federal Reserve Board and explain why I will vote against him when the Senate has the opportunity this week.

I know many of my colleagues will support Mr. Bernanke because he was a cocaptain of the U.S. economic recovery efforts in the last year and a half. Appointed by President Bush, Mr. Bernanke undoubtedly has a difficult job. Our Nation has been jolted by greed, corruption, fraud, and excessive risk-taking that led to the largest taxpayer bailout in history. Mr. Bernanke was holding the reigns, along with officials in the Department of the Treasury, but steered us into an out-of-control spending frenzy with very little oversight by the American people.

Ben Bernanke has been wrong about the economy. He was wrong about the subprime lending meltdown. He was apparently blind to the pitfalls of credit default swaps. He misled the American public about the purpose and intent of the Troubled Asset Relief Program. He recklessly spent billions of dollars on a few renegade financial firms, picking winners and losers on Wall Street and justified these actions by saying Main Street would be saved. Then, he stonewalled Congress from learning about how the billions of dollars were spent. Ben Bernanke also opposed transparency almost every step of the way.

Let me address these issues more in depth.

Whenever the Chairman of the Federal Reserve opines about the economy, he understands that his words can be misunderstood or taken out of context and thus have an unintended impact on the market and day-to-day trading. However, Ben Bernanke has been saying that our economy has been strong since the beginning of the decline. His analysis of the situation and predictions for our future economic growth were far off.

Let's take the housing problems, for example. In 2006, Fed Chairman Bernanke believed that the housing market had been strong but could cool slightly. He said, "Our expectation is that the decline in activity or the slowing in activity will be moderate, that

house prices will probably continue to rise, but not at the pace that they had been rising. So we expect the housing market to cool, but not to change very sharply." He didn't think the housing market would blow up, nor did he believe that the weakness in the market would spill over to other sectors of the economy. He was dead wrong.

He was wrong about unemployment. Most recently, in May of 2009 and in front of the Joint Economic Committee, Fed Chairman Bernanke said: "Currently, we don't think [the unemployment rate] will get to 10 percent." In November the unemployment rate hit 10.2 percent.

We can go back to February 2006. As President Bush's Chairman of the Council of Economic Advisers, Mr. Bernanke was responsible for drafting the Economic Report of the President which claimed the following: "The economy has shifted from recovery to sustained expansion. . . . The U.S. economy continues to be well positioned for long-term growth." In this report, Bernanke projected the unemployment rate to be 5 percent from 2008 through 2011.

Even in 2007, the Fed Chairman believed that the labor market would stay healthy and incomes would continue to rise. In February of that year, he said that "the business sector remains in excellent financial condition." Later in July of 2007, Mr. Bernanke said, "Employment should continue to expand. . . . The global economy continues to be strong. . . . financial markets have remained supportive of economic growth."

Then came the Bear Stearns debacle. Bear Stearns led the charge in the securitization market. Because they had placed significant resources in mortgage-backed securities, the company was on the verge of collapse. In March of 2008, the Federal Reserve Bank of New York attempted to save the company through an emergency loan, but failed and moved to force a sale to JPMorgan Chase.

Three months later, Fed Chairman Bernanke still did not acknowledge the pending economic crisis. In fact, in June, he said, "The risk that the economy has entered a substantial downturn appears to have diminished over the past month or so." He couldn't have been more wrong. The economy melted down, and the Fed and Department of the Treasury had to come to the rescue of several failing firms.

The Federal Reserve Chairman only warned Congress about the financial crisis when it was too late. Under his leadership, the Federal Reserve took very little action to control the root causes that led us to economic storm we have all had to endure. Instead, they urged Congress and the American people to swallow a plan that was ill conceived and risked making the situation worse.

So another reason I cannot support his renomination as Chairman of the Board is because of the disastrous im-

plementation of the Troubled Asset Relief Program, also known as TARP.

Chairman Bernanke came to Congress with former Treasury Secretary Paulson, selling a proposal that would direct taxpayer money to purchase "toxic assets." The proposal would have allowed the Federal Government to take bad assets off the books of troubled firms to keep credit flowing. We were told that the situation was dire. We were told that the Fed and the Treasury Department had a plan in place. We were told that taxpayers may even come out ahead. We were told to trust them.

It wasn't long after the Emergency Economic Stability Act was passed in October 2008 that the Fed and the Treasury reversed course. Without input from Congress, they took the authority they were given and went their own way. Chairman Bernanke was doling out funds for Bear Stearns and AIG while the Treasury was doling out funds to firms that were destined for failure.

Today, the Troubled Assets Relief Program has been used as a slush fund to bail out firms on Wall Street and troubled automakers. Taxpayer money has been enabling these companies to continue in their misguided ways. Corporate jets were being used to lobby Congress for billions of dollars, and CEOs resisted proposals to slim down the fat pockets of their cronies. The American people were misled, and Ben Bernanke should share responsibility for that.

But, it wasn't just the Troubled Asset Relief Program that was used to funnel taxpayer money to failing firms. Chairman Bernanke led the Fed on a spending spree, using a blank check to unilaterally direct money to AIG, Fannie Mae, and Freddie Mac.

Chairman Bernanke was AWOL as the Federal Reserve funneled billions of taxpayer dollars to AIG knowing that the money would go directly out the back door to AIG counterparties like Goldman Sachs and foreign banks. AIG's payment of 100 cents on the dollar for the counterparty securities meant Goldman actually received more than some other counterparties, because Goldman's securities had a market value of 40 cents on the dollar while UBS Bank's securities, for example, were worth 71 cents on the dollar.

Chairman Bernanke was absent from the critical "haircut" negotiations with the AIG counterparties, in stark contrast to the TARP Capital Purchase Program negotiations weeks earlier. As a consequence, no reductions in counterparty payments were obtained for the American taxpayer. These negotiations failed despite the fact that some of the foreign counterparties offered to reopen negotiations. The Federal Reserve failed to capitalize on this opportunity and investment bankers were paid in full.

The AIG bailout was designed by the Fed in a manner that funneled billions of dollars directly to the counterparties. No other outcome was possible.

The effect was a “backdoor bailout” regardless of the Fed’s now-stated intent merely to improve AIG’s liquidity in order to avoid a collapse.

Reasonable people can disagree about whether Chairman Bernanke made the right decisions. Aside from the problems I have already outlined, I have serious reservations about voting for him again given his resistance to transparency. For example, we have seen very little cooperation from the Federal Reserve to ensure that the Government Accountability Office, GAO, has independent audit authority.

Last March, the GAO testified before the Finance Committee that the Federal Reserve was resisting its efforts to conduct oversight of the response to the financial crisis by citing provisions of law that were intended to maintain the independence of monetary policy.

Such restrictions could be defended when the Federal Reserve focused only on monetary policy. However, since the financial crisis, the Federal Reserve has routinely exercised extraordinary emergency powers to subsidize financial firms far above the levels Congress is willing to authorize through legislation. The Federal Reserve took on enormous amounts of risk in complicated and unprecedented ways. That risk is ultimately borne by the American taxpayer. Congress authorized \$700 billion in funds under TARP. However, the total projected assistance in various initiatives by the Federal Reserve could be up to \$3.4 trillion by GAO estimates.

Therefore, I introduced an amendment in May of last year that would have guaranteed GAO the authority to audit all of the extraordinary emergency assistance from the Federal Reserve. Regrettably, due to objections from the Federal Reserve, my amendment had to be watered-down to ensure that GAO received at least some of the additional authorities it needed.

Although I would have preferred to make all of the Fed’s emergency actions under section 13(3) subject to GAO audit, I agreed to limit my amendment to Fed actions aimed at specific companies like Bear Stearns and AIG. However, broader, more comprehensive oversight authority over the Federal Reserve is needed to ensure the kind of transparency and accountability the American people expect. Unfortunately, when the opportunity to embrace that sort of oversight was presented, the Federal Reserve hid behind concerns about the independence of monetary policy to maintain the secrecy of its operations.

Another example of the Federal Reserve resisting attempts to shine light on their actions surrounds the “backdoor bailout” of Goldman Sachs and major foreign banks through the aid to AIG. The Federal Reserve initially refused to disclose the identity of the banks to whom AIG paid out the vast majority of its Federal assistance. Federal Reserve lawyers even opposed AIG disclosing details of its transactions in

public filings required by the Securities and Exchange Commission. The Federal Reserve argued that disclosing the identity of these counterparties who engaged in exotic, risky transactions with AIG would destabilize AIG, would harm the private business interests of the counterparties, and could affect the stability of the markets as a whole. However, following significant public and Congressional pressure, the identities of the counterparties were released, and we learned that French bank Société Générale and Goldman Sachs were among the largest beneficiaries of the Federal bailout of AIG. None of the horrible consequences the Federal Reserve used to oppose basic transparency came to pass. The sky did not fall.

The Special Inspector General for TARP has launched an investigation into whether there was misconduct at the Federal Reserve in regard to the Fed’s role in the failure of AIG to disclose billions of dollars in counterparty payments to the SEC last year. And just this week, the Special Inspector General announced that it is investigating the Federal Reserve for withholding documents from the Special Inspector General in connection with his audit in November 2009 of the AIG counterparty payments. The Special Inspector General learned that they did not receive all of the documents they requested from the Federal Reserve when they saw the documents produced last week under subpoena to the House Committee on Oversight and Government Reform for the Committee’s January 27, 2010, hearing. This sort of stonewalling by the Federal Reserve is outrageous and cannot be tolerated.

So, I have had to ask myself, Is Ben Bernanke the man to lead us forward?

Chairman Bernanke didn’t see the financial crisis coming. He never expected our unemployment to reach 10 percent. He didn’t foresee the subprime housing market affecting the broader economy. He didn’t expect complicated financial instruments like credit default swaps to pose a risk to the economy, even though they were considered by some to be “financial weapons of mass destruction.” In fact, Chairman Bernanke insisted only well-informed and intelligent minds were using such instruments and that government supervision wasn’t necessary.

This lack of foresight makes me wonder if he is ready to lead our economy down the path to a sustainable recovery.

I am afraid Ben Bernanke thinks everything is under control. He steered our economy out of danger. But we still have a long road ahead of us. The Fed has to unwind its massive balance sheet. It has to remove the excess funds that were created to paper-over the financial sectors’ unacknowledged losses without stoking the flames of inflation.

We need a Fed Chairman that is committed to a strong dollar and low inflation. We need a Fed Chairman that is committed to transparency.

I am afraid Ben Bernanke had a seat at the table during the development of our current economic and financial crisis. He has failed to learn its lessons. He has promoted a policy of easy money, inflating our way from a stock market bubble to a housing bubble. He neither predicted nor prepared for the inevitable results. Moreover, he seems determined to repeat the mistakes of the past.

For these reasons, I cannot support his nomination by President Obama to serve a second term as Chairman of the Fed.

Mr. CORNYN. Mr. President, I would like to explain why I will vote against the confirmation of Ben Bernanke for a second term as Chairman of the Federal Reserve. Ben Bernanke is a brilliant and honorable man. He deserves our Nation’s thanks for his years of public service—especially during the greatest financial crisis in decades. I agree with Chairman Bernanke’s supporters that some of his actions mitigated that crisis—and that we might be in a much worse place today if not for his leadership. Nevertheless, I believe the Federal Reserve needs a fresh start—with a new Chairman—for several important reasons.

First, Chairman Bernanke was a member of the Fed’s Board of Governors where he strongly supported Chairman Greenspan’s monetary policy that kept interest rates very low. In fact, the Federal funds target rate reached a low of 1 percent by mid-2003. Most economists agree that these low interest rates were one of the factors—certainly not the only factor—that contributed to the housing price bubble that expanded for much of the previous decade. And when the housing bubble burst, our global financial crisis began. This isn’t ancient history. Earlier this month, Chairman Bernanke delivered a remarkable speech to the American Economic Association in Atlanta. In that speech he defended the Fed’s actions before the crisis—and largely absolved himself of any responsibility for it. Now I am willing to support a person who makes tough decisions—and learns from them when things don’t go well. But under Chairman Bernanke, the Federal Reserve missed the signals that the economy was in trouble—such as the housing bubble, and unsettled credit markets. The Fed missed the chance to take action sooner—action that might have prevented the necessity of its massive intervention later on. And today, Chairman Bernanke still does not recognize the missed opportunities that occurred on his watch.

Second, Chairman Bernanke played a role in the passage of the Troubled Asset Relief Program—or TARP. It is important to remember what Chairman Bernanke and Treasury Secretary Hank Paulson were telling us before we all voted on TARP in October 2008. In public, their testimony was alarming. On September 23, 2008, Secretary Paulson said that Congress must act “in order to avoid a continuing series



of financial institution failures and frozen credit markets that threaten . . . the very health of our economy.” Chairman Bernanke was one of those who told us—in effect—that we were perhaps days away from a complete meltdown of our financial system. So a lot of us did our patriotic duty. We trusted the experts and we authorized the TARP program. And almost immediately after we did so, the Treasury changed what they said they were going to do with the money. Only weeks after TARP was enacted, the Bush administration abandoned the goal of purchasing “toxic assets.” Instead, they funneled billions of taxpayer dollars directly to many of the Nation’s largest financial institutions. Soon the Federal Government was acquiring ownership stakes in banks, financial institutions and automakers—with the full support of the incoming Obama administration. In fact, the Obama administration has gone even further, using its TARP leverage to set executive pay at several companies. And during the reorganization of General Motors, the Obama administration used its leverage to benefit its union allies—over the rights of secured bondholders who had loaned their savings to the company. TARP may have also enabled public corruption and criminal activity. According to the latest report from TARP’s inspector general Neil Barofsky, there are 54 ongoing criminal and civil investigations into TARP related activities. These activities include: “complex issues concerning suspected TARP fraud, accounting fraud, securities fraud, insider trading, bank fraud, mortgage fraud, mortgage servicer misconduct, fraudulent advance-fee schemes, public corruption, false statements, obstruction of justice, money laundering, and tax-related investigations.” President Obama and the Senate leadership have resisted our attempts to end the TARP program. Last week, 45 Democrats voted down Senator THUNE’s amendment which needed a 60-vote threshold to end the TARP program. And last night, President Obama proposed using TARP to fund his new stimulus bill—in order to get around his own 3-year spending freeze. By the way, using TARP on new spending would also break the promise that the President made when he voted for TARP in this very Chamber. Then-Senator Obama said:

[I]f American taxpayers are financing this solution, then they have to be treated like investors. They should get every penny of their tax dollars back once the economy recovers.

Mr. President, TARP is a government credit card that should be cancelled. And Chairman Bernanke was one of the key enablers that led to its creation in the first place.

Third, I believe we need a Fed Chairman who demonstrates a greater commitment to transparency. The Federal Reserve has been very resistant to giving the Government Accountability Office, GAO, independent audit author-

ity. In fact, the GAO told the Senate Finance Committee last year that the Federal Reserve was resisting its investigation efforts in reviewing the response to the financial crisis by claiming that it would impair the independent nature of monetary policy. I agree that politics should not be involved in monetary policy. Yet since the beginning of the financial crisis, the Federal Reserve has routinely exercised unprecedented, emergency powers that resulted in a \$3.4 trillion expansion of its balance sheet according to some estimates. This is risk that will be borne by the American taxpayer and they deserve to know what their government is doing. Another example of the Federal Reserve resisting transparency surrounds the assistance provided to AIG. The Federal Reserve initially refused to disclose the identity of the banks to whom AIG paid out the vast majority of its Federal assistance. They even opposed AIG disclosing details of its transactions in public filings required by the Securities and Exchange Commission. The Federal Reserve argued that disclosing the identity of these counterparties who engaged in exotic, risky transactions with AIG would destabilize AIG, would harm the counterparties, and could destabilize the market as a whole. However, following significant public and congressional pressure, the identities of the counterparties were finally released and the market moved forward. The inspector general for TARP is now investigating into whether there was misconduct at the Federal Reserve in regard to its role in the failure of AIG to disclose billions of dollars in counterparty payments to the SEC last year. And just yesterday at a hearing by the House Committee on Oversight and Government Reform, the TARP inspector general announced that additional documents and facts have come to light that have caused them to initiate an investigation to review the extent of the Federal Reserve’s cooperation during the course of its audit of the AIG counterparty payments. Clearly, the Fed needs more transparency, not less. That is why I am a cosponsor of the Federal Reserve Sunshine Act of 2009. This bill would require the GAO to conduct a comprehensive audit of the Federal Reserve System and its banks and report back to Congress by the end of 2010. But in addition to an audit, the Fed clearly needs a new Chairman—one more clearly committed to transparency and accountability.

Supporters of Mr. Bernanke argue that to vote against him will politicize the Federal Reserve. I could not disagree more. An up-or-down vote is part of our responsibility as Senators to provide our advice and consent. Some supporters also argue that we could wind up with someone worse than Mr. Bernanke—and that any transition would unsettle financial markets. On this point, I would contend that the current uncertainty job-creators face

today is due to the policies being pushed by this administration; this is the main obstacle to building confidence and growing jobs for Americans. But again, the Senate will have the opportunity to provide its advice and consent to any future nominee. And if Chairman Bernanke’s term expires, Vice Chairman Donald Kohn would immediately assume his duties. And Mr. Bernanke would still remain on the Fed’s Board of Governors. So the supposed “transaction costs” of voting down this nomination are overstated, in my opinion. The simple truth is: No one person is indispensable in any public office. I believe the American people and our financial system will be better served by new leadership at the Fed. And therefore I will vote against this nomination.

Mr. SPECTER. Mr. President, I have decided to oppose the renomination of Chairman Ben Bernanke. I do so with reluctance because I admire his record of academic and professional achievements.

My sense of admiration and the fact that I like him has to be weighed in the broad context of his work as Chairman and what the American people have a right to expect on results and accountability. The Federal Reserve is given great authority and commensurate responsibility on regulation and oversight of our financial institutions. Accountability frequently is hard to pinpoint; but it can be established in the upheaval of the financial institutions in the past months and years. The consequences of foreclosures ousting thousands from their homes, millions of job losses and billions of losses in pension accounts weigh heavily on those responsible for regulation and oversight of U.S. financial institutions. These problems are traceable in large part to the national housing boom bubble.

The October 27, 2005, edition of the Washington Post reported Chairman Bernanke’s testimony that he was not concerned that the national housing boom was a bubble that was about to burst. In testimony before Congress’s Joint Economic Committee, he testified that the rise in U.S. house prices by nearly 25 percent over the past 2 years largely reflected strong economic fundamentals such as growth in job incomes and the number of new houses. He did not agree with the judgment of many economists that house prices had risen too far too fast in many markets, forming a bubble that could rapidly collapse and trigger an economic downturn.

The Washington Post December 21, 2009, edition reported the following :

In January 2005, National City’s chief economist had delivered a prescient warning to the Fed’s board of governors: An increasingly overvalued housing market posed a threat to the broader economy, not to mention his own bank and others deeply involved in writing mortgages. The message wasn’t well received. One board member expressed particular skepticism—Ben Bernanke. “Where do you think it will be the worst?”



Bernanke asked, according to people who attended the meeting, one in a series of sessions the Fed holds with economists. "I would have to say California," said the economist, Richard Dekaser. "They have been saying that about California since I bought my first house in 1979," Bernanke replied. This time the warnings were correct, and the collapse of the California real estate market would bring down the nation's fourth-largest bank, the largest casualty of the financial crisis.

My opposition to Chairman Bernanke is also based on his role, along with then-Secretary of the Treasury Henry Paulson, in pressuring Kenneth L. Lewis, CEO of Bank of America, to have the Bank of America complete its acquisition of Merrill Lynch despite the discovery of Merrill's losses without disclosing Merrill's financial problems to its shareholders prior to a proxy vote to approve the deal.

Chairman Bernanke has also not won the public's confidence with respect to the Fed's commitment to job creation. No issue is more important in America today than job creation. The Fed Chairman must explicitly target the full arsenal of the Fed at this pressing priority.

I have considered the concerns that Chairman Bernanke's rejection would cause turmoil in the markets. While I regret opposing the President on this nomination, I believe that he will fill the position with a capable replacement who will command wide respect. I also believe that his replacement and others with similar responsibility will perform better with this insistence on success and accountability.

Mr. FEINGOLD. Mr. President, I have given substantial deference to executive branch nominations made by Presidents of both parties. That deference is greatest when the nomination is for a position closest to the President, such as a position in the Cabinet, and at its lowest for positions with greater independence and distance from the President.

The position to which Benjamin Bernanke has been nominated, namely to serve another term as Chair of the Federal Reserve Board of Governors, is among those for which appropriate deference is lower. The Federal Reserve is famously independent.

A chief responsibility of the Chairman of the Federal Reserve is to ensure a sound financial system. Under the watch of Ben Bernanke, the Federal Reserve permitted grossly irresponsible financial activities that led to the worst financial crisis since the Great Depression.

While Chairman Bernanke has certainly been instrumental in helping the financial system recover from that crisis, we should not forget his role in its creation. Under Chairman Bernanke's watch predatory mortgage lending flourished, and too big to fail financial giants were permitted to engage in activities that put our nation's economy at risk. And as it responds to the crisis it helped to usher in, the Federal Reserve under Chairman Bernanke's lead-

ership continues to resist appropriate efforts to review that response, how taxpayers' money was being used, and whether it acted appropriately.

For those reasons, I will vote against another term for Chairman Bernanke.

Mr. LEAHY. Mr. President, I will vote for President Obama's nomination of Benjamin Bernanke for a second term as Chairman of the Federal Reserve Board.

Chairman Bernanke's nomination should be examined through the prism of how he performed during the recent financial crisis, and with full consideration of the best interests of the American people and their stake in the Nation's economic recovery.

It is clear that prompt and decisive action by Federal officials like Dr. Bernanke saved the country from another Great Depression. Since the economic meltdown in the fall of 2008, the Federal government has committed its resources to quell the financial turmoil and stabilize the economy. The Federal Reserve, led by Chairman Bernanke, played a central role in these efforts. They cut interest rates early and aggressively, reducing the target for the Federal funds rate to nearly zero. They created targeted lending programs to restart the flow of credit in critical markets. They worked with other agencies—like the Treasury Department, the FDIC, and overseas central banks—to ensure that financial institutions worldwide had access to short-term funding.

I supported these efforts to respond to the financial crisis to prevent the country from sliding into an economic depression, which was a very real possibility just a few months ago. Congress passed an economic rescue bill that staved off a full market retreat, and it enacted an economic recovery plan that is beginning to turn things around. Through these efforts our economy has begun to show signs of progress in recent months.

But much more is needed to jumpstart our economy, and the Federal Reserve needs to focus more on helping Main Street, not just Wall Street. While I believe Chairman Bernanke acted wisely during the worst of the economic crisis, he now needs to concentrate his efforts on a broader economic recovery by helping small businesses gain access to affordable capital to expand their markets and create more jobs. Small businesses are the backbone of Vermont's and the Nation's economy. During his second term, Chairman Bernanke must direct the Federal Reserve to do more to support small business economic growth.

And with the Federal Reserve playing such a large role in the recovery effort, the American people deserve greater transparency by knowing the full extent of the Fed's lending programs, which is why I have cosponsored legislation introduced by Senator SANDERS to provide for a full audit of the funds released by the Federal Reserve.

The early stages of an economic recovery are fragile—all the more during this recovery, as we inch back from a time, unprecedented in our lifetimes, when the United States and the world stood on the brink of financial collapse in the fall of 2008. Economic decisions and markets and ultimately our economy itself are unsettled by uncertainty, and the intended or unintended effects that a sudden turnover at the Federal Reserve would have right now on the economic recovery should not and must not be underestimated.

When considering who would best fill important positions like Chairman of the Federal Reserve, the President and the Senate must ensure that Federal agencies are led by qualified and competent officials. Chairman Bernanke has helped to steer our financial and economic system through the worst financial storm in nearly a century. With much work remaining, I support his nomination for another term.

Mrs. FEINSTEIN. Mr. President, I rise today to speak in support of the reconfirmation of Ben Bernanke as Chairman of the Federal Reserve.

Mr. Bernanke has been a steady hand at the Federal Reserve during the worst financial crisis since the Great Depression. Mr. Bernanke knows something about that: his scholarly work as an economics professor at Princeton University focused on the Great Depression. At a time when our economy is climbing out of a deep recession, I believe Mr. Bernanke's continued leadership will provide the stability that is essential to economic recovery.

Some blame Mr. Bernanke for the financial crisis and its severity. They believe President Obama must set an example and break with the past by replacing him.

I do not agree.

It would be a big mistake, in my view, to jettison a man whose expertise and experience have been crucial to rescuing our economy, and I believe President Obama made the right decision to keep Mr. Bernanke at the Fed.

In my opinion, he should be reconfirmed without delay, because his term expires in 3 days. Failure to do so would send the wrong message to both the American people and global financial markets, at a time of continued economic uncertainty. It could roll back some significant progress in restoring market confidence. For instance, under Chairman Bernanke's leadership, the Dow Industrial Average rebounded significantly from a 12-year low of 6,547 on March 9, 2009 and reached a high on January 19th when it closed at 10,725. This represents a gain of 4,178 points or nearly 64 percent over the course of 10 months. The S&P 500 has risen about 70 percent since the low in March and also reached its recent high on January 19, closing at 1,150.23. Retirement accounts were valued at \$8.6 trillion in the third quarter of 2007. But following the market's bottoming out in March of 2009, retirement accounts had lost \$2.8 trillion—33 percent—of their peak value, according to

Retirement Savings statistics from the Urban Institute in a January 2010 report. Since then, retirement account balances have rebounded sharply. Accounts have gained roughly \$1.3 trillion—23 percent—ending the third quarter at around \$7.1 trillion. Although assets remain 17 percent below their peak, they are still above their 2005 value and near their 2006 value.

So we have clearly made some progress and there are positive signs, but we still have a long way to go. Simply put, the gains on Wall Street have not been felt by Main Street: The national unemployment rate is 10 percent, with 15 million Americans out of work; Small businesses are struggling, and many are going under. In my State, small business bankruptcies increased by 81 percent last year alone, and commercial corridors once teeming with business are now plagued by vacancies; consumer demand remains low as American workers struggle in these tough times; and, retirement accounts are still down roughly \$1.5 trillion from their peak.

These are terrible statistics, and there is much more work to be done to increase our national prosperity.

But last week, uncertainty caused by news that Mr. Bernanke's reconfirmation was threatened in the Senate caused the Dow Jones to fall by 552 points, with a 216-point drop on Friday alone.

The point is clear: the situation is very volatile. President Obama has clearly indicated that he believes Mr. Bernanke is the man for the job, and I also believe this is the case.

Let me tell you why.

First, Mr. Bernanke is an expert on the Great Depression, a scholar who understands the causes of, and remedies for, dramatic economic downturns like the one we experienced last year. There is no one better qualified to be at the helm of the Fed at this time, and he is dedicated to fulfilling its mission to restore prosperity, create jobs and keep prices stable.

Second, Mr. Bernanke played a key role in averting a much greater financial crisis.

He took critical steps to stop the economic freefall and restore stability. He aggressively cut interest rates early on, reducing the target Federal funds rate to nearly zero. It has remained at this level since December 2008.

Under his leadership, the Fed played a central role in quelling last year's financial turmoil. It launched joint efforts with other agencies and foreign authorities to avert a collapse of the global banking system. It ensured financial institutions adequate access to short-term funding when private funding resources dried up.

It led the "stress tests" on large U.S. banks to ensure that these institutions had adequate capital and consumers would be confident that their bank deposits were safe.

The Fed, under Mr. Bernanke's leadership, also created targeted lending

programs that helped ease the flow of credit to many businesses.

For example, the Term Asset-Backed Securities Loan Facility has financed more than 3.4 million home loans, more than 100 million credit card accounts, 480,000 loans to small businesses and 100,000 loans to large businesses.

We are starting to see the positive results of these bold moves.

There are undoubtedly legitimate critiques of Mr. Bernanke. I agree that more transparency is needed at the Federal Reserve. And, I would have liked to see more action taken to curb the abusive lending practices which have led to literally millions of foreclosures in my home State of California.

Many gaps in regulation and oversight of our financial system still remain.

The administration just proposed the Volcker rules which I believe would succeed in ending the rampant speculation and excessive size of "too big to fail" institutions that led us to where we are today.

Congress must act swiftly to regulate the financial sector more prudently, and expand authority for the Fed, the Commodity Futures Trading Commission, and the Securities and Exchange Commission.

We must intelligently close these gaps in regulation, not risk an economic backslide by taking out our collective frustrations on Mr. Bernanke.

Everyone is flawed, and there is more than enough blame to go around. But we must also give credit where it is due, and Mr. Bernanke successfully helped to pull this nation back from the brink.

His academic expertise on the Great Depression, coupled with his experience in facing down the greatest economic turbulence since the 1930s, makes him an unparalleled choice for leadership at the Fed right now.

USA Today, in an editorial published yesterday, gave a forceful defense of Mr. Bernanke's reconfirmation. I want to quote from it here, because I think it gives a very clear assessment of the situation:

The question facing the nation is, who do you want in charge of this delicate task? Someone who has intimate knowledge of what needs to be done, has learned from past mistakes and has the confidence of the financial markets? Or someone new who, in order to win congressional confirmation, will be hamstrung by promises not to take difficult-but-necessary steps, such as bumping up interest rates to keep inflation in check?

Bernanke deserves considerable credit for helping stave off economic collapse. For that reason, he also deserves another term as chairman.

Mr. President, I couldn't agree more.

Mr. Bernanke deserves a chance to finish the enormous and historic task at hand. He has done well thus far, and I intend to support him for a second term as Chairman of the Fed.

Ms. MIKULSKI. Mr. President, people are angry and they are anxious. They are worried their middle class

way of life is slipping by. They are worried about their jobs. They are worried about their pensions. They are worried about the cost of everything from health care to housing to higher education. They have to make tough decisions. They are sitting at their kitchen tables balancing their checkbooks and being careful about spending. They want to know we are being careful too. They want an administration and a Congress that do two things: create jobs and spend money frugally and wisely.

I am angry too. I was told that TARP was needed to get money to Main Street. I didn't care if every firm on Wall Street went bankrupt. But I did care about jobs, small businesses, and families' mortgages. That's what I was told TARP was about. Instead—ungrateful bankers got an astonishing amount of money from taxpayers who used it to pay themselves bonuses.

Chairman Bernanke made four big mistakes: he let banks take on too many risks, he ignored the housing bubble, he failed to protect homeowners, and he gave too much taxpayer money away for too little in return. It is not just Mr. Bernanke though. The entire economic policy team for the last two administrations deserves blame.

So I had questions about this nomination. I spoke with Maryland business leaders, looked into Mr. Bernanke's record, and I met with him at the end of last year.

I let Mr. Bernanke know that I am focused on three things to get our economy going again: creating jobs, getting more lending to the middle economy and small businesses, and helping people get out from under the threat of foreclosure.

I know that people's top priority is jobs. Mr. Bernanke needs to realize that too. When Bernanke thought Wall Street was on the verge of a crisis, he acted dramatically. He used new powers for new programs. Well, the job market is in a crisis now. But the Fed's response has just been tame and tepid. We need the same urgency from Mr. Bernanke to jump-start the job market as he gave to Wall Street to jump-start the financial markets.

The Fed has pumped trillions of dollars into the financial system. Congress has approved billions more. Money went to the banks and because we thought they'd lend it out to help small businesses and help community banks, and community pillars. But what I have heard since then is that companies' credit is being withdrawn and responsible applicants are being rejected for reasonable loans. We need to try something different to make sure money goes where we want it to—and doesn't get used by banks to pay bonuses.

I am also angry that economic policy-makers went all out to help Wall Street and only halfway to help homeowners. In his second term Mr. Bernanke needs to do much more to

help them, and help communities ravaged by too many foreclosures.

Mr. Bernanke needs to realize that "Crisis Averted" doesn't mean "Mission Accomplished." There have been too many missed signals—misplaced priorities. But I am voting to confirm Mr. Bernanke because he is not a man of ideology and when we needed him most his expertise and level head probably helped stop a catastrophe. He didn't panic, and learned from history, which he has studied closer than anyone else. No one understands the risks the economy faces better than he does. That does not mean we shouldn't rock the boat. We need bold new approaches—and I'll fight for them.

I was advised that rejecting his nomination would cause markets to nose-dive—which would hurt retirees and families saving for their future. I am not enthusiastic in my support. But I think Mr. Bernanke understands the job that he still has to do. And that in his second term he will focus better on jobs, getting lending going to the middle economy, and mortgages. So I will vote to confirm him for a second term.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I believe there are some Members who are coming. Absent someone walking in the door, I suggest the absence of a quorum and ask unanimous consent that the time be equally allocated to both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask unanimous consent that I be yielded 5 minutes of time off the Democrats' time.

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

Mrs. BOXER. Mr. President, I rise today to explain why I will not support the nomination of Ben Bernanke for another term as Chairman of the Federal Reserve. But I also want to make it clear that I do not support a filibuster, because I believe he deserves to have a vote on his nomination.

I have not met anyone who doubts that Chairman Bernanke is very bright, he is very dedicated, he is very conscientious, he is an expert on the depression era. I am grateful for the work he did in those critical weeks when the American system teetered on the verge of collapse; that is, our economic system.

But I do think this is a moment to take stock, in many ways as President Obama did in his State of the Union Address: How did we get to this very difficult economic place? I think as we look at that, people have to be held accountable for their actions along the way. That means Chairman Bernanke

must be held accountable for his record.

I asked my staff, could you get me the Charter of the Federal Reserve, because I know it has many objectives that it needs to fulfill. Here are the four main objectives to the Federal Reserve:

One, conducting the Nation's monetary policy in pursuit of maximum employment and stable prices.

Two, regulating the banking system to ensure the safety of the Nation's financial system, and protecting the credit rights of consumers.

Three, maintaining the stability of the financial system and containing systemic risk that might arise in the financial markets.

Those are three out of the four responsibilities we have to take a closer look at. I look at those three responsibilities, and, frankly, I don't see how the Fed met those responsibilities—remember, maximum employment, safety of the Nation's financial system, protecting the credit rights of consumers, maintaining the stability of the financial system, and containing systemic risk that may arise in financial markets.

Put on top of that the fact that in the 1990s, Congress gave the Fed the very important responsibility of overseeing the housing market to stop predatory lending. That was an added specific responsibility. I have to say that I think Chairman Bernanke vastly underestimated the dangers of the housing bubble and unconstrained subprime lending.

This is what he said in May of 2007:

We believe the effect of the troubles in the subprime sector on the broader housing market will likely be limited, and we do not expect significant spillovers from the subprime market to the rest of the economy . . . The vast majority of mortgages, including subprime mortgages, continue to perform well.

That was Mr. Bernanke in May 2007. That is hard for me to look at and say that we should vote to confirm him. He failed to spot the dangerous banking practices, in addition to the mortgage practices that led to the crisis.

In February 2008, 7 months before the greatest financial collapse in 80 years, he said:

Among the largest banks, the capital ratios remain good, and I do not anticipate serious problems . . . among the large internationally active banks.

So until the crisis occurred, Chairman Bernanke was a major advocate for even more permissive banking regulation.

Now we see unemployment at 10 percent nationally and in my State a horrific 12-plus percent.

The American people have the right to ask whether the Fed is truly committed to supporting Main Street's economy, not just Wall Street. That is why I cannot support his reappointment. He sat by when President Bush put all the policies into place that led us to this crisis. He was George Bush's

choice. He sat there and said everything was fine, everything was wonderful, everything was good, housing was OK.

If Mr. Bernanke is confirmed—and I expect he will be—I hope he will listen to what a lot of us are saying and turn his full attention to Main Street, to the people who need his support. People out there need the wind at their backs. They need somebody who understands what they are facing in terms of their housing problems, their unemployment problems. Let's get this economy back on track.

I yield the floor.

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

Mr. DEMINT. Mr. President, it is not often that I agree with the Senator from California, but I certainly appreciate her perspective on this issue. A number of us from a broad spectrum in both parties are concerned about this nomination.

I rise to oppose the nomination of Ben Bernanke as Federal Reserve chairman. It is important that we look at this not just as a single nomination but as part of a much bigger picture we need to recognize. The confirmation of Ben Bernanke is a confirmation of policies that brought our economy down. If we ignore that, we are going to continue these same policies and condemn ourselves, our country, and our fellow Americans to high unemployment and much less prosperity in the future.

It is never fair to blame any one person for major problems such as we have in this country. But it is important, when we have this kind of problem, where millions of Americans have lost in total trillions of dollars and jobs have been lost and families have suffered greatly, that we recognize the difference between the problems we are looking at today and the real causes of those problems, what we call in business "the root cause" of problems. We learn, when we do strategic planning—and I did this for years for companies—that if you go in and look at the problems and try to solve them and never go back and understand the root causes, all you are doing is fixing symptoms which never get fixed because you did not understand the cause of the problems.

Today, we do have a difficult economic situation with high unemployment. We have debt at levels that everyone agrees is unsustainable. Countries all over the world are beginning to question whether we can repay our debts. Some are beginning to question whether they should lend us more money to fund our reckless spending.

Despite what we heard last night about a freeze on spending, everyone laughed when we said that starts next year. Today, we voted to raise the debt limit another \$1.9 trillion. We are going to take that debt to over \$14 trillion. There is no foreseeable way we can pay that back. This is at a time when a large group of Americans called the baby boomers are going to retire and

the cost of Social Security and Medicare is going to skyrocket. These are promises we have to keep to seniors because they paid for it, but we have no idea how we will keep those promises right now, particularly in light of the current economic situation.

As we look at where we are, we need to recognize how we got here. As I have talked to banks, businesses, foreign financial ministers from Europe who have come here, everyone agrees there are two major causes of the economic problems here and around the world. One is the high leverage or the high borrowing that went on because of the loose monetary policy at the Federal Reserve. Easy money, cheap money encouraged companies and individuals to borrow more than they could afford to pay back because it was easy to get and cheap. The big banks on Wall Street could more easily borrow money than raise capital. Those were incentives created by the policies at the Federal Reserve.

The second problem is what we are calling toxic assets, which are securitized subprime mortgages, were facilitated by Fannie Mae and Freddie Mac, two government-sponsored enterprises that reflected the political policy of this Congress. It is our responsibility to oversee Fannie Mae and Freddie Mac and to make sure they are doing what is appropriate for our economy. But what happened is the criteria for lending went away. Local mortgage companies could make almost any loan they wanted to, to anyone whether they could afford to pay it back, using easy money from the Federal Reserve and low criteria for forgiving those loans. They sold them all to Fannie Mae. If Fannie Mae had not been there to buy these loans, these irresponsible loans would not have been made in the first place. But to make matters worse, Fannie Mae and Freddie Mac bundled these subprime mortgages up into packages we call securities and sold them, sold them to banks as assets, sold them all over the world. These are the toxic assets that brought down the financial institutions once the housing bubble burst.

For the President, for Ben Bernanke, for Secretary Geithner to come in and indict the free market system and the greed of corporations and banks misses the whole point of what caused this problem. Certainly, these two causes created perverse incentives for the markets, the banks to practice irresponsible behavior. There is no question that went on. But to say that was the cause of where we are today misses the point.

My problem with Ben Bernanke, the President, and Secretary Geithner is not that they made mistakes, because Congress certainly made mistakes in not overseeing Fannie Mae and Freddie Mac and asking the right questions of the Federal Reserve, but the fact that despite the evidence being so clear of what really caused the problem, Mr. Bernanke still does not recognize those

as the causes. In fact, he continues the same easy-money policy. He expresses no sense of urgency that we need to get the Federal Government out of owning AIG, Fannie Mae, General Motors, or Chrysler. When we bring him in for hearings, he seems to be more of a command-and-control person than someone who believes in a free market system that we need to have good laws and regulations to guide. But he and Secretary Geithner and the President indicate that they can run this economy, that they can micromanage it.

To confirm Ben Bernanke is to confirm the continuation of easy-money policies, high leverage, as well as the continuation of what Fannie Mae and Freddie Mac did to create these toxic assets. We are not asking the right questions. I contend that we cannot solve today's problems with the same people who created them.

President Obama last night liked to blame George Bush for the problems. Yet he is nominating his people. Secretary Geithner was involved with the Federal Reserve and was the architect of these bailouts. Ben Bernanke has been here for 4 years and was a key part of the bailout, the easy-money policy, and has yet to say that was a problem.

This is more than just another nomination. Everything we work for in a material sense rests on the value of our dollar and the monetary system. The American economy, the worldwide economy rests on what the Federal Reserve does. This is the Federal Reserve that told us subprime mortgages would not cause an economic breakdown. Ben Bernanke told us Fannie Mae was well capitalized a few months before its collapse. We have to depend on the leadership at the Federal Reserve to tell us the truth. If our monetary system crashes because of bad policy, everything America has worked for, all our material wealth will be gone. This country will see a crisis the likes of which it has never seen.

This body is not taking this nomination seriously enough. We are moving ahead quickly, when what we need to do is have a full audit of the Federal Reserve, to look at what has been going on, look at their involvement with the current crisis, and to make sure they are on the right path.

The Constitution gives the Congress the responsibility to protect our monetary system. Years ago, we delegated that to the Federal Reserve, but that does not relieve us of our responsibility. To confirm Ben Bernanke without even knowing what is going on at the Fed, without hearing them say what really caused the problem we have today, is to condemn us to the same path that brought us to where we are.

Voting to confirm Ben Bernanke is a bad decision today. I ask all colleagues to reconsider. This is probably the biggest mistake we will make in a long time, to continue the same policy we started at the Federal Reserve, our

monetary system, as well as what we have done here in Congress.

I again encourage my colleagues to reconsider their commitment to confirm Ben Bernanke.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. How much time remains?

The PRESIDING OFFICER. The Senator has 8 minutes 13 seconds.

Mr. DODD. I yield 5 minutes to my friend and colleague from Vermont. He has been very strong on this issue, and I want to give him as much time as I can.

Mr. SANDERS. Mr. President, this is, in fact, an enormously important issue. The reality is that all over our country, hard-working, decent people have lost their jobs. They have lost homes, their savings. They have lost their ability to go to college. We are experiencing the highest level of unemployment since the Great Depression. All of this did not happen by accident. It happened because of the greed, the recklessness, and the illegal behavior of Wall Street, of CEOs there who converted our financial institutions into the largest gambling casino in the history of the world.

One of the major functions of the Fed is to protect the safety and soundness of our financial institutions. There can be no debate, Mr. Bernanke, as Chairman of the Fed, failed at that important job, and this country and the world almost saw a major financial collapse, and we have seen in this country a horrendous recession.

I think average American citizens have a hard time understanding how we reward failure, how we say to somebody who was asleep at the switch in terms of regulating our financial institutions: Congratulations. You failed. There is a major recession. You are getting reappointed. I do not think people understand why and how that should happen.

Second of all, when we talk about the bailout, it is not just the \$700 billion that went to TARP. There were trillions of dollars in zero-interest loans, or almost zero-interest loans, that went to major financial institutions. It is incomprehensible to me the Chairman of the Fed can lend out trillions of dollars, and when I asked him: Who got the money? He said: Sorry, the American people don't have a right to know that—in so many words. I am not telling you.

How can you have confidence in the leadership of the Fed when there is virtually no transparency—trillions of dollars being lent out, and we do not know who received it? That is not acceptable to me. We need a Fed Chairman who believes in transparency, who is going to tell the American people who has received those loans.

We are also today, importantly, not just talking about the past. We are talking about the future. We are talking about how we pull this country out of a recession in which 17 percent of our people are unemployed or underemployed. The fact is, the Fed today

has the capability, the power to take significant action to protect the middle class and working families of this country. I say to the Presiding Officer, I do not know about Illinois, but I will tell you, in Vermont I get calls every week.

People are saying: Why did you help bail out these large banks, and now they are charging me 25, 30 percent interest rates on my credit card?

Mr. Bernanke and the Fed have the power today to lower interest rates on credit cards. I want a Fed Chairman who is going to do that. Last night we heard from President Obama, who appropriately pointed out very serious problems that small businesses all over this country are having in terms of getting the low-interest loans they need in order to create the kind of jobs our economy desperately requires. The Chairman of the Fed today has the power to provide low-interest loans to small- and medium-sized businesses.

It is not just large financial institutions that can receive zero-interest or low-interest loans. I know it is a great shock to the Fed, but small- and medium-sized businesses—in a productive economy that creates real jobs—can also receive those loans. I want a Fed Chairman who will provide those loans.

It is hard to believe the largest financial institutions in this country that we bailed out because they were too big to fail—do you know what. Three out of four of them are even bigger today. It is time to break up those financial institutions that are too big to fail. If they are too big to fail, they are too big to exist.

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

Mr. SANDERS. Mr. President, we need a new direction on Wall Street. We need a new Fed Chairman.

Thank you very much.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I, too, would like to share my concerns in opposition to Mr. Bernanke's reappointment, and I think my colleague, Senator DEMINT, summed it up pretty well.

One of the debates has been, did the Central Bank, which is not a free market activity, fail—or did as people say the market fail. I agree with him. I do not believe it is exactly correct to say that. The Fed dabbles in the market in an attempt to manipulate the market. One of the debates has been that Mr. Bernanke allowed the interest rates in 2002 through 2005 to remain too low, which caused the bubble and which caused the burst and put us in this fix.

The complaint has been that he violated the Taylor rule, which is the rule that would advise how interest rates should be set by the Central Bank. He made a speech in early January of this year that I think was defensive and went to some length to say he did not violate the Taylor rule and that low-interest rates did not cause the bubble. So it is one thing to make a mistake;

it is another thing to make a mistake and refuse to acknowledge the mistake.

I will just say as background, the Wall Street Journal said the minutes of the Fed Board meetings prior to his becoming Chairman, when he was merely a member of the Board, indicate he was the advocate for lower interest rates and actually warned of deflation during this period which was wrong.

Mr. Taylor responded in the Wall Street Journal. I will just quote what he said:

This rule—[the Taylor Rule] calls for central banks to increase interest rates by a certain amount when price inflation rises and to decrease interest rates by a certain amount when the economy goes into a recession. My critique, which I presented at the annual Jackson Hole conference for central bankers in the summer of 2007 is based on the simple observation that the Fed's target for the federal-funds interest rate was well below what the Taylor rule would call for in 2002–2005.

Mr. Taylor is the author of it. He warned of it in the summer of 2007. Mr. Bernanke is insisting, just a few weeks before this, that he did not violate the rule. A little later, Mr. Taylor goes on to say:

In his speech [on January 3], Mr. Bernanke's main response to this critique was to propose alternatives to the standard Taylor rule—and then to use the alternatives to rationalize—

I would say to justify—

the Fed's policy in 2002–2005.

Mr. Taylor goes on to say:

In one alternative, which addresses what he describes as his “most significant concern regarding the use of the standard Taylor rule,” he puts the Fed's forecasts of future inflation into the Taylor rule rather than actual measured inflation. Because the Fed's inflation forecasts were lower than current inflation during this period, this alternative obviously gives a lower target interest rate and seems to justify the Fed's decisions at the time.

So Mr. Bernanke is saying they took his rule and they altered it. They did not use as the factor actual interest rates but what they predicted interest rates to be, and, of course, their prediction was wrong.

Mr. Taylor goes on to say:

There are other questionable points. Mr. Bernanke's speech raises doubts about the Taylor rule by showing that another version of the rule would have called for very high interest rates in the first few months of 2008 [after the bubble burst]. But using the standard Taylor rule, with the GDP price index as the measure of inflation, interest rates would not be so high—

As Mr. Bernanke was suggesting—

as I testified at the House Financial Services Committee in February 2008.

That is Mr. Taylor's view.

Mr. Taylor goes on to say:

Mr. Bernanke also said that international evidence does not show a statistically significant relationship between policy deviations from the Taylor rule and housing booms.

Mr. Bernanke is defending himself still. He said international studies do not show that our deviation from the

Taylor rule had anything to do with this mess. But Mr. Taylor responds this way:

But his speech does not mention that research at the Organization for Economic Cooperation and Development in March 2008 did find a statistically significant relationship.

Mr. Taylor goes on to say:

Mr. Bernanke claimed that “Economists who have investigated the issue have generally found that, based on historical relationships, only a small portion of the increase in house prices earlier this decade can be attributed to the stance of . . . monetary policy.”

He is talking about the Fed policy, that they did not have anything to do with the increase in housing prices. Mr. Taylor calls Mr. Bernanke's hand. Mr. Bernanke was not right in that statement. Mr. Taylor says this:

But two of the economists he cites—Frank Smets, director of research at the European Central Bank, and his colleague Marek Jarocinski reported in the July/August issue of the St. Louis Fed Review—

That is the Federal Reserve publication in St. Louis—

They found—

evidence that monetary policy has significant effects on housing investment and house prices and that easy monetary policy designed to stave off perceived risks of deflation in 2002–2004 has contributed to the boom in the housing market in 2004 and 2005.

Mr. Bernanke is saying economists around the world do not agree, and that is not accurate. As a matter of fact, they found just the opposite. So remember, the Wall Street Journal said he was the easy money advocate at the Fed. Mr. Greenspan may have been Chairman, but during the early part of the decade, Mr. Bernanke was advocating these low interest rate policies; and they were wrong, and they did lead to a boom—at least it was a significant factor in the boom, and Mr. Bernanke is not acknowledging that. I do not appreciate it.

I also am very disappointed he supported President Obama's form of a stimulus package, saying:

The incoming administration and the Congress are currently discussing a substantial fiscal package that, if enacted, could provide a significant boost to economic activity.

However, according to a CNN poll released just yesterday, 74 percent of Americans believe at least half of the stimulus package was wasted, and 63 percent believe the projects in the plan were included for purely political reasons and will have no economic benefit.

I will just say that this stimulus package—\$800 billion, every penny of it going to our deficit and increasing our debt—could only be justified if it was the most carefully crafted package that created jobs, but it was not. I knew it at the time, and so did many others, that this was not a jobs-creating package. It was a political package put together by the President. It rewarded a lot of his supporters, but it was not the kind of jobs package we desperately needed. But Mr. Bernanke supported it, and now we have \$800 billion added to our debt and very little job creation.

So, Mr. President, I will yield the floor and just conclude by saying that I do not think this should be rewarded. I know a lot of people are worried that somebody else might be worse. But I have not seen from him the kind of gravitas, the kind of stability of leadership, the kind of consistent message to the American people about the severe plight we are in and about his plan to get us out of it.

Isn't that what he should be doing? Shouldn't we know what he, hopefully working with the President, would do to get us out of this mess? I have not seen it and, therefore, I do not believe we have any burden of maintaining him. In fact, I think this supports the argument that he should not be maintained.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, thank you very much.

I think this is a healthy discussion we are having. We do not usually discuss much the Fed Chairman or the appointment or the nomination of a Fed Chairman. Yet monetary policy affects all of us in a huge way and dramatically affects the world. This is, to me, the sort of debate we ought to be having, and I am glad we have some differences of opinion.

For a long period of time it seemed as if everybody just treated monetary policy as something that is in the theoretical world of economists and mathematicians and central bankers, and they are the only ones who understand the language; they are the only ones affected by it; therefore, they are the only ones who ought to discuss it. I am not at all suggesting that Congress or the legislative branch ought to be setting monetary policy; we shouldn't. But we ought to be discussing the people and the principles that are involved and the people we appoint to these government positions and this government position, which is so critical and so important to all of us in this country and around the world.

So I am delighted we are having a discussion about the Fed Chairman, the appointment of the Fed Chairman in this particular case. I think Ben Bernanke is a bright gentleman. I have met with him. I have been the ranking member on the Joint Economic Committee. I have had him in to testify. I find him quite interesting, bright, and a gentleman. However, I believe now it is time for us to break this sort of Washington-New York corridor that establishes monetary policy and bring somebody in from outside that system to start at the Fed and in the Fed chairmanship and start looking more toward what Main Street needs in a monetary policy rather than what Wall Street needs in a monetary policy. I am not opposed to Wall Street, but they have dominated this position, people from this Washington-New York

corridor, for too long a period of time. It too dramatically affects all the rest of us, to simply shut out the rest of the philosophy and thought from across the country. We need to get to Main Street.

I also have another concern that is taking place beyond the issue of us breaking out of this New York-Washington corridor for the Fed Chairman and monetary policy. The second concern I have is I think we are headed for a huge government bubble. We have seen the dot-com bubble come, burst, and go. We have just gone through—and we are still going through—a housing bubble bigger than the dot-com bubble get big and blow up. Lots of fiscal and monetary policy to blame in both situations. I think we can look back on the housing one and see both actions here or lack of actions toward Fannie Mae and Freddie Mac to pump up this housing bubble. I think we can see the monetary policy pumping up this housing bubble that burst with huge impact; a number of people say a near depression type of impact. Now we are heading possibly toward the biggest bubble of all, a huge government bubble, blown up by the Fed; huge amounts of money being put out in the system now to try to prop up, to try to carry us on through this situation. If not handled correctly, it could burst in a more profound and difficult way than the housing bubble. To me, it is just one of those difficulties that is staring us right in the face. Now is the chance for us to talk about a different direction, and I think we should do that.

Yesterday, they had a vote of the FOMC, the money supply committee, and there was one dissenting vote. That dissenting vote was from Tom Hoenig, who is the chairman of the Kansas City Fed. He believes—and he is hawkish on the money supply—that we have to start pulling the money supply back and out of the system before the inflationary bubble takes off. When you put this much money into the system, you are bound to get an inflationary bubble and you have to start pulling it back before you start feeling it. This is the time we have to start addressing those issues.

I think we ought to look at somebody such as a Tom Hoenig, hawkish on the monetary supply, to get us into a stable, long-term position and get us ahead of a government bubble bursting on us; also, somebody from outside the system, somebody who is more focused on Main Street than Wall Street, on monetary policy and monetary supply. Now is the time to do it. This is a good chance to debate this. I don't suppose that is going to happen here. We are probably going to go ahead with Mr. Bernanke, who is a fine man, but now is the time to break out of this before this bubble gets bigger, bursts on us, and causes more of a problem than what we have even seen with the prior two bubbles. Let's get outside of that, and let's deal with that before it is on us.

I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I know we are getting close to the end of the debate, and we will soon be voting on cloture. I wish to take a few moments to read a few excerpts from editorials that ran in, of all publications, the Wall Street Journal, dealing with Chairman Bernanke, his tenure in office, his misdeeds, and so forth. I also ask unanimous consent at this time that the full text of the editorials, dated January 25, 2010, December 3, 2009, and June 23, 2009, be printed in the RECORD.

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

[From the Wall Street Journal—June 23, 2009]

#### BERNANKE AT THE CREATION

What the Fed Chairman said at the onset of the credit bubble, and the lesson for today.

The Federal Reserve's Open Market Committee meets today, amid a debate over how and when to remove the flood of liquidity it has poured into the economy in the last 18 months. Fed officials say not to worry, they're as vigilant about inflation as ever—which is itself a reason to worry. We've all seen this movie before, when the Fed's failure to act in time gave birth to the housing bubble and credit mania that eventually led to panic and today's recession. Will it make the same mistake now?

We remember that 2003 debate because it turns out we played a part in it. The Fed recently released the transcripts of its 2003 FOMC meetings, and what a surprise to find a Journal editorial the subject of an insider rebuttal from none other than Ben Bernanke, then a Fed Governor and now Chairman. We had run an editorial on monetary policy on the same day as the Dec. 9, 2003 FOMC meeting, and Mr. Bernanke clearly didn't take well to our warning about "Speed Demons at the Fed."

We reprint nearby both Mr. Bernanke's comments and our editorial from that day. Readers can judge who got the better of the argument, but far more important is what Mr. Bernanke's reasoning tells us about the Fed today. Our guess is that it won't reassure holders of dollar assets.

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Recall that by the end of 2003 the economy was well into recovery. Third quarter GDP growth had clocked in at 8.2% (later restated to 7.5%), and growth in all of 2004 would be 3.6%. The Bush tax cuts had passed in late May, providing a fiscal boost, and a month later the Fed had cut its fed funds rate to 1% and would hold it there for a year. Yet by December Mr. Bernanke was still giving speeches fretting about "deflation," even as commodity prices were rising and growth was kicking into higher gear. Thus our Dec. 9 warning, the first of many by us and others.

Mr. Bernanke's FOMC remarks that day are especially revealing about how he thinks about monetary policy. In particular, he dismisses any link between commodity price increases and future inflation. He cites a study by a Fed economist claiming to find little connection between "materials" prices and overall inflation. Yet the price of oil was already rising sharply at the time, and it would keep rising as the Fed maintained negative real interest rates for many more months. This was a bad mistake.



Rising gas and food prices didn't show up in the Fed's "core" inflation measurements, but they sure did wallop U.S. consumers this decade. It's one reason Americans never felt great about the expansion. The soaring price of oil also contributed to the housing bubble by transferring wealth from U.S. consumers to oil exporters such as the Gulf States and Russia, which in turn recycled those petrodollars into U.S. Treasuries and mortgage-backed securities. By ignoring commodity prices, the Fed fueled the housing boom.

It's also striking how dismissive Mr. Bernanke is of the declining dollar. We'd have thought the greenback's value would be the Fed's paramount concern, given its mandate to keep prices stable. Yet Mr. Bernanke declared that "large movements of the dollar against major currencies tend to translate into smaller movements against the U.S. trade-weighted basket of currencies and into still smaller effects on import prices because of imperfect pass-throughs." Translation: Exchange-rate fluctuations aren't the Fed's problem, no matter how disruptive their effect on trade and capital flows.

Instead of following these actual prices, Mr. Bernanke's main monetary policy guide is something called "the output gap." This is the difference between actual GDP growth and the level of "potential output," or how fast the economy can grow when it's at full capacity. The problem with this guide is that it relies heavily on labor costs and the jobless rate. And because job creation tends to lag economic recovery, these signals tend to flash yellow long after price pressures or asset bubbles have begun to build.

All of this is relevant today because there is no evidence that Mr. Bernanke and his Fed colleagues have changed their thinking. They still ignore a falling dollar and rising commodity prices, even as oil has climbed to \$70 a barrel from \$40 six months ago. They also continue to be slaves to the output gap, which means they are unlikely even to begin to tighten as long as the jobless rate remains high. With that rate now at 9.4% and likely to rise, the monetary spigots will probably remain wide open for a long time to come.

We think the Fed made the right call last fall when it eased dramatically in the heat of the panic. The financial shock had caused a decline in the velocity of money, and the Fed needed to boost the supply of money to prevent a genuine deflation. The recession this time is far deeper than in 2001–2002, so there is also a case to be made for erring on the side of being slower to tighten.

But this time the Fed has also gone to greater easing lengths than it ever has, taking short-rates nearly to zero and making direct purchases of mortgage securities and even Treasuries. These are extraordinary acts that push the Fed deeply into fiscal policy, credit allocation and directly monetizing Treasury debt. Combined with the 2003–2005 mistake, they have also raised grave doubts about the Fed's credibility and independence.

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Mr. Bernanke will need political courage that we haven't seen since Paul Volcker was Chairman in order to exit from all of these efforts in time to prevent another bubble or broader inflation. It also wouldn't hurt if the Fed chief looks back with some humility on his intellectual certainty, circa 2003, and analyzes why he was so wrong.

[From the Wall Street Journal—Dec. 3, 2009]

#### THE BERNANKE RECORD

Federal Reserve Chairman Ben Bernanke faces his Senate renomination hearing today, amid signs that the confirmation skids are greased. We nonetheless think

someone should say that, as a matter of accountability for the financial crisis and looking at the hard monetary choices to come, the country needs a new Fed chief.

We say this not because of Mr. Bernanke's performance during the financial panic of 2008, for which he has been widely and often deservedly praised. Like others in the regulatory cockpit at the time, he had to make difficult choices with imperfect information and when the markets were shooting with real bullets.

He supplied ample liquidity when it was most needed last autumn, and he has certainly been willing to pull out every last page of the central banker playbook. If some of those decisions were mistakes, the conditions the Fed faced were extraordinary. Anyone at the helm would have made calls that in hindsight he'd regret.

The real problem is Mr. Bernanke's record before the panic, with its troubling implications for a second four years. When George W. Bush nominated the Princeton economist four years ago, we offered the backhanded compliment that at least he'd have to clean up the mess that the Alan Greenspan Fed had made. That mess turned out to be bigger than even we thought, but we also didn't know then how complicit Mr. Bernanke was in Mr. Greenspan's monetary decisions.

Now we do, thanks to the release of the Federal Open Market Committee transcripts from 2003. They show (see "Bernanke at the Creation," June 23, 2009) that Mr. Bernanke was the intellectual architect of the decision to keep monetary policy exceptionally easy for far too long as the economy grew rapidly from 2003–2005. He imagined a "deflation" that never occurred, ignored the asset bubbles in commodities and housing, dismissed concerns about dollar weakness, and in the process stoked the credit mania that led to the financial panic.

This, too, might be forgivable if Mr. Bernanke had made any attempt in recent months to acknowledge the Fed's role in the mania. Treasury Secretary Tim Geithner, Dallas Fed President Richard Fisher and others have conceded that monetary policy was too loose. How central banks can minimize, if not prevent, asset bubbles without inducing recessions would seem to be a subject for candid Fed debate.

But Mr. Bernanke and Vice Chairman Don Kohn have formed an intellectual moat around the Fed, blaming the credit bubble on the "global savings glut" that they themselves helped to create. They are the Edith Piafs of central banking, regretting nothing.

All of this bears directly on how the Fed will operate over the next four years. We are now in another period of extraordinary monetary ease. Mr. Bernanke is assuring the world that, this time, he knows how and when to start removing this stimulus, even as he also promises that the Fed will remain easy for months to come. The guideposts the Fed claims to follow on policy—the jobless rate, "resource utilization"—also remain the same. Price signals, especially the value of the dollar, count for much less in this Fed's decision-making.

Earlier this decade, the Fed had 20 years of sound-money history as a source of credibility. The world's investors were willing to give the Greenspan Fed the benefit of the doubt—too much doubt as it turned out. But now, after the mania and panic, investors are unlikely to show such forbearance. That's already clear in Asia, where the falling dollar is creating monetary distortions, and investors are bidding up assets and currencies on a bet that the dollar is in for further declines. Sooner rather than later, Mr. Bernanke will have to tighten money even if the U.S. jobless rate remains higher than everyone would like.

The Fed chairman has shown he knows how to ease money, and creatively so. But that is the easy part of his job. The hard part, the time when central bankers earn their fame, is when they have to take the money away. We see little in the chairman's policy history or guideposts to suggest he will be willing to endure the criticism that will come with tightening money amid a lackluster recovery, if that is what is required to protect the dollar or prevent an inflation outbreak.

The political irony today is that even as Mr. Bernanke is cruising toward confirmation, the Fed as an institution is under its most sustained political attack in two generations. The political class is especially riled about the Fed's forays into fiscal policy. While that is understandable given the last year, the response to this action should not be to put the Fed under even greater political control from Congress. That is the Argentinian solution.

The better response is to hold policy makers accountable for their actions, including chairmen of the Federal Reserve. At this monetary moment more than any since the late 1970s, the Fed needs a hard-money chairman with the courage and credibility to resist the temptation to escape from the consequences of the last bubble by floating another one.

[From Wall Street Journal Editorial, Jan. 25, 2010]

#### THE BERNANKE NOMINATION

The politicians turn on a political central banker.

The White House said yesterday it has damped down a political revolt against Ben Bernanke and now has the votes to secure the Federal Reserve Chairman's second four-year term. Whether or not Mr. Bernanke is confirmed, the lesson we draw is that overly political central bankers will eventually be undone by politics.

There's no doubt that some of this reconfirmation panic is nothing but political opportunism. When we opposed Mr. Bernanke's reconfirmation on December 3, the facile consensus was that the Fed chief was a master of the universe who had saved the world from depression. But after Scott Brown's victory in Massachusetts last week, Senate Democrats are suddenly looking for a financial political sacrifice. President Obama doesn't look ready to throw over Treasury Secretary Tim Geithner, so Mr. Bernanke is the designated spear catcher.

The Democrats' loudest complaint, moreover, is that Mr. Bernanke and the Fed haven't been easy enough in printing money. Majority Leader Harry Reid declared his support for Mr. Bernanke on Friday, but not before extracting what he said were concessions about future Fed policy.

The Fed chief promised, said Mr. Reid, that he would "redouble his efforts" to make credit available and that Mr. Bernanke "has assured me that he will soon outline plans for making that happen, and I eagerly await them."

Redouble? The Fed has already kept interest rates at near zero for more than a year, and it is buying \$1.25 trillion in mortgage-backed securities to refloat the housing bubble, among other interventions into fiscal policy and credit allocation. Is the Fed going to buy another \$1.25 trillion, or promise to keep rates at zero for another 14 months?

Mr. Reid's declaration of a confirmation quid pro quo will not reassure global investors who already fear that the Fed lacks the political will to withdraw its historic post-crisis liquidity binge soon enough to avoid new asset bubbles.

Our own view is that Mr. Bernanke is already far too susceptible to political pressure. As a Fed governor, he was Alan Greenspan's intellectual co-pilot last decade when their easy money policies created the housing mania. When Congress later put political pressure on the Fed to direct credit toward housing, and even to student loans, Mr. Bernanke (who was then chairman) also quickly obliged.

More ominously for the next four years, Mr. Bernanke continues to deny any Fed monetary culpability for creating the mania. Shortly after the New Year, even with his nomination pending, Mr. Bernanke issued an apologia that was striking for its willingness to play to the Congressional theory of the meltdown by blaming bankers and lax regulators. We won't rehearse our decade-long monetary argument with Mr. Bernanke today—see “Bernanke at the Creation,” June 23, 2009. But the chairman's refusal to acknowledge any mistakes is one reason the dollar is so weak in global capital markets. Investors are hedging their bets in commodities and nondollar assets.

Yes, much of Wall Street wants to see Mr. Bernanke confirmed. The Street is currently making a bundle off Fed policy, as it borrows at near-zero rates and lends long, and the banks don't want that to end. The banks also loved negative real interest rates in the middle of the last decade, and we know how that turned out. Wall Street always loves easy money—until inflation returns, or the bubbles pop.

Others argue that any alternative to Mr. Bernanke could be worse, and that is certainly a risk. Mr. Geithner and White House economic adviser Larry Summers couldn't be confirmed, even in a Democratic Senate. In the short term if Mr. Bernanke is defeated, Vice Chairman Donald Kohn might run the Open Market Committee, and he shares Mr. Bernanke's contempt for Fed critics. President Obama could also select San Francisco Fed President Janet Yellen, but she thinks the Fed should be even easier.

Still, we can think of current or former presidents of regional Fed banks who have hard money credentials. They would also not carry the baggage of whatever Harry Reid extracted as a price of confirmation.

We agree that the Fed needed to ease money precipitously when the financial markets suffered their heart attack in late 2008, and we praised Mr. Bernanke for that at the time and since. But the issue for the next four years is whether the Fed can extricate itself from its historic interventions before it creates a new round of boom and bust. We already see signs that it has waited too long to move.

The Fed as an institution is also under political attack in a way that it hasn't been since the early 1980s, and that was when Paul Volcker was being excoriated for being too tight. That criticism has rarely if ever been leveled at Mr. Bernanke. The next Fed chairman is going to need the market credibility, and the political support, to raise interest rates when much of Congress and Wall Street will be telling him to stay at zero. That is the real reason to oppose a second term for Chairman Bernanke.

Mr. SHELBY. Mr. President, the first point the Wall Street Journal editorial highlights dealing with Chairman Bernanke's overt political activities states:

Whether or not Mr. Bernanke is confirmed, the lesson we draw—

This is the Journal editorial staff—is that overly political Central bankers will eventually be undone by politics.

They always are.

The Wall Street Journal goes on to conclude:

Our own view is that Mr. Bernanke is already far too susceptible to political pressure. As a Fed governor, he was Alan Greenspan's intellectual copilot last decade when their easy money policies created the housing mania.

On Mr. Bernanke's loose money record, the Journal noted in these editorials:

Mr. Bernanke was the intellectual architect of the decision to keep monetary policy exceptionally easy for far too long . . . He imagined a deflation that never occurred, ignored the asset bubbles in commodities and housing, dismissed concerns about dollar weakness and in the process, stoked the credit mania that led us to where we are today in the financial panic.

Finally, the Wall Street Journal points out in regard to Chairman Bernanke:

The Fed Chairman has shown he knows how to ease money . . . But, that is the easy part of his job. The hard part, the time when Central bankers earn their fame, is when they have to take the money away. We see little at this point in the Chairman's policy history or guideposts to suggest he will be willing to endure the criticism that will come with tightening money amid a lackluster recovery, if that is what is required to protect the dollar or prevent an inflation outbreak.

For these and other reasons, the Wall Street Journal, one of the most widely recognized business publications in the world, opposes the nomination, as I do, of Chairman Bernanke.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains?

THE PRESIDING OFFICER. Three minutes remain.

Mr. DODD. Totally?

THE PRESIDING OFFICER. The minority party has 8½ minutes remaining.

Mr. DODD. I will use the 3 minutes, and I will inquire of my friend and colleague from Alabama, at what point are we going to conclude this debate?

Mr. SHELBY. We are checking to see.

Mr. DODD. Let me go ahead. I will assume we will probably wrap up the debate with 3 minutes remaining.

We have a diversity of opinions, including from Paul Krugman, who is known as a more progressive economist, in favor of this nomination, although and albeit he has certain caveats he expressed about the nominee, Ben Bernanke; the Washington Post; and others as well. Warren Buffett was asked on CNBC about this nomination and he said: All I can say is, if you are going to turn him down, let me know a day or two in advance because I would like to sell off some stock. They asked him why, and he said because he believed the message to the markets would be a devastating one.

The one thing about the Federal Reserve—and there are legitimate complaints about the Federal Reserve System—but what we don't need is for short-term politics to become the vehi-

cle by which we decide Fed policy. The independence of the Fed has been a critical component for stability in our economy. I happen to believe—despite being the chair of the Banking Committee for all of 2007, as the Presiding Officer knows, I could not get the attention of the previous administration, including the Federal Reserve, about the mortgage crisis in our country. We had 12 hearings, the first of which was on February 7, 2007, on this subject matter alone. So if I were going to decide my vote on this nominee on that basis, I would vote against Ben Bernanke because, frankly, it was a failure by the previous administration early on not to understand the gravity of this situation.

But I can't make my decision solely on that. The fact is, as I said earlier, we have had a leader in the Federal Reserve over the last year and a half who virtually saved our economy from a predictable collapse had he not been there. Beginning in the fall of last year, when a group of us were in the room of the Speaker of the House, Democrats and Republicans, the Chairman of the Federal Reserve warned us, if we failed to act in a number of days, the entire financial system in this country and a good part of the world would melt down, to give an exact quote. I don't need to tell my colleagues that was sort of the economic equivalence of a 9/11 moment, when we were warned by the most important central banker in the world what could happen if we didn't act.

As a result of Ben Bernanke's leadership, as well as others—people such as JUDD GREGG, BOB CORKER, CHUCK SCHUMER, who worked on this, the leadership in the House—we were able to put together a terribly unpopular package, but 75 of us on that night in this Chamber voted for that very difficult proposition, to avoid the kind of catastrophe that would have happened. There are very few people I think who would have had the ability, the creativity, the imagination, and the courage to come up with these ideas. Ben Bernanke did. So as a result, we are in far better shape today.

However, we are far from out of the woods. We have a foreclosure problem that is still huge. We have commercial problems that are coming along that are going to be massive. If we don't have a Chairman of the Federal Reserve but only an Acting Chairman, I don't know what that means—and particularly the individuals who helped to create the very imaginative vehicles that allowed us to come out of this problem. To have him walk away and find the Federal Reserve, this important central bank, without leadership at this critical moment, I think would be beyond shameful. It would be the height of irresponsibility.

As Democrats and Republicans, the previous administration offered this nomination. Many of us supported it. We need to come together, at least in moments such as this, not to abandon

our country over partisan politics or ideology and failing to understand that if there need to be reforms in the Fed, let's reform them, but let's not walk away from an importantly critical individual who has made a difference in our economy and our Nation. For that reason, I urge my colleagues to terminate this filibuster—vote to end that—and then vote to confirm Ben Bernanke as the Chairman of the Federal Reserve.

I have been told I can speak until 3:20, but I will not take up all the time. As I said a moment ago, this is one of those moments where we need to step back and recognize the danger of our actions. This is not just a free vote. I know some people would prefer—they have the right to vote—to vote against the guy but hope he gets confirmed. That may work, but it is dangerously precarious. If we don't have 60 votes to end this filibuster, and if we don't produce the votes to confirm him, then I think this Congress, this body, regretfully, will have to bear the responsibility of abandoning the very people and situations we talk about today—jobs, the housing market, getting our economy back on its feet again—and anticipate the kind of reaction we will see in the markets and elsewhere, setting us back weeks, if not months or years, in our ability to get through this fragile period and allowing the hopes and aspirations and the confidence of the American people to grow.

I know it is an awful lot to stake the future of all that on just a nomination, but this is not some Assistant Under Secretary of some other agency. It is the central bank Chairman of the most central bank in the world. It is a critically important component in us continuing our path of economic recovery. We will bear the collective responsibility of failing to meet that obligation if we walk away from this obligation by either continuing this filibuster or defeating this nominee.

So I urge my colleagues, Democrats and Republicans—there is enough to battle about on how we are going to deal with these issues in the coming weeks, but on this matter let us send a message to the American people that we understand their frustrations, their worries, and we are doing everything we can to get us back on track again. Witness the President's remarks last evening.

You have a laser-like focus on the economy and job creation in our country. Don't make that effort fail because we send a message to our markets and the world that we cannot confirm an individual who saved us from an economic catastrophe in our country.

I urge my colleagues to pass the cloture motion to end debate and then, of course, to confirm Ben Bernanke as chairman of the Federal Reserve.

With that, I yield back the remainder of the time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CLOTURE MOTION

Under the previous order, 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, do hereby move to bring to a close debate on the nomination of Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System.

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 Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 77, nays 23, as follows:

#### [Rollcall Vote No. 15 Ex.]

##### YEAS—77

Akaka	Enzi	Lugar
Alexander	Feinstein	McCaskill
Barrasso	Franken	McConnell
Baucus	Gillibrand	Menendez
Bayh	Graham	Mikulski
Bennet	Gregg	Murkowski
Bennett	Hagan	Murray
Bingaman	Harkin	Nelson (NE)
Bond	Hatch	Nelson (FL)
Boxer	Inouye	Pryor
Brown	Isakson	Reed
Burr	Johanns	Reid
Burr	Johnson	Rockefeller
Byrd	Kaufman	Schumer
Cardin	Kerry	Shaheen
Carper	Kirk	Snowe
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Tester
Coburn	Kyl	Udall (CO)
Cochran	Landrieu	Udall (NM)
Collins	Lautenberg	Voinovich
Conrad	Leahy	Warner
Corker	LeMieux	Webb
Dodd	Levin	Whitehouse
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

##### NAYS—23

Begich	Feingold	Sanders
Brownback	Grassley	Sessions
Bunning	Hutchinson	Shelby
Cantwell	Inhofe	Specter
Cornyn	McCain	Thune
Crapo	Merkley	Vitter
DeMint	Risch	Wicker
Ensign	Roberts	

The PRESIDING OFFICER. On this vote, the yeas are 77, the nays are 23. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, all postcloture time is yielded back. The

question is, Will the Senate advise and consent to the nomination of Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 70, nays 30, as follows:

#### [Rollcall Vote No. 16 Ex.]

##### YEAS—70

Akaka	Enzi	McConnell
Alexander	Feinstein	Menendez
Barrasso	Gillibrand	Mikulski
Baucus	Graham	Murkowski
Bayh	Gregg	Murray
Bennet	Hagan	Nelson (NE)
Bennett	Hatch	Nelson (FL)
Bingaman	Inouye	Pryor
Bond	Isakson	Reed
Brown	Johanns	Reid
Burr	Johnson	Rockefeller
Burr	Kerry	Schumer
Byrd	Kirk	Shaheen
Cardin	Klobuchar	Snowe
Carper	Kohl	Stabenow
Casey	Kyl	Tester
Chambliss	Landrieu	Udall (CO)
Coburn	Lautenberg	Udall (NM)
Cochran	Leahy	Voinovich
Collins	Levin	Warner
Conrad	Lieberman	Webb
Corker	Lincoln	Wyden
Dodd	Lugar	
Durbin	McCaskill	

##### NAYS—30

Begich	Feingold	Risch
Boxer	Franken	Roberts
Brownback	Grassley	Sanders
Bunning	Harkin	Sessions
Cantwell	Hutchinson	Shelby
Cornyn	Inhofe	Specter
Crapo	Kaufman	Thune
DeMint	LeMieux	Vitter
Dorgan	McCain	Whitehouse
Ensign	Merkley	Wicker

The nomination was confirmed.

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

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Nebraska is recognized.

#### BUDGET RECONCILIATION

Mr. NELSON of Nebraska. Madam President, I rise to make a parliamentary inquiry regarding the applicability of the Senate's cloture rules to the budget reconciliation process. Under the Congressional Budget Act which governs Senate procedure for consideration of a reconciliation conference report, the question is: Is a cloture vote necessary prior to a vote on adoption of the conference report?

The PRESIDING OFFICER. No.

Mr. NELSON of Nebraska. Madam President, another question. Under the Budget Act, which limits the time for debate of a reconciliation conference report, how many hours are provided for debate?

The PRESIDING OFFICER. Ten hours.

Mr. NELSON of Nebraska. Thank you. And finally, therefore, under no circumstances would a cloture vote be necessary or required prior to a vote on adoption of a reconciliation conference report?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON of Nebraska. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

#### IN PRAISE OF ANNE GALLAGHER

Mr. KAUFMAN. Madam President, I rise today to recognize another great Federal employee. In the past year we have witnessed the most significant economic downturn since the Great Depression. In the 1930s, millions of Americans lost everything and there was no social safety net to catch those in the greatest need. Today we are fortunate that the Federal Government coordinates vital programs, preventing millions of Americans from slipping into the kind of poverty experienced in those days.

I think probably the most important agency involved in this effort is the Social Security Administration. Its mission is to provide a stable income for retired American workers and those who cannot work because of a disability.

In the words of the great revolutionary patriot Thomas Paine, "it is not charity but a right, not bounty but justice."

He wrote those words in 1797, when he published an early proposal for social security. It was only in the midst of the Great Depression that such a system was finally established by the Social Security Act of 1935.

Seventy-five years later, the SSA's important work continues. One of the great Social Security employees is Anne Gallagher, who has made a career of Federal Government work.

Anne, who grew up in Wilmington, DE and still lives there, has worked for Social Security for 8 years. As a child, Anne attended the Wilmington Friends School, and she later received her undergraduate degree from Mary Baldwin College. After pursuing further study in New York, she worked for 2 years in the broadcasting industry.

In 1976, Anne began a lifetime of public service, working for then-Senator Bill Roth, who was then the senior Senator of Delaware, in his Wilmington office. Her role as senior caseworker

for constituent services was to intercede on behalf of Delawareans with Federal agencies.

If you were a veteran who needed help accessing VA resources or benefits, Anne was the staff member in Senator Roth's office who would contact the VA for you. If you were trying to adopt a child from overseas but had an issue with the State Department that needed clearing up, Anne would clear it up.

It was during this time, when I was chief of staff to Delaware's junior Senator JOE BIDEN, that I first met Anne and witnessed firsthand her unmatched dedication and positive attitude. JOE BIDEN has wonderful caseworkers. They all thought very highly of Anne. And the two offices worked together seamlessly to serve the people of Delaware.

Anne handled important casework for Senator Roth for 7 years before deciding to take time off to raise her two daughters, who, by the way, both share their mother's passion for serving the public. But the call to serve was strong, and after 3 years away from Senator Roth's office, Anne returned. She continued working as an advocate for Delawareans until Senator Roth left office in 2001. At the same time, she still served as the legislative assistant for veterans affairs from 1994 to 1997.

In 2001, Anne spent several months working as the director of a nonprofit helping American families adopt children from overseas.

In 2002, she returned to government service when she became a Regional Public Affairs Specialist for the Social Security Administration. In this role, Anne serves as the Social Security congressional liaison for five States and the District of Columbia, which include 10 Senate offices and 43 House districts. The reports issued by her office help Members of Congress as well as other Federal, State, and local officials understand the status of Social Security distribution in their jurisdictions.

Throughout her work in Social Security and Senator Roth's office, Anne has earned a reputation for thoroughness, dedication, and a kind heart. I never met anyone who has dealt with Anne who did not like her, was not impressed with her kindness, her intelligence, and her ability to get things done. Once, while working for Senator Roth, Anne received a call from an elderly woman who had been in touch with her regarding a casework issue. It was in the midst of a snowstorm, and the woman, who lived alone, could not get to the grocery store for herself. So 45 minutes later Anne and her husband pulled up to the woman's house with a careful of groceries. Many of those she helped still keep in touch with her, even after 20 years.

I hope my colleagues will join me in honoring Anne Gallagher and thanking her for her service to the Nation and the State of Delaware. I also hope all Americans will recognize the impor-

tant contribution made by all who work for the Social Security Administration and all those who work for the Federal Government.

I yield the floor.

#### MORNING BUSINESS

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

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

#### TIME FOR BOLD ACTION

Mr. BURRIS. Madam President, last night, just down the hall from this Chamber, my colleagues and I assembled with our friends in the House of Representatives to take part in a tradition as old as our Republic.

This is more than just a Presidential address.

It is mandated by the U.S. Constitution, and it is one of the great rituals of modern democracy, the practice of bringing the major officers of our government together to assess our national priorities.

Last night, President Obama laid out a bold vision for the years ahead, and a renewed commitment to the uniquely American ideals that make this country great.

So today, I would like to take this opportunity to discuss a few of the things we heard in yesterday's speech, and how our agenda will benefit the people of Illinois.

I am glad the President recognizes that this is not a time to change our priorities it is a time to recommit ourselves to the values and the ideas that the American people voted for in 2008.

The mandate for better policy could not have been more clear.

Voters want us to focus on job creation. They want us to help small businesses, repair our national economy, and invest in clean energy.

They want us to pass real health care reform, reduce the deficit, and keep corporate money separate from politics.

Under President Obama's leadership, my colleagues and I have already made significant progress on a number of these issues.

A year ago, we passed far-reaching economic recovery legislation that brought us back from the brink of disaster.

We voted to extend unemployment benefits, and keep sending help to the people who need it most during these difficult times.

Even today, we are poised to take up job creation and climate change bills, and are closer to passing comprehensive health reform than ever in our history.

We are examining ways to address the deficit, and in pursuit of that goal I believe we need to keep all options on the table.

And in the wake of the recent Supreme Court ruling, which dealt a major blow to campaign finance reform, I believe we need to take steps to minimize the ability of giant corporations to influence elections. We need to keep companies from overriding the voice of the people in Congress.

Our system is designed for incremental change, so none of these things will come easily.

But the agenda set by this President, and the demands of this trying moment in history, dictate that we must set aside our partisan differences and come together to solve big problems.

We have made gains over the last year, and we are continuing to make tangible strides almost every single day.

So I would like to talk about what this means for my home State of Illinois.

When Congress passed a sweeping economic recovery plan about a year ago, this country was losing more than 700,000 jobs a month, and the economy was in freefall.

Today, the economy is growing for the first time in 2 years, and job losses have fallen to a tenth of what they were last year.

For ordinary Illinoisans, this has made a real difference.

In Danville, IL, recovery act funding created 20 jobs at the East Central Illinois Community Agency. It put additional police officers on the street and created 14 jobs at the local housing authority.

It created summer jobs that allowed local kids to help support their families. It helped fund a Head Start program in neighboring Gibson City, and it funded three local projects through the Illinois Department of Transportation.

This is the measurable impact our legislation has had on only one community in Illinois.

But letters and phone calls and news stories have been pouring into my office from across the State, and the message is always the same.

From Danville, to Chicago, to Rockford, to Elmwood Park, I have heard from Illinoisans who have felt the positive effects of our new economic foundation.

We must not forget that America is still on the road to recovery. But our policies have already made a real difference in people's lives.

One Danville business owner even said: "I was leery of the whole stimulus thing at first, but they got it right."

That is why it is time to look ahead.

It is time to redouble our efforts and prove our commitment to the values the American people voted for in the last election.

The national economy is no longer in freefall, but there are still far too many people without jobs and far too many families that are struggling to make ends meet.

We need to use the remaining recovery act funds to create more jobs in

cities such as Danville, IL, and across America.

We need to provide tangible help to the small businesses that form the backbone of our economy, and the local banks that are essential to our national prosperity.

As a former banker myself, I understand how important these institutions are to the communities they serve. And I know they are hurting badly right now.

I am grateful that the President shares my support for these initiatives. And I look forward to working with my colleagues in the Senate and with the administration to take action.

Already, President Obama's speech is being analyzed by the media as a partisan rallying cry, a recap of the administration's record, and a dozen other things.

But as I sat on the House floor last night, I heard more than that.

I heard a bipartisan call to arms, a sober recognition of the current situation, and a strong vision for job creation, continued economic recovery, and healthcare reform in the coming year.

The truth is, the American people do not need politicians in Washington to tell them about the current State of the Union.

They are the Union. They know about the challenges we face, and the distance we have yet to go.

They do not care about partisan politics, or electoral math, or which party has the majority in Congress.

The American people are interested in the answer to one question: Where do we go from here?

So, as we set out to tackle the ambitious agenda that was laid out last night, we must approach these proposals with the same mindset.

We must draw our energy and our strength from the American people, and summon the principles and ideas that can make that vision a reality.

This is not about scoring political points or winning elections.

It is about how we move forward together as a Congress, as a nation, and as a people.

It is about making a difference for the hard-working people of Illinois, and every other State in the country.

This is a time to be thoughtful and reflective and forward-thinking, but it is also a time to roll up our sleeves.

Colleagues, as President Obama reminded us last night, this is a time for bold action.

So today, let us get to work.

The PRESIDING OFFICER. The Senator from Washington State is recognized.

#### BERNANKE NOMINATION

Ms. CANTWELL. Madam President, I rise to speak on the vote we had earlier on the nomination of Ben Bernanke to be the Federal Reserve Chairman. While I did not support Mr. Bernanke's reconfirmation to that post, I would

like to take the time now to talk about that vote and my concerns and the challenges I think our country faces moving forward.

When I look at this issue, I know that not one administration or not one Fed Chairman got us into the mess we are in. In fact, it is not even to be blamed on one party. What this is about is how we move forward with complete transparency and the proper regulation to give certainty and predictability to our financial markets. I will do my best to represent my constituents with the proper level of oversight on these issues, but I heard loudly and clearly from my constituents in December that they are, as small business owners, at the end of their rope without access to capital and that community banks are not lending. So that is where I am spending my time and focus now, in urging both the Fed and Treasury to act, without passing legislation but act now to get recovery programs specifically working for community banks that need access to capital and for those small businesses that are the engine of economic growth for our economy.

While I know many of my colleagues think programs that came out of the TARP funding, such as the original TALF Program or even the Treasury Secretary's announced program in December, are things that have been in the works, I can tell my colleagues that my constituents started this debate in earnest with credit default swaps and the concern about large banks but are having a hard time, as I am, understanding the logic and the strategy that one day closes one of the largest banks in America and one of the largest banks in our State, Washington Mutual, wiping out 30,000 creditors and basically putting in jeopardy the retirement of many employees, and then 4 days later we pass a TARP bill. I believe the government picking winners and losers at that point in time was the wrong approach, and I advocated for an equity program.

But today my constituents want to know why it is that it was easy to figure out how, with loans and assets and the credit activity of the Fed, over \$1 trillion could be pumped into AIG at 100 cents on the dollar and yet small business owners in the State of Washington—and my guess is around the country—basically had capital cut from right under them.

When I think about what happened, it breaks my heart. To think about a company such as Vancouver's Columbia Gem, where the Bank of Clark County was shut down and assets moved over to another bank across the river, Umpqua Bank, that received TARP funds. But where was the help for the small businesses that had performing lines of credit at that bank? What happened to them? I will tell you what happened to them. Even though they had performing lines of credit, their funds were cut out right from under them. In fact, it forced the owner

of that company to try to fund the operation of that business out of his own pocket.

Another business in that area, Beaches Restaurant, immediately their line of credit was frozen after the takeover.

Vancouver Iron and Steel was current on all its loans and even eked out a small profit in 2008 and never missed a bank payment. But Vancouver Iron immediately lost its \$1.5 million line of credit after the FDIC took over.

How is it we can act immediately to save the AIGs but we can't act immediately to save companies such as Vancouver Iron and Steel? I guarantee Vancouver Iron and Steel was not cooking up dark market derivatives, creating credit default swaps that destabilized our economy. Nor is Vancouver Iron and Steel continuing to operate derivatives in dark markets. No, they have nothing to do with that. They are manufacturing product for America and abroad and producing jobs. The fact that we continue to make it hard for them to get access to capital is one of the reasons why I voted against Mr. Bernanke. The Fed Chairman has to realize the urgency with which the big banks have been bailed out and saved. That urgency has to be applied to Main Street. I know they are trying. I applaud the President for last night saying he is going to put forth \$30 billion to help with access to capital for community banks. I urge him to do that within the administration.

While I am sure my colleagues could give input, to basically spend another 2 or 3 months waiting for small businesses to get access through community banks, more and more business bankruptcies will happen. While that is a program to get right, it is very clear to Americans that when we want to act with urgency, this government can act and the Fed can act and the Treasury can act to solve these problems.

I urge the Fed now and the Treasury to give consideration to making this their No. 1 priority, to get capital to these community banks as urgently as possible through an equity program that gives them the infusion it will take to get capital back to Main Street.

There are other reasons why I did not support Mr. Bernanke. As I said, this is not one Fed Chairman's problem or one administration's problem. This has been caused by policies over the last several decades, prior to the repeal of Glass-Steagall, in which we continued to say deregulation of these markets was unimportant. The policies at the Commodity Futures Trading Commission and other policies that allowed for this kind of dark market activity of derivatives to grow into an international \$56 trillion industry are the policies that have brought us to this point. We now have to have the urgency and the leadership of everyone involved to think creatively about the urgency of getting capital to community banks and small businesses and the reforms

that must be put in place now, not to check a box, not to say we did reform, not to say we are responding to something that has happened recently but to move our economy forward with the transparency and proper regulation that will provide for international stability.

When I see from some of the well-known economists and investors across the globe that another bubble is forming, that this problem we think somehow we have corrected by passing TARP and doing other things is going to be alleviated, these individuals are signalling that another bubble in the exact same situation could happen again, I want to see the Fed and Treasury advocate on the Hill the policies that will give us complete transparency and regulation to assure Americans and those participating in financial markets around the world that they will function with certainty and predictability, that they are not going to be inflated with something that has no real value behind it such as the credit default schemes or, should I say, naked credit default schemes that we are trying to outlaw on the Senate floor.

I know what has happened with the regulatory reform legislation so far that has come through Congress. There have been many attempts to water it down. I am not blind to what I think the challenges will be to pass this legislation when it comes to the Senate. That is why I want to see a Fed Chairman and a Treasury Secretary who are leading the charge for the principles of regulatory reform that will correct these problems with the markets, not to be for a few policies that might sound good, such as: Let's reduce systemic risk—I am for reducing systemic risk—or not to say: We want a consumer group. I am for a consumer group. But the heart of this issue is whether we are going to properly regulate derivatives, whether we are going to pass a law that says: Manipulative devices or contrivances of these markets are a Federal crime. Not only will you pay a penalty, you will go to jail.

I get that many in the markets believe there is no way we can possibly control all the new tools and all the new financial terms people can come up with to deviate from the standards that are set. But I know this: Setting a statute in place and going back to Glass-Steagall can separate the risk to the taxpayer of having their money and their capital used to continue to prop up dark market activities. I certainly believe we have to have derivatives regulation. But the tactic of now saying we can have that by definition, by saying no proprietary trading on these companies, I guarantee you we will be debating the meaning of the words "proprietary trading." The consequence will be there will be lots of money flowing into dark markets.

I believe in the financial wherewithal to raise capital in America. It is one of the greatest things about our country.

It is one of the greatest things that makes us competitive, the fact that we can create capital in such an inspiring way and that we can have, in an information age, the kind of public financing of ideas and creativity that continues to have us lead the way. But I ask my colleagues to look at how many IPOs have been created lately. I ask them to look at how much money has gone into the small businesses and community banks loaning to small business juxtaposed to the amount of money that has gone into derivatives. The truth is, you make more money on derivatives. So why would you put your money into investing in IPOs? Why would you put your money into the small businesses?

What is happening is more and more concentration into the large banks that then thwart the opportunities for small community banks to truly be competitive with them. Then what happens? Less and less capital, less and less opportunities for small business or, as I saw recently, even the fact that some of the small business newspapers in this country haven't been able to get access to capital. They are going to end up in the hands of bankers. I don't know if those are big banks or small banks, but I know this: Small businesses deserve to have a choice of lenders, a diversity of market-size banks, and a Fed chairman who will pay attention to that issue. We live in a unique time, created by at least two decades of deregulation of markets that are now going to create another bubble.

My vote against the Fed Chairman has to do not with the past but with the future, the future prevention of another bubble, of more bankruptcies of small businesses, of getting our regulatory policies and our transparency of markets in place so the United States can get back to both the innovation and job creation but financial markets that the United States leads in around the world, that we are not 10 years from now seeing the kind of dark market activity around the globe that has transpired here. Instead, the United States, as the President says, learns from a teachable moment and leads the rest of the world on the types of markets and transparency we expect.

I hope the Fed Chairman will embrace this task of a more robust leadership on the policies and regulation that need to be put into place to prevent another bubble and to helping immediately small businesses. I don't want to leave the American people with the thought that somehow Wall Street is more important than Main Street. That is not what sent me to Washington, and it is not what sent my colleagues. I hope we will work in earnest, as Republicans and Democrats, to urge the administration and the Fed to immediately adopt and implement a program to give community banks and small businesses access to capital.

One of the people I met with is a small businessman whom I used to see



while eating in his restaurant many times, particularly working late at night, when I worked for a software company. When I was home in December, I found that after 55 years he was going out of business. After 55 years in his family, they were going out of business. The downturn definitely took its toll. He wasn't getting access to capital. He held on for an entire year, not laying off one employee, keeping everybody he could instead of cutting them. The end result, after that year, without any more resources, without any more access to capital, he had to close that business. Not only that, because he mortgaged his house, he was probably going to lose his house. He put his restaurant up for auction. He told me, if he was lucky, he would probably get \$10,000 for it. Fifty-five years in business, weathering several downturns, not laying off any employees, he wanted to know where his life-line was during this crisis.

I am going to devote my time and energy, along with working with the President on his commitment, to making sure this program for community banks and small businesses gets implemented as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, let me thank my colleague from the State of Washington. She has been tireless in trying to address these issues, both in legislation and on the floor of the Senate during debate, and it is so important.

I, too, voted against Mr. Bernanke's nomination today, and I wish to explain why. It is certainly not that I believe Mr. Bernanke is a bad guy. He is not. He is a well-respected economist. But I wish to talk a little about the issues that persuade me we need a change—a change in culture, a change in personnel—in some respects.

If ever there now is a bright line in America between those who are too big to fail and those who are too small to matter;—that is, the too big to fail are the biggest financial institutions in the country that have been making a lot of money, paying large bonuses, and living high off the hog. The too small to matter are the folks on Main Street who sink everything their family has into a business trying to run a grocery store, maybe a drugstore, a gas station, a barbershop, a restaurant, and then they discover they cannot make a go of it because things turn against them, and they are told: Do you know what. That was your risk. If you can't make a go of it, that is your problem. What you do is you lock the door, somebody sells the inventory, and you are out of business.

By contrast, the biggest financial institutions that were engaged in wholesale gambling—everything but the Keno tables and the craps tables and the blackjack tables in their lobby, everything but that; it was the same thing—and ran their company and

their country into the ground, they were told: Well, do you know what. You are so big, we can't possibly let you fail, so we are going to give you a bailout. So that is the too big to fail versus the too small to matter. Is it any wonder people are furious in this country about that kind of assessment, that kind of value system?

Well, Mr. Bernanke is a nice guy. So is my Uncle Harold, by the way. Mr. Bernanke is an economist. My Uncle Harold is not. Mr. Bernanke has now been the Chair of the Fed for a while. Before that, he was part of the economics team in the previous administration that turned, by the way, a big budget surplus in the year 2000—the first budget surplus for the Federal Government in a long, long time. The new administration came in and turned that into the biggest deficits in history up until now. So I am not impressed with the whole scheme of a fiscal policy that turns the country from big budget surpluses to big budget deficits.

But with respect to the Federal Reserve Board itself, the Federal Reserve Board has had responsibilities. Those responsibilities, first by Alan Greenspan at the Fed—and by the way, while Alan Greenspan was at the Fed, Mr. Bernanke was at the Fed as well during part of that time, and now it has been Mr. Bernanke's tenure at the Fed—the responsibilities are to supervise the banks, to deal with predatory lending, to address some of the scandalous behavior of some of the brokers in the subprime market. Yet they did nothing. All of this went on under their noses. The question for me in dealing with Mr. Bernanke and others is, How many times do we have to learn the same lesson?

I have been here at a time when the savings and loans collapsed in this country. The S&L collapse—it was not surprising why they collapsed because we had a bunch of folks who used the savings and loan like a big piggy bank. They were parking junk bonds at the savings and loans organizations. The savings and loans were actually gathering deposits from around the country, and they were like Roman candles, just taking a small, little, sleepy savings and loan and turning it into a big institution with lots of deposits overnight. Then guys like Mr. Milken were parking junk bonds in the S&Ls, insured by the Federal Government; that is, the American taxpayers, and things collapsed, and it cost hundreds and hundreds of billions of dollars.

The most perverse result was the American taxpayer got stuck with junk bonds in the Taj Mahal Casino in Atlantic City. Think of that. How did that happen? Well, Donald Trump builds a casino, and whoever it is decides to take the junk bonds from the casino and park them in a savings and loan. The savings and loan is guaranteed by the American taxpayer. The savings and loan goes bankrupt. So the junk bonds in the savings and loan are now at the Resolution Trust Corpora-

tion, and the American people end up with junk bonds in a casino. Isn't that unbelievable? Do we have to learn that lesson again? Well, we did then.

We learned it a second time after the S&L collapse. We learned it with the Enron Corporation, which in part was a criminal enterprise. They were manipulating wholesale electric markets on the west coast—schemes such as Get Shorty, Fat Boy, just to name a couple—and then having people, in addition to these schemes, shut off and turn on powerplants in order to manipulate supply so they could fleece taxpayers and fleece ratepayers on the west coast out of billions of dollars. It was one of the greatest robberies in the history of our country. I led the hearings. I chaired the hearings over in the Commerce Committee. Ken Lay came and raised his hand. We swore him in. He took the fifth amendment. He is now dead. But he was on his way to prison. Mr. Jeff Skilling from Enron Corporation came and just talked and talked and talked. It turns out none of it was accurate. He is now in prison.

So we had to learn a second time about the fleecing of America—the big S&L scandal that cost the American taxpayers an unbelievable amount of money; then the Enron scandal—a corporation that does not now exist that became, in part, as I said, a criminal enterprise; and now this financial house of cards that collapsed on this country. It is not surprising why it collapsed. What happened was we had some of the biggest financial entrepreneurs in this country—some of the biggest operators, I should call them, not entrepreneurs—some of the biggest financial operators in this country who were engaged in full-scale gambling with their company money, the biggest financial companies in this country.

My colleague talked about credit default swaps and CDOs and so on. We had synthetic derivatives. Do you know what synthetic derivatives are? At least a derivative is something you can reasonably explain because it has some value. It is connected to some value on each side of the trade. Synthetic derivatives are simply an artificial device that allows you to place a wager on whether something will happen, unrelated to value on either side of the trade. It is as if to say: Take the biggest investment banks in America and put a craps table in their lobbies and let them gamble from 8 a.m. until 5 p.m. and let the American taxpayer pay their losses. That is exactly what has happened.

Now, what is happening today? Well, this is Bloomberg News:

Wall Street is marketing derivatives last seen before credit markets froze in 2007. . . .

Actually, I have it on a bigger chart here.

Wall Street is [now back] marketing derivatives last seen before credit markets froze in 2007, as the record bond rally prompts investors to take more risks to boost returns.

Bank of America Corp. and Morgan Stanley are encouraging clients to buy swaps

that pay higher yields for speculating on the extent of losses in corporate defaults.

And again:

Banks Reviving Synthetic Bets as [Paul] Volcker Blasts Default Swaps.

Bloomberg. So here we are. The financial system collapsed, steered this economy right into a ditch. Millions and millions of Americans lost their jobs, lost their homes, lost hope, and are still struggling. The biggest interests got bailed out and made whole and now are making record profits again and are prepared to pay \$140 billion, I am told, in bonuses. And now we see they are back to trading synthetic derivatives—the very same firms.

How often do we have to learn this lesson—once, twice, three times, or ten times—before the Congress will decide: No more of it.

My point is, just like with kids, you say: Do you know what. You better hope your kids are running around in a good crowd. That is the success, isn't it, having them run around in a good crowd as opposed to a bad crowd? As I take a look at all these nominations and appointments, the question for me is, What kind of crowd do they run around in? And do you know what. There is a kind of insular crowd that all comes from the same locations, and they all believe the same thing, and the fact is none of them have the stomach or the interest or the courage to decide to shut down what is essentially gambling on Wall Street and firms that are too big to fail, which means it is no-fault capitalism and the American people will pay the consequences. None of them have the courage to do that. In fact, they have now been given a year to organize to try to stop anything that is done here in the U.S. Congress.

I will say once again, it was 10 years ago when I stood on the floor of the U.S. Senate and was one of eight Senators to vote against the piece of legislation that created these big holding companies—the Financial Services Modernization Act, it was called—to repeal the protections that were put in place after the Great Depression.

I said, 10 years ago, I think that is going to set this country up for massive taxpayer bailouts. No, I do not have a crystal ball, and I do not necessarily prognosticate very well. But I knew that if we allowed those who wanted to do one-stop financial shopping—putting together securities with banking, investment banking with FDIC-insured banking—we were headed directly toward a cliff. And 10 years later, it is the biggest financial scandal in the history of this country, and this economy barely survived it. The American people lost \$15 trillion in value as a result of this economic collapse—\$15 trillion.

So who is accountable? Well, there have never been the kinds of hearings I think there should have been developing a master narrative of what happened and who was responsible and who was accountable and where the buck ought to stop. But we know some of it.

We know who had some responsibility: the Federal Reserve Board.

Mr. Greenspan has since come to Congress and apologized because he said he was mistaken. He thought self-regulation would be just fine. Well, that is not why we have regulators. We have regulators because we know self-regulation does not work. The free market system is wonderful, but you need effective regulators who take a look at what is going on and call the fouls and blow the whistle when they see the fouls.

We went through a period where it was, "Katy, bar the door," do anything you like, and that is what happened. The big banks took leverage from 10 times capital to 30 times capital. They began selling derivatives and credit default swaps and, pretty soon, synthetic derivatives, which were just instruments of gaming, and nobody seemed to care.

At the same time, in another area of financial enterprise, we began to see the development of this new, aggressive orgy in mortgage scams to say to people: If you can't afford to buy a home, we have a mortgage for you. If you have bad credit, we have a mortgage for you. If you have been bankrupt—slow pay, no pay—come to us; we will help you buy a home. By the way, everybody was getting big fees. They wrapped it into a security, sold the security from the mortgage bank to a hedge fund, to an investment bank, and everybody knew better. Pretty soon, the whole thing collapsed, and the American people were told: Now you pay the cost. You pay the cost to clean up this mess.

Well, at every step along the way, the Federal Reserve Board had a responsibility. Bad behavior by brokers, bad behavior by mortgage banks—they had a responsibility to oversee those things. And today we read that synthetic derivatives are now being pushed by Bank of America and Morgan Stanley. So what is the Federal Reserve Board doing about that? What about that buildup of additional bubbles of risk? Does anybody care? Is there anybody who is going to do anything about that?

Mr. Bernanke is a good guy, but the fact is, he is part of the crowd that I think helped cause these problems. I think—and I have said candidly—during the darkest period, where there was the question of whether this economy would completely collapse, Mr. Bernanke made some fine decisions. I do not think he is a bad person at all. But I do not think he—by the way, this would apply to some others in areas of responsibility—I do not think he comes from the culture to say that this whole set of activities has to change and change now and change aggressively.

Let me complete my thought by simply saying that I understand how important banking is. I understand how important investment banking is. I understand the financing system of our country is important and needs to be

strong. I am not suggesting that somehow you can finance all the things we want to do in our country out of somebody's garage. That is not my point. My point is, however, there is the right way and the wrong way to construct a system of financing.

We have, over 200 years, seen this back-and-forth between those who produce and those who finance production. Sometimes one has the edge in terms of strength and power, and sometimes the other does. In the last 20 or 30 years, in my judgment, those who finance production have really been pulling the strings in this country as opposed to those who produce. That is why we have fewer good jobs in this country, and it is why we see more and more of the profits and more and more of the gross incomes that swell the paychecks of a lot of people at the top coming from investment banking and some of the biggest financial firms in the country. I do not think that is healthy for the country, as a matter of fact.

So I voted against Mr. Bernanke. I voted for cloture because I am not somebody who wanted to prevent a vote on it. But I did decide long ago that I was not going to be supportive.

Let me make one final point. That is this: Mr. Bernanke, during the height of the crisis, opened, for the first time in history, the Federal Reserve Board to give direct loans to investment banks—the first time ever they have given direct loans to commercial banks but never before to investment banks. He opened the window to say we are going to give direct loans to investment banks. My guess is trillions of dollars went out in direct loans. In my judgment, the American people and the Congress have a responsibility to know who got those loans, how much, and what were the terms. We have written to the Chairman of the Federal Reserve Board—myself, Senator GRASSLEY, and eight others—to say: You now have a responsibility to tell us who got that money and what were the terms. His answer to us was: I have no intention of telling you.

That is not acceptable to me and should not be acceptable to the Congress or to the American people, and that is another reason that I would not advance this nomination.

Madam President, I yield the floor, and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### TRIBUTE TO FORMER SENATOR CHARLES "MAC" MATHIAS

Mr. CARDIN. Madam President, I take this time to talk about former

Senator Charles "Mac" Mathias who represented Maryland in the Senate for three terms and whose passing on Monday was a real loss for Maryland and our Nation.

Mac Mathias was a true statesman in the best sense of the word. He became a voice for those who had no voice. He fought for better conditions for working people, and he took bold, principled stands that were not always popular with the prevailing political sentiment.

Mac Mathias was one of my heroes, and I considered him a friend and adviser. He was first elected to Congress in 1960, and he lived through some of the most turbulent times of the 20th century, including the struggle for civil rights, the Vietnam war, and the Watergate scandal. Mac's strong, principled stand garnered respect from both sides of the aisle, prompting then-majority leader Mike Mansfield to characterize Mac as "the conscience of the Senate."

Mac Mathias was often at odds with his own party. In 1970, for instance, he denounced the U.S. military incursion into Laos, condemned the Watergate scandal, and worked tirelessly for campaign finance reform. His outspokenness earned him a place on President Nixon's enemies list.

Mac was an important supporter of the civil rights movement, helping to craft an open housing law. In 1965 he traveled to Selma, AL, to visit Dr. Martin Luther King, Jr., who was then in jail. In 1986 at a farewell party for Senator Mathias at the Baltimore Convention Center, Benjamin L. Hooks, the president of the NAACP said: "I say thank God for Mac Mathias."

Mac was an outstanding advocate for Maryland in Congress. Proud of his Frederick roots and committed to the environment, he proposed legislation to protect the Chesapeake Bay, Antietam National Battlefield, and Assateague Island. He also was the primary sponsor of the bill that created the C&O Canal National Historical Park.

Mac was a tireless advocate for fair elections. In the 110th Congress, he traveled to Washington to help lobby fellow Republicans for a bill to combat election fraud. He was a leader for campaign finance reform—a subject Congress will have to revisit in the wake of the majority's decision last week in *Citizens United v. Federal Election Commission*.

He once remarked:

No problem confronting our nation today is greater than that of our steadily eroding confidence in our political system.

He was so right. He understood that democracy is dependent on inclusion and on citizens who participate in the process and who have confidence that their views will be heard and fairly considered.

Today, I urge my colleagues to pause for a moment to remember a gentleman from Maryland who cared deeply for our Nation and understood that

our democracy depends on strong leaders who have courage, intelligence, and integrity. Mac Mathias was such a leader.

(The further remarks of Mr. CARDIN pertaining to the introduction of S. 2967 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Michigan is recognized.

#### AFGHANISTAN/PAKISTAN TRIP

Mr. LEVIN. Madam President, I recently returned from a trip to Pakistan and Afghanistan with Senator AL FRANKEN. We heard a great deal of troubling news out of Afghanistan over the past few months. Casualties have increased and the political situation has been unsettled. Based on what we saw and heard during our trip, I am somewhat more optimistic that we will succeed in Afghanistan. I am a lot more optimistic now than after my last visit to Afghanistan in September. Success, to me, is defined as preventing the Taliban from returning to power at the same time we strengthen the Afghan security forces to take responsibility for Afghan security in order to ensure stability in Afghanistan.

Over the course of 3 days, we met with key civilian and military leaders in both Pakistan and Afghanistan.

In Pakistan, we met with Pakistan Prime Minister Gilani; Army Chief of Staff Kayani; and a leader from the opposition party, Ahsan Iqbal. Pakistan has taken some steps to take on elements of the Pakistan Taliban and al-Qaida but has been for the most part unwilling to take on the Afghan Taliban which uses Quetta in the south of Pakistan and North Waziristan in Pakistan's federally administered tribal areas as safe havens and to attack Afghanistan.

In Afghanistan, we met with U.S. Ambassador Karl Eikenberry; GEN Stanley McChrystal, Commander of the NATO-led International Security Assistance Force, or ISAF; LTG David Rodriguez, Commander of the ISAF Joint Command; LTG William Caldwell, who leads the NATO Training Mission in Afghanistan; and British MG Nick Carter, Commander of ISAF forces in Regional Command South. We also met with key Afghan officials, in particular President Karzai, Minister of Defense Wardak; and Minister of the Interior Atmar. Outside Kabul, we traveled to bases in Kandahar province, where we met with Canadian and American ISAF troops who are fully embedded in a partnership, i.e., living side-by-side with Afghan security forces.

Our men and women in uniform are performing magnificently. We visited with our troops in the field in Kandahar, and they are living and operating in a difficult environment with only basic accommodations. Yet their morale is high and they are eager to carry out their mission. And they have some of the best leadership our military has to offer in ISAF Commander

GEN Stanley McChrystal, Lieutenant General Rodriguez, and Lieutenant General Caldwell. On the civilian side, Ambassador Karl Eikenberry and his team are putting in place the diplomatic and technical expertise in Kabul and the field to match our military effort.

One reason I am more optimistic now than when I visited Afghanistan in September is our counterinsurgency strategy is taking hold. Our troops are comfortable with the new focus on securing the Afghan people. This requires that our troops remain with the Afghan people and not just clearing towns and villages of Taliban and then leaving the Afghans to fend for themselves when the Taliban return. Our troops understand and embrace this people-centered approach. As British MG Nick Carter, Commander of the coalition forces in the south, said:

If we show confidence and mutual trust, the population will look after us.

The Afghan people are more optimistic than they have been in the recent past. A recent ABC News survey found that 70 percent of the Afghans polled said Afghanistan is headed in the right direction, a significant jump from a year ago. Over 60 percent of Afghans expect their children will have a better life. The Taliban remain extremely unpopular, and 68 percent of Afghans continue to support the presence of our troops in their country.

I have long been convinced that our principal mission in Afghanistan should be training the Afghan security forces. That drove my belief that we should not focus on adding more U.S. combat forces, except where we needed to train, equip, and support Afghan security forces.

As I put it when the President was considering additional combat forces, I supported a show of commitment but said commitment could be shown by additional trainers and support personnel, along with a flow of equipment to Afghan forces. I expressed then and believe now our major mission should be a surge of Afghan forces to take on the Taliban. Afghan security forces will ultimately win or lose the long battle with the Taliban. Our support will help, but our growing presence has a downside: a growing footprint, which is the physical and rhetorical propaganda target for the Taliban.

We heard in our conversations that President Obama's West Point speech in December has had a tangible, positive impact in ways that I believe are the most significant in Afghanistan. According to LTG Bill Caldwell, the head of our NATO training command, the number of new recruits signing up for the Afghan Army has skyrocketed from 3,000 in November to over 11,000 recruits in training today. The training command has had to turn recruits back because they didn't have enough trainers on hand. Lieutenant General Caldwell told us, forcefully and clearly, that what energized the Afghan leadership to call for and to reach out to new

recruits was the July 2011 date President Obama set for the beginning of reductions in U.S. troops in Afghanistan. Even more than the pay increase, which was announced for Afghan troops, Lieutenant General Caldwell said setting that date by President Obama made clear to the Afghan Government and to the Afghan people that President Obama means business when he says our presence in Afghanistan is not an open-ended commitment. Afghan leaders became focused on planning for the shift in principal responsibility from coalition forces to their forces that is highlighted by that July 2011 date, and they took urgent steps to increase recruitment to the Afghan Army. While it is too early to determine if the surge in U.S. combat forces will have the effect President Obama and General McChrystal intend, it is not too early, in other words, to see a positive effect toward accomplishing the mission of strengthening and training the Afghan Army.

A key to the success of that mission will be partnering with the Afghan security forces. In Regional Command South's Kandahar area, which we visited, coalition and Afghan units are partnering on a one-to-one basis at all levels, from planning at the headquarters down to operations at the platoon level, and Afghans are taking the lead in operations. When I visited Helmand Province in the south in September, there were about five U.S. marines for every one Afghan soldier. In the coming months, additional Afghan forces will be arriving in Helmand so, by April, coalition and Afghan units will be partnered on a one-to-one basis as they conduct the key mission of providing security in the Helmand River Valley. We were informed Afghan forces will be leading that vital and dangerous mission.

Senator FRANKEN and I saw up close how partnering of coalition and Afghan forces is being put into operation. This is not just about joint operations, though that is part of it. It is about Afghan and coalition troops living together and integrating their daily lives. This partnering is at the heart of our troops' mission, which is to prepare Afghan security forces to take responsibility for their nation's security. Some fully integrating partnering in the field is already occurring. General Rodriguez promised us he will get data on how many of the units in the field that are planning and operating with coalition units are fully integrated and how often and how many Afghan units are leading significant operations. While we didn't need more combat troops for the partnering mission—the shortfall being in the number of Afghan troops—the increase in Afghan units partnering with us is a significant advance.

Our military leaders often describe our counterinsurgency doctrine as shape, clear, hold, and build. But this falls short by one key goal. To shape, clear, hold, and build must be added

“transition,” meaning our goal must be to transition responsibility for Afghanistan's security to their security forces. The commanders in the field we talked to get this, and their fully integrated partnering with Afghan security forces is the key to this transition.

While I am pleased with the speed with which partnering is occurring in the field, I am disappointed with the shortfall in trainers needed for the Afghan Army and police. Currently, only 37 percent of the required U.S. and NATO trainers for building the Afghan Army and police are on hand in Afghanistan or, numerically, 1,574 out of a requirement for more than 4,235 trainers. Lieutenant General Caldwell's training command has been promised the first 1,000 of the 30,000 U.S. soldiers flowing into the theater with that surge, and 150 of that 1,000 have already arrived. At the same time, NATO countries remain 90 percent short of meeting the ISAF mission requirements for trainers with less than 200 non-U.S. trainers deployed against a non-U.S. NATO commitment of about 2,000. Only 200 have arrived on the scene. Another 200 NATO trainers were pledged by NATO members in December but without a timeline for when those trainers would arrive in theater. That is simply unacceptable. Those NATO countries that are either unwilling or unable to send additional combat troops into the fight in Afghanistan should be able to help provide trainers for basic training who operate away from the frontlines. Lieutenant General Caldwell told us, any well-trained U.S. or coalition soldier could instruct Afghan soldiers in the 8-week course of basic training. A top priority for our NATO allies at the London conference, which I believe is this week, needs to be closing the gap in trainers for the Afghan Army and police.

Another area where there has been progress is on equipping the Afghan security forces, and that is critical to accelerating the growth of the Afghan Army and police.

The training command reports that the equipment requirements for the Army and police have been identified and listed, and actions are underway to meet those needs, including with equipment coming out of Iraq as U.S. forces draw down there. This month, equipment began to flow from the Iraq theater to Afghanistan, and Lieutenant General Caldwell's staff expects that over 250 of over 1,300 humvees from Iraq will begin to arrive this month to meet the needs of the Afghan police. This was made possible by the language in the Fiscal Year 2010 National Defense Authorization Act which authorizes the transfer of nonexcess as well as excess defense equipment from Iraq to Afghanistan as U.S. forces draw down in Iraq.

Finally, relative to plans for the reintegration of lower level Taliban fighters, the Karzai government has been working closely with General McChrystal's staff, under the leader-

ship of a British major general, to construct a plan offering incentives to low- and mid-level Taliban fighters who are willing to lay down their weapons and recognize the Afghan Government's authority. Incentives would include amnesty and jobs programs for reintegrating former fighters. President Karzai has said he will be ready to issue this plan within a month or so, and U.S. officials expect to be fully supportive. It will take a few months after that to make the plan operational. While there is apparently no progress to negotiate with higher level Taliban to end the violence and become politically active, it does not reduce the need to chip away at that lower level Taliban group.

We read in the press today that progress is being made, as a matter of fact, with local leaders in Afghanistan in that endeavor.

In conclusion, we saw some signs of progress on our visit in a number of critical ways—in training and equipping Afghan security forces; in partnering closely in the field with the Afghan security forces; in a perception and reality of optimism among the military, civilian officials, and the Afghan people; and in devising a plan for reintegrating Taliban fighters who lay down their arms. We have the right strategy and mission for stabilizing the security situation and transitioning responsibility for Afghanistan's future to the Afghan Army and people. While we are on the right track now, we have a long way to go before we can feel confident that the tide has turned.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2009

Mr. REID. Madam President, this has been a long time in coming—I think 7 or 8 months—and I have had the distinguished Republican leader contact me on more than one occasion asking when we were going to be able to move this bill. I appreciate his continuing to press to move this bill forward. We are at a point now where we think we have an opportunity to complete this today.

I also want to express my appreciation to my friend from the class of 1982 in the House of Representatives, JOHN MCCAIN, who has worked on this as hard as anyone and has pushed this as much as anyone, for his understanding as to how we should move forward.

So, Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calender No. 215, S. 2799; that the bill be

read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. MCCAIN. Madam President, I reserve the right to object, though I will not object, but I just want to point out the importance of this legislation. I think it deserves a rollcall vote. In discussions with the majority leader and the Republican leader, we will hopefully get a rollcall vote on the conference report.

This situation in Iran is terrible, and it is worsening. People are dying in the streets of Iran as we speak. The amendment I had proposed and that I had hoped for—and maybe we can have the conferees include it—would have required the President to draw up a list of persons in Iran who have committed human rights abuses or actions of violence against Iranian civilians engaging in peaceful political activity. The amendment I would have proposed would require that the list be made public so the enemies and oppressors of the Iranian people can't hide from their crimes—the world would know their names—and then we could impose visa bans, asset freezes, financial and banking sanctions, et cetera.

In the streets of Iran today the Iranian students are chanting: Obama, Obama, are you with us or are you with them? I appreciate the President's recent statements in support of democracy in Iran. I am pleased to hear that. I am pleased to see articles, such as this one in *Newsweek* magazine—“Enough Is Enough”—and other support for serious action against Iran that some months ago did not support such action.

The time of the majority leader and the Republican leader is valuable, so I would just summarize by saying: This is an important issue, Madam President. We have a country on the road to acquisition of nuclear weapons. We have brutality and oppression in the streets. We have unspeakable brutality taking place in the prisons, and people have been killed. A young woman by the name of Neda bled to death on the street of Tehran before the entire world.

So I hope we will be able to impose these and other necessary actions against this tyrannical, oppressive, brutal regime in Iran that I think is coming apart. We want to be on their side, and we want the Iranian people to know we are on their side.

I appreciate the accommodation of the majority leader as well as the Republican leader, and I know they share my commitment, as does my esteemed and wonderful friend from Connecticut, Senator LIEBERMAN.

So I will not object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. The Senator from Arizona has the assurance of the two leaders—REID and MCCONNELL—that there will

be a vote when this matter comes back from conference, and I am committed to getting it back just as quickly as we can.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Obviously, I will not be objecting. I just want to associate myself with the remarks of the Senator from Arizona and to thank him, as well as Senator LIEBERMAN, for their involvement in this issue, as well as the majority leader, and just make one comment.

Frequently, these kinds of unilateral sanction measures make little or no difference. This measure, however, is crafted in such a way that it could actually become effective, with America alone not having to depend on the cooperation of the other countries that tend to be less concerned about whether Iran ultimately becomes armed with nuclear weapons.

So this is an important piece of legislation, as the majority leader said, as Senator MCCAIN has said, and Senator LIEBERMAN has said. It can actually make a difference.

The time to act on this measure is long overdue.

A year ago, the administration came into office with the idea it would try to engage Tehran diplomatically in order to get it to halt its uranium enrichment program. And yet the past year has shown us that the Iranian regime is intent on acquiring the ability to develop a nuclear weapon. This is now abundantly clear.

Our straightforward proposal to provide Iran with nuclear fuel for civilian purposes in exchange for its stockpile of low enriched uranium failed to produce any concessions.

The Iranian regime has shown no interest in limiting its nuclear ambitions. And an entire year was lost as Iran moved closer and closer to its goal.

Some recent highlights from that lost year:

In September, the world learned of Iran's covert uranium enrichment facility in Qom.

That same month, Iran test fired a series of medium and longer range missiles that put U.S. bases in the gulf and our ally, Israel, within range.

In October, the U.N. Security Council and Germany offered to enrich Iran's uranium abroad—an offer that was met by more delay and obfuscation by Tehran.

Deadlines came and went. And just a few days ago, the U.N. Security Council failed to agree on a new round of sanctions.

So here we are, a year later. And what has been the result of diplomatic engagement?

Iran is closer to realizing its nuclear aspirations, and the U.S. has nothing to show for the outreach.

And here is what is at stake:

Standing by and permitting Tehran to satisfy its nuclear ambitions would pose a grave threat to American inter-

ests in the Middle East and South Asia. The Iranian government is already a profoundly destabilizing influence in the region. It supports proxies in Iraq and Afghanistan that have killed U.S. and allied troops. It has threatened to wipe one of our closest allies, Israel, off the map. It supports terrorist organizations like Hezbollah and Hamas. It ruthlessly suppresses its own citizens for peaceful demonstrations.

If the Obama administration will not take action against this regime, then Congress must.

That is why we are proposing the Iran Refined Petroleum Sanctions Act.

This act would direct sanctions at one of Iran's biggest vulnerabilities: its low level refining capacity.

This is a point of leverage we must use sooner rather than later. Time is of the essence.

This legislation cleared the Republican side of the aisle several weeks ago.

We are eager for this measure to pass.

So I urge the Democratic leadership to call this legislation up immediately.

We have lost a year already. We can't afford any further delay.

I urge my colleagues to pass this bill.

Mr. DODD. Madam President, today we consider important legislation to confront a serious threat to the security of the U.S., of our close ally Israel, and of our other allies in the Middle East and Europe—the prospect of a nuclear-armed Iran. This is one of the most serious foreign policy challenges facing the United States today.

Before we move forward on this measure, let me outline briefly where we have been. In 2008, after careful consideration, the Banking Committee reported out a bipartisan bill to put pressure on the Iranian regime to come clean on its nuclear program, and end its illicit nuclear activities. Unfortunately, that bill never was considered on the Senate floor because of the obstruction of a handful of Senators.

In recent months, all of us have been deeply troubled to see the Iranian regime violently punishing its own citizens for pressing for fair elections.

And we have watched with growing concern the activities of the leaders of this troubled regime, including the continuing repression of their people, their deception about the previously secret nuclear enrichment facility at Qom, and their more recent threats to expand substantially Iran's uranium enrichment activity, in defiance of the demands of the international community and the U.N. Security Council.

Last fall, the committee held additional hearings, where we considered the views of a wide range of outside witnesses, and relevant administration officials, on policy options toward Iran. Senator SHELBY and I then worked with our committee colleagues to craft a comprehensive, bipartisan bill that was reported out of the Banking Committee unanimously in late October, by a vote of 23-0. The bill is comprehensive, and includes tougher sanctions;

provisions which enable divestment by States and local governments from firms working in Iran's energy sector; and measures to combat the black market diversion of sensitive technology to Iran. On December 15, the House acted to approve overwhelmingly a more limited package of sanctions. I am pleased we will be able to finally act today on this comprehensive measure, also with the overwhelming support of this body.

Madam President, when he took office, President Obama adopted a two-track policy of engagement backed by the prospect of further sanctions, and I have supported his approach. He has worked tirelessly with our allies to try to bring Iran's leaders to the table to negotiate an end to their illicit nuclear activities or, failing that, to impose a range of new sanctions in hopes of changing Iran's behavior through more coercive diplomatic efforts.

Our legislation strengthens what has come to be known as the "pressure track." Today we must send a clear signal to Iran's leaders that if they continue to defy the will of the international community, our Nation and other nations are prepared to confront them with tough new sanctions. I believe that the administration shares this conviction and applaud their work with our allies to develop multilateral agreements on a powerful new set of sanctions, should ongoing diplomatic efforts toward Iran fall short.

We must convince Iran's leaders that they face a clear choice. They can end the suppression of their people, come clean on their nuclear program, suspend enrichment, and stop supporting terrorists around the world. Or they can face sustained, progressively intensifying multilateral economic and diplomatic pressure—including tougher sanctions—and deepen their international isolation. And if they continue to refuse, they will then face the unilateral sanctions contained in this bill.

Our approach acknowledges the gross human rights abuses that Iran's people continue to suffer at the hands of Iran's security forces and the widening chasm that has opened between the regime and the people of Iran, as we witnessed again recently in the violent reaction of security forces to peaceful demonstrations. It contains a number of important human rights provisions, including Senator SCHUMER's measure to impose a sweeping ban on U.S. Government contracts on companies which provide communications monitoring or jamming technology to the government of Iran. Iran has reportedly expanded its monitoring and suppression activities, employing them widely again this month. This bill makes clear that those who help Iran's government to suppress the everyday speech and internet communications of its people will be punished. That same point was made in the resolution adopted by the Senate just before Christmas, which I cosponsored, expressing our support for the human

rights of the Iranian people. Senator MCCAIN has also raised with me today the prospect of his offering some additional human rights language, and I intend to work with him as we move toward conference on that issue.

Our bill also takes direct aim at Iran's illicit nuclear activities. It is clear that Iran's leaders are beginning to feel the heat of increased international pressure and the specter of biting sanctions, but more must be done. Following its public disclosure, Tehran has provided international inspectors with access to the nuclear site at Qum, but has taken other steps to limit cooperation with the IAEA. Iran's government had committed to sending most of its low-enriched uranium abroad for processing for medical purposes in October, but now rejects that approach and has decided to further provoke the international community by expanding its enrichment activities.

I suspect that only the prospect of intensified, sustained pressure by a coalition of countries will prompt these leaders to reconsider their position.

In order to maximize that pressure, just as we did last year, we have incorporated a number of ideas from our Senate colleagues into one committee bill.

Senators BAYH, LIEBERMAN, and KYL proposed penalties on companies that support Iran's import of refined petroleum products or bolster its domestic capacity.

Senators BROWNBACK and CASEY proposed authorizing state and local governments to divest from companies involved in critical business with Iran.

As I mentioned, Senator SCHUMER proposed banning government contracts to firms that provide technology used by the Iranian regime to monitor or disrupt communications of its citizens with one another and the outside world.

Senator MENENDEZ proposed targeting sanctions against Iran's Revolutionary Guard Corps, its affiliates and front organizations for supporting terrorism and contributing to proliferation, and Senator JOHANNES pressed for renewed targeting of Iran's proxy Hezbollah in the same way. Senator BUNNING urged tighter reporting requirements on sanctions.

In addition, we have incorporated our own proposals to tighten our trade embargo, enhance Treasury's mandate to freeze assets tied to terrorism and proliferation, crack down on the black market export of technology to the regime, expand the scope of other sanctions, and take other measures.

Madam President, instead of finalizing the preliminary agreement on low-enriched uranium struck between Iranian negotiators and the P5 + 1 group in October, Iran's leadership now appears to have definitively rejected that offer, and has continued a pattern of belligerent behavior that is almost certain to result in tougher sanctions being imposed soon.

While some have argued that increased economic sanctions are unlikely to change the behavior of Iran's leaders, I believe a comprehensive approach coordinated with our allies—including the Europeans, moderate Arab states throughout the Middle East, India, and Russia and China who hold great sway with Iran's leaders—must contain a tough sanctions component if it is to succeed. I recognize that sanctions alone are not sufficient, and that multilateral sanctions are likely to be more effective than those we impose unilaterally.

Sanctions must be used as effective leverage, undertaken as part of a coherent, coordinated, comprehensive diplomatic and political strategy which tips the scale such that it is more beneficial for Iran to forswear its nuclear weapons ambitions and other behaviors that are undermining regional peace and stability.

We have worked closely with administration officials as we developed and refined this measure. They support much of what is in the bill. Even so, I recognize there are still some lingering concerns. Before we left for the holidays, the State Department sent a letter to Foreign Relations Committee Chairman KERRY, describing some of these concerns. They sought a general exemption from sanctions for companies from countries that are closely cooperating with the U.S. on multilateral efforts on Iran, a mechanism which could provide an additional incentive for certain countries to work with us on imposing tougher sanctions. I am open to discussing such an incentive mechanism as we move toward conference, as long as it would contain strict criteria for the President to make a determination about what, precisely, constitutes "close cooperation." There have been a number of discussions in recent weeks on how to craft such an exception, and we have made some progress. There are diplomatic efforts underway, led by the U.S. and others, to achieve a united approach at the U.N. Security Council on sanctions. I believe we can come to some agreement with the other body, and with the administration, on the remaining issues on this bill. I know that the administration shares our belief that we must augment current economic sanctions, and will continue to work with us on an appropriate mix of pressure tools as this process moves forward and the final version of the bill is developed.

Madam President, ultimately, I expect that different layers of additional sanctions—from the U.N. Security Council, from a U.S.-led coalition of like-minded allies, and unilaterally from the U.S.—may prove necessary if we are to actually have a powerful effect on Iran's behavior. And even then there are no guarantees that they will be persuaded to reverse course. I hope our legislation will complement and reinforce ongoing diplomatic efforts, and send a clear signal to Iran's leaders of



what is in store if they continue to flout the will of the international community.

I am grateful to Senator SHELBY and all of my colleagues on the Banking Committee, and those off the committee who have worked so hard in recent months to ensure that ours is a smart, targeted, yet comprehensive approach to Iran policy. Overwhelming Senate support for passage of this bill will send a clear signal of our resolve to bring an end to Iran's illicit nuclear activities, as the President continues to build a broad coalition of nations who share our concerns about Iran, and who are willing to join with us in imposing a tough, comprehensive regime of new sanctions. I know there are still some differences to be worked out with the House version, which is less comprehensive, and I look forward to working with my colleagues to develop a final version that will enjoy broad bipartisan support within both bodies, and the support of the President, as soon as possible. I thank my colleagues.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The question is on the passage of the bill.

The bill (S. 2799) was passed, as follows:

S. 2799

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Sense of Congress regarding illicit nuclear activities and violations of human rights in Iran.

#### TITLE I—SANCTIONS

- Sec. 101. Definitions.
- Sec. 102. Expansion of sanctions under the Iran Sanctions Act of 1996.
- Sec. 103. Economic sanctions relating to Iran.
- Sec. 104. Liability of parent companies for violations of sanctions by foreign subsidiaries.
- Sec. 105. Prohibition on procurement contracts with persons that export sensitive technology to Iran.
- Sec. 106. Increased capacity for efforts to combat unlawful or terrorist financing.
- Sec. 107. Reporting requirements.
- Sec. 108. Sense of Congress regarding the imposition of sanctions on the Central Bank of Iran.
- Sec. 109. Policy of the United States regarding Iran's Revolutionary Guard Corps and its affiliates.
- Sec. 110. Policy of the United States with respect to Iran and Hezbollah.
- Sec. 111. Sense of Congress regarding the imposition of multilateral sanctions with respect to Iran.

#### TITLE II—DIVESTMENT FROM CERTAIN COMPANIES THAT INVEST IN IRAN

- Sec. 201. Definitions.

- Sec. 202. Authority of State and local governments to divest from certain companies that invest in Iran.
- Sec. 203. Safe harbor for changes of investment policies by asset managers.
- Sec. 204. Sense of Congress regarding certain ERISA plan investments.

#### TITLE III—PREVENTION OF TRANSHIPMENT, REEXPORTATION, OR DIVERSION OF SENSITIVE ITEMS TO IRAN

- Sec. 301. Definitions.
- Sec. 302. Identification of locations of concern with respect to transshipment, reexportation, or diversion of certain items to Iran.
- Sec. 303. Destinations of Possible Diversion Concern and Destinations of Diversion Concern.
- Sec. 304. Report on expanding diversion concern system to countries other than Iran.

#### TITLE IV—EFFECTIVE DATE; SUNSET

- Sec. 401. Effective date; sunset.

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The illicit nuclear activities of the Government of Iran and its support for international terrorism represent threats to the security of the United States, its strong ally Israel, and other allies of the United States around the world.

(2) The United States and other responsible countries have a vital interest in working together to prevent the Government of Iran from acquiring a nuclear weapons capability.

(3) The International Atomic Energy Agency has repeatedly called attention to Iran's illicit nuclear activities and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the Government of Iran to cease those activities and comply with its obligations under the Treaty on Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the “Nuclear Non-Proliferation Treaty”).

(4) The serious and urgent nature of the threat from Iran demands that the United States work together with its allies to prevent Iran from acquiring a nuclear weapons capability.

(5) The United States and its major European allies, including the United Kingdom, France, and Germany, have advocated that sanctions be strengthened should international diplomatic efforts fail to achieve verifiable suspension of Iran's uranium enrichment program and an end to its illicit nuclear activities.

(6) There is an increasing interest by States, local governments, educational institutions, and private institutions to seek to disassociate themselves from companies that conduct business activities in the energy sector of Iran, since such business activities may directly or indirectly support the efforts of the Government of Iran to achieve a nuclear weapons capability.

(7) Black market proliferation networks continue to flourish in the Middle East, allowing countries like Iran to gain access to sensitive dual-use technologies.

(8) The Government of Iran continues to engage in serious, systematic, and ongoing violations of human rights and religious freedom, including illegitimate prolonged detention, torture, and executions. Such violations have increased in the aftermath of the presidential election in Iran on June 12, 2009.

#### SEC. 3. SENSE OF CONGRESS REGARDING ILLICIT NUCLEAR ACTIVITIES AND VIOLATIONS OF HUMAN RIGHTS IN IRAN.

It is the sense of Congress that—

(1) international diplomatic efforts to address Iran's illicit nuclear efforts and support for international terrorism are more likely to be effective if the President is empowered with the explicit authority to impose additional sanctions on the Government of Iran;

(2) additional measures should be adopted by the United States to prevent the diversion and transshipment of sensitive dual-use technologies to Iran;

(3) the concerns of the United States regarding Iran are strictly the result of the actions of the Government of Iran;

(4) the people of the United States—

(A) have a long history of friendship and exchange with the people of Iran;

(B) regret that developments in recent decades have created impediments to that friendship;

(C) hold the people of Iran, their culture, and their ancient and rich history in the highest esteem; and

(D) remain deeply concerned about continuing human rights abuses in Iran;

(5) the President should—

(A) continue to press the Government of Iran to respect the internationally recognized human rights and religious freedoms of its citizens;

(B) identify the officials of the Government of Iran that are responsible for continuing and severe violations of human rights and religious freedom in Iran; and

(C) take appropriate measures to respond to such violations, including by—

(i) prohibiting officials the President identifies as being responsible for such violations from entry into the United States; and

(ii) freezing the assets of those officials; and

(6) additional funding should be provided to the Secretary of State to document, collect, and disseminate information about human rights abuses in Iran, including serious abuses that have taken place since the presidential election in Iran conducted on June 12, 2009.

#### TITLE I—SANCTIONS

##### SEC. 101. DEFINITIONS.

In this title:

(1) AGRICULTURAL COMMODITY.—The term “agricultural commodity” has the meaning given that term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” has the meaning given that term in section 14(2) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(3) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(4) FAMILY MEMBER.—The term “family member” means, with respect to an individual, the spouse, children, grandchildren, or parents of the individual.

(5) INFORMATION AND INFORMATIONAL MATERIALS.—The term “information and informational materials” includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(6) INVESTMENT.—The term “investment” has the meaning given that term in section 14(9) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(7) IRANIAN DIPLOMATS AND REPRESENTATIVES OF OTHER GOVERNMENT AND MILITARY OR QUASI-GOVERNMENTAL INSTITUTIONS OF IRAN.—The term “Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran” has the meaning given that term in section 14(11)

of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(8) **MEDICAL DEVICE.**—The term “medical device” has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(9) **MEDICINE.**—The term “medicine” has the meaning given the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

#### SEC. 102. EXPANSION OF SANCTIONS UNDER THE IRAN SANCTIONS ACT OF 1996.

(a) **IN GENERAL.**—Section 5 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note) is amended by striking subsection (a) and inserting the following:

“(a) **SANCTIONS WITH RESPECT TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN, PRODUCTION OF REFINED PETROLEUM PRODUCTS IN IRAN, AND EXPORTATION OF REFINED PETROLEUM PRODUCTS TO IRAN.**—

“(1) **DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN.**—

“(A) **IN GENERAL.**—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6(a) with respect to a person if the President determines that the person, with actual knowledge, on or after the effective date of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009—

“(i) makes an investment described in subparagraph (B) of \$200,000 or more; or

“(ii) makes a combination of investments described in subparagraph (B) in a 12-month period if each such investment is at least \$5,000,000 and such investments equal or exceed \$20,000,000 in the aggregate.

“(B) **INVESTMENT DESCRIBED.**—An investment described in this subparagraph is an investment that directly and significantly contributes to the enhancement of Iran’s ability to develop petroleum resources.

“(2) **PRODUCTION OF REFINED PETROLEUM PRODUCTS.**—

“(A) **IN GENERAL.**—Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) (in addition to any other sanctions imposed under this subsection) with respect to a person if the President determines that the person, with actual knowledge, on or after the effective date of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009, sells, leases, or provides to Iran any goods, services, technology, information, or support described in subparagraph (B)—

“(i) any of which has a fair market value of \$200,000 or more; or

“(ii) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more.

“(B) **GOODS, SERVICES, TECHNOLOGY, INFORMATION, OR SUPPORT DESCRIBED.**—Goods, services, technology, information, or support described in this subparagraph are goods, services, technology, information, or support that could directly and significantly facilitate the maintenance or expansion of Iran’s domestic production of refined petroleum products, including any assistance with respect to construction, modernization, or repair of petroleum refineries.

“(3) **EXPORTATION OF REFINED PETROLEUM PRODUCTS TO IRAN.**—

“(A) **IN GENERAL.**—Except as provided in subsection (f), the President shall impose the sanctions described in section 6(b) (in addition to any other sanctions imposed under this subsection) with respect to a person if the President determines that the person, with actual knowledge, on or after the effective date of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009—

“(i) provides Iran with refined petroleum products—

“(I) that have a fair market value of \$200,000 or more; or

“(II) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more; or

“(ii) sells, leases, or provides to Iran any goods, services, technology, information, or support described in subparagraph (B)—

“(I) any of which has a fair market value of \$200,000 or more; or

“(II) that, during a 12-month period, have an aggregate fair market value of \$1,000,000 or more.

“(B) **GOODS, SERVICES, TECHNOLOGY, INFORMATION, OR SUPPORT DESCRIBED.**—Goods, services, technology, information, or support described in this subparagraph are goods, services, technology, or support that could directly and significantly contribute to the enhancement of Iran’s ability to import refined petroleum products, including—

“(i) underwriting or otherwise providing insurance or reinsurance for the sale, lease, or provision of such goods, services, technology, information, or support;

“(ii) financing or brokering such sale, lease, or provision; or

“(iii) providing ships or shipping services to deliver refined petroleum products to Iran.”

(b) **DESCRIPTION OF SANCTIONS.**—Section 6 of such Act is amended—

(1) by striking “The sanctions to be imposed on a sanctioned person under section 5 are as follows:” and inserting the following:

“(a) **IN GENERAL.**—The sanctions to be imposed on a sanctioned person under subsections (a)(1) and (b) of section 5 are as follows:”; and

(2) by adding at the end the following:

“(b) **ADDITIONAL SANCTIONS.**—The sanctions to be imposed on a sanctioned person under paragraphs (2) and (3) of section 5(a) are as follows:

“(1) **FOREIGN EXCHANGE.**—The President shall, pursuant to such regulations as the President may prescribe, prohibit any transactions in foreign exchange by the sanctioned person.

“(2) **BANKING TRANSACTIONS.**—The President shall, pursuant to such regulations as the President may prescribe, prohibit any transfers of credit or payments between, by, through, or to any financial institution, to the extent that such transfers or payments involve any interest of the sanctioned person.

“(3) **PROPERTY TRANSACTIONS.**—The President shall, pursuant to such regulations as the President may prescribe and subject to the jurisdiction of the United States, prohibit any person from—

“(A) acquiring, holding, withholding, using, transferring, withdrawing, transporting, importing, or exporting any property with respect to which the sanctioned person has any interest;

“(B) dealing in or exercising any right, power, or privilege with respect to such property; or

“(C) conducting any transactions involving such property.”

(c) **REPORT RELATING TO PRESIDENTIAL WAIVER.**—Section 9(c)(2) of such Act is amended by striking subparagraph (C) and inserting the following:

“(C) an estimate of the significance of the conduct of the person in contributing to the ability of Iran to, as the case may be—

“(i) develop petroleum resources, produce refined petroleum products, or import refined petroleum products; or

“(ii) acquire or develop—

“(I) chemical, biological, or nuclear weapons or related technologies; or

“(II) destabilizing numbers and types of advanced conventional weapons; and”

(d) **CLARIFICATION AND EXPANSION OF DEFINITIONS.**—Section 14 of such Act is amended—

(1) in paragraph (13)(B)—

(A) by inserting “financial institution, insurer, underwriter, guarantor, and any other business organization, including any foreign subsidiary, parent, or affiliate thereof,” after “trust,”; and

(B) by inserting “, such as an export credit agency” before the semicolon at the end;

(2) in paragraph (14), by striking “petroleum and natural gas resources” and inserting “petroleum, refined petroleum products, oil or liquefied natural gas, natural gas resources, oil or liquefied natural gas tankers, and products used to construct or maintain pipelines used to transport oil or liquefied natural gas”;;

(3) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(4) by inserting after paragraph (14) the following:

“(15) **REFINED PETROLEUM PRODUCTS.**—The term ‘refined petroleum products’ means diesel, gasoline, jet fuel (including naphthatype and kerosene-type jet fuel), and aviation gasoline.”

(e) **CONFORMING AMENDMENT.**—Section 4 of such Act is amended—

(1) in subsection (b)(2), by striking “(in addition to that provided in subsection (d))”;;

(2) by striking subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

#### SEC. 103. ECONOMIC SANCTIONS RELATING TO IRAN.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, and in addition to any other sanction in effect, beginning on the date that is 15 days after the effective date of this Act, the economic sanctions described in subsection (b) shall apply with respect to Iran.

(b) **SANCTIONS.**—The sanctions described in this subsection are the following:

(1) **PROHIBITION ON IMPORTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), no article of Iranian origin may be imported directly or indirectly into the United States.

(B) **EXCEPTION.**—The prohibition in subparagraph (A) does not apply to imports from Iran of information and informational materials.

(2) **PROHIBITION ON EXPORTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), no article of United States origin may be exported directly or indirectly to Iran.

(B) **EXCEPTIONS.**—The prohibition in subparagraph (A) does not apply to exports to Iran of—

(i) agricultural commodities, food, medicine, or medical devices;

(ii) articles exported to Iran to provide humanitarian assistance to the people of Iran;

(iii) except as provided in subparagraph (C), information or informational materials;

(iv) goods, services, or technologies necessary to ensure the safe operation of commercial passenger aircraft produced in the United States if the exportation of such goods, services, or technologies is approved by the Secretary of the Treasury, in consultation with the Secretary of Commerce, pursuant to regulations promulgated by the Secretary of the Treasury regarding the exportation of such goods, services, or technologies, if appropriate; or

(v) goods, services, or technologies that—

(I) are provided to the International Atomic Energy Agency and are necessary to support activities of that Agency in Iran;

(II) are necessary to support activities, including the activities of nongovernmental

organizations, relating to promoting democracy in Iran; or

(III) the President determines to be necessary to the national interest of the United States.

(C) SPECIAL RULE WITH RESPECT TO INFORMATION AND INFORMATIONAL MATERIALS.—Notwithstanding subparagraph (B)(iii), information and informational materials of United States origin may not be exported directly or indirectly to Iran—

(i) if the exportation of such information or informational materials is otherwise controlled—

(I) under section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2404) (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)); or

(II) under section 6 of that Act (50 U.S.C. App. 2405), to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(ii) if such information or informational materials are information or informational materials with respect to which acts are prohibited by chapter 37 of title 18, United States Code.

(3) FREEZING ASSETS.—

(A) IN GENERAL.—At such time as the United States has access to the names of persons in Iran, including Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran (including Iran's Revolutionary Guard Corps and its affiliates), that satisfy the criteria for designation with respect to the imposition of sanctions under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or are otherwise subject to sanctions under any other provision of law, the President shall take such action as may be necessary to freeze, as soon as possible, the funds and other assets belonging to anyone so named and any family members or associates of those so named to whom assets or property of those so named were transferred on or after January 1, 2009. The action described in the preceding sentence includes requiring any United States financial institution that holds funds and assets of a person so named to report promptly to the Office of Foreign Assets Control information regarding such funds and assets.

(B) ASSET REPORTING REQUIREMENT.—Not later than 14 days after a decision is made to freeze the property or assets of any person under this paragraph, the President shall report the name of such person to the appropriate congressional committees. Such a report may contain a classified annex.

(4) UNITED STATES GOVERNMENT CONTRACTS.—The head of an executive agency may not procure, or enter into a contract for the procurement of, any goods or services from a person that meets the criteria for the imposition of sanctions under section 5 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(C) WAIVER.—The President may waive the application of the sanctions described in subsection (b) if the President—

(1) determines that such a waiver is in the national interest of the United States; and

(2) submits to the appropriate congressional committees a report describing the reasons for the determination.

#### SEC. 104. LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN SUBSIDIARIES.

(a) DEFINITIONS.—In this section:

(1) ENTITY.—The term “entity” means a partnership, association, trust, joint venture, corporation, or other organization.

(2) OWN OR CONTROL.—The term “own or control” means, with respect to an entity—

(A) to hold more than 50 percent of the equity interest by vote or value in the entity; or

(B) to hold a majority of seats on the board of directors of the entity; or

(C) to otherwise control the actions, policies, or personnel decisions of the entity.

(3) SUBSIDIARY.—The term “subsidiary” means an entity that is owned or controlled, directly or indirectly, by a United States person.

(4) UNITED STATES PERSON.—The term “United States person” means—

(A) a natural person who is a citizen, resident, or national of the United States; and

(B) an entity that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own or control the entity.

(b) IN GENERAL.—A United States person shall be subject to a penalty for a violation of the provisions of Executive Order 12959 (50 U.S.C. 1701 note) or Executive Order 13059 (50 U.S.C. 1701 note), or any other prohibition on transactions with respect to Iran imposed under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), if—

(1) the President determines, pursuant to such regulations as the President may prescribe, that the United States person establishes or maintains a subsidiary outside of the United States for the purpose of circumventing such provisions; and

(2) that subsidiary engages in an act that, if committed in the United States or by a United States person, would violate such provisions.

(c) WAIVER.—The President may waive the application of subsection (b) if the President—

(1) determines that such a waiver is in the national interest of the United States; and

(2) submits to the appropriate congressional committees a report describing the reasons for the determination.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (b) shall take effect on the date of the enactment of this Act and apply with respect to acts described in subsection (b)(2) that are—

(A) commenced on or after the date of the enactment of this Act; or

(B) except as provided in paragraph (2), commenced before such date of enactment, if such acts continue on or after such date of enactment.

(2) EXCEPTION.—Subsection (b) shall not apply with respect to an act described in paragraph (1)(B) by a subsidiary owned or controlled by a United States person if the United States person divests or terminates its business with the subsidiary not later than 90 days after the date of the enactment of this Act.

#### SEC. 105. PROHIBITION ON PROCUREMENT CONTRACTS WITH PERSONS THAT EXPORT SENSITIVE TECHNOLOGY TO IRAN.

(a) IN GENERAL.—Notwithstanding any other provision of law, and pursuant to such regulations as the President may prescribe, the head of an executive agency may not enter into or renew a contract for the procurement of goods or services with a person that exports sensitive technology to Iran.

(b) WAIVER.—The President may waive the application of the prohibition under subsection (a) if the President—

(1) determines that such a waiver is in the national interest of the United States; and

(2) submits to Congress a report describing the reasons for the determination.

(c) SENSITIVE TECHNOLOGY DEFINED.—The term “sensitive technology” means hardware, software, telecommunications equipment, or any other technology that the President determines is to be used specifically—

(1) to restrict the free flow of unbiased information in Iran; or

(2) to disrupt, monitor, or otherwise restrict speech of the people of Iran.

#### SEC. 106. INCREASED CAPACITY FOR EFFORTS TO COMBAT UNLAWFUL OR TERRORIST FINANCING.

(a) FINDING.—Congress finds that the work of the Office of Terrorism and Financial Intelligence of the Department of the Treasury, which includes the Office of Foreign Assets Control and the Financial Crimes Enforcement Network, is critical to ensuring that the international financial system is not used for purposes of supporting terrorism and developing weapons of mass destruction.

(b) AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE.—There are authorized to be appropriated to the Secretary of the Treasury for the Office of Terrorism and Financial Intelligence—

(1) \$64,611,000 for fiscal year 2010; and

(2) such sums as may be necessary for each of the fiscal years 2011 and 2012.

(c) AUTHORIZATION OF APPROPRIATIONS FOR THE FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section 310(d)(1) of title 31, United States Code, is amended by striking “such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005” and inserting “\$104,260,000 for fiscal year 2010 and such sums as may be necessary for each of the fiscal years 2011 and 2012”.

#### SEC. 107. REPORTING REQUIREMENTS.

(a) REPORT ON INVESTMENT AND ACTIVITIES THAT MAY BE SANCTIONABLE UNDER IRAN SANCTIONS ACT OF 1996.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing—

(A) a description of—

(i) any foreign investments of \$20,000,000 or more that contribute directly and significantly to the enhancement of Iran's ability to develop petroleum resources made during the period described in paragraph (2);

(ii) any sale, lease, or provision to Iran during the period described in paragraph (2) of any goods, services, technology, information, or support that would facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products; and

(iii) any refined petroleum products provided to Iran during the period described in paragraph (2) and any other activity that could contribute directly and significantly to the enhancement of Iran's ability to import refined petroleum products during that period;

(B) with respect to each investment or other activity described in subparagraph (A), an identification of—

(i) the date or dates of the investment or activity;

(ii) the steps taken by the United States to respond to the investment or activity;

(iii) the name and United States domiciliary of any person that participated or invested in or facilitated the investment or activity; and

(iv) any Federal Government contracts to which any person referred to in clause (iii) are parties; and

(C) the determination of the President with respect to whether each such investment or activity qualifies as a sanctionable offense under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(2) PERIOD DESCRIBED.—The period described in this paragraph is the period beginning on January 1, 2009, and ending on the date on which the President submits the report under paragraph (1).

(b) **SUBSEQUENT REPORTS.**—Not later than 1 year after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the appropriate congressional committees an updated version of the report required under subsection (a) that contains the information required under that subsection for the 180-day period preceding the submission of the updated report.

(c) **FORM OF REPORTS; PUBLICATION.**—A report submitted under subsection (a) or (b) shall be submitted in unclassified form, but may contain a classified annex. The unclassified portion of the report shall be published in the Federal Register.

**SEC. 108. SENSE OF CONGRESS REGARDING THE IMPOSITION OF SANCTIONS ON THE CENTRAL BANK OF IRAN.**

Congress urges the President, in the strongest terms, to consider immediately using the authority of the President to impose sanctions on the Central Bank of Iran and any other Iranian bank engaged in proliferation activities or support of terrorist groups.

**SEC. 109. POLICY OF THE UNITED STATES REGARDING IRAN'S REVOLUTIONARY GUARD CORPS AND ITS AFFILIATES.**

It is the sense of Congress that the United States should—

(1) continue to target Iran's Revolutionary Guard Corps persistently with economic sanctions for its support for terrorism, its role in proliferation, and its oppressive activities against the people of Iran; and

(2) impose sanctions, including travel restrictions, sanctions authorized pursuant to this Act, and the full range of sanctions available to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), on—

(A) any foreign individual or entity that is an agent, alias, front, instrumentality, official, or affiliate of Iran's Revolutionary Guard Corps and is designated for the imposition of sanctions by the President;

(B) any individual or entity who—

(i) has provided material support to Iran's Revolutionary Guard Corps or any of its affiliates designated for the imposition of sanctions by the President; or

(ii) has conducted any financial or commercial transaction with Iran's Revolutionary Guard Corps or any of its affiliates so designated; and

(C) any foreign government found—

(i) to be providing material support to Iran's Revolutionary Guard Corps or any of its affiliates designated for the imposition of sanctions by the President; or

(ii) to have conducted any commercial transaction or financial transaction with Iran's Revolutionary Guard Corps or any of its affiliates so designated.

**SEC. 110. POLICY OF THE UNITED STATES WITH RESPECT TO IRAN AND HEZBOLLAH.**

It is the sense of Congress that the United States should—

(1) continue to counter support received by Hezbollah from the Government of Iran and other foreign governments in response to Hezbollah's terrorist activities and the threat Hezbollah poses to Israel, the democratic sovereignty of Lebanon, and the national security interests of the United States;

(2) impose the full range of sanctions available to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) on Hezbollah, its designated affiliates and supporters, and persons providing Hezbollah with commercial, financial, or other services;

(3) urge the European Union, individual countries in Europe, and other countries to classify Hezbollah as a terrorist organization to facilitate the disruption of Hezbollah's operations; and

(4) renew international efforts to disarm Hezbollah and disband its militias in Lebanon, as called for by United Nations Security Council Resolutions 1559 (2004) and 1701 (2006).

**SEC. 111. SENSE OF CONGRESS REGARDING THE IMPOSITION OF MULTILATERAL SANCTIONS WITH RESPECT TO IRAN.**

It is the sense of Congress that—

(1) in general, multilateral sanctions are more effective than unilateral sanctions at achieving desired results from countries such as Iran;

(2) the President should continue to work with allies of the United States to impose such sanctions as may be necessary to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(3) the United States should continue to consult with the 5 permanent members of the United Nations Security Council and Germany (commonly referred to as the "P5-plus-1") and other interested countries regarding imposing new sanctions with respect to Iran in the event that diplomatic efforts to prevent Iran from acquiring a nuclear weapons capability fail.

**TITLE II—DIVESTMENT FROM CERTAIN COMPANIES THAT INVEST IN IRAN**

**SEC. 201. DEFINITIONS.**

In this title:

(1) **ENERGY SECTOR.**—The term "energy sector" refers to activities to develop petroleum or natural gas resources or nuclear power.

(2) **FINANCIAL INSTITUTION.**—The term "financial institution" has the meaning given that term in section 14(5) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(3) **IRAN.**—The term "Iran" includes any agency or instrumentality of Iran.

(4) **PERSON.**—The term "person" means—

(A) a natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))); and

(C) any successor, subunit, parent company, or subsidiary of any entity described in subparagraph (A) or (B).

(5) **STATE.**—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) **STATE OR LOCAL GOVERNMENT.**—The term "State or local government" includes—

(A) any State and any agency or instrumentality thereof;

(B) any local government within a State, and any agency or instrumentality thereof;

(C) any other governmental instrumentality; and

(D) any public institution of higher education within the meaning of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

**SEC. 202. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO DIVEST FROM CERTAIN COMPANIES THAT INVEST IN IRAN.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States Government should support the decision of any State or local government that for moral, prudential, or reputational reasons divests from, or prohibits the investment of assets of the State or local government in, a person that engages in investment activities in the energy sector of Iran, as long as that country is subject to economic sanctions imposed by the United States.

(b) **AUTHORITY TO DIVEST.**—Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (d) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran described in subsection (c).

(c) **INVESTMENT ACTIVITIES DESCRIBED.**—A person engages in investment activities in Iran described in this subsection if the person—

(1) has an investment of \$20,000,000 or more in the energy sector of Iran, including in a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector in Iran; or

(2) is a financial institution that extends \$20,000,000 or more in credit to another person, for 45 days or more, if that person will use the credit to invest in the energy sector in Iran.

(d) **REQUIREMENTS.**—Any measure taken by a State or local government under subsection (b) shall meet the following requirements:

(1) **NOTICE.**—The State or local government shall provide written notice to each person to which a measure is to be applied.

(2) **TIMING.**—The measure shall apply to a person not earlier than the date that is 90 days after the date on which written notice is provided to the person under paragraph (1).

(3) **OPPORTUNITY FOR HEARING.**—The State or local government shall provide an opportunity to comment in writing to each person to which a measure is to be applied. If the person demonstrates to the State or local government that the person does not engage in investment activities in Iran described in subsection (c), the measure shall not apply to the person.

(4) **SENSE OF CONGRESS ON AVOIDING ERRONEOUS TARGETING.**—It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person engages in investment activities in Iran described in subsection (c).

(e) **NOTICE TO DEPARTMENT OF JUSTICE.**—Not later than 30 days after adopting a measure pursuant to subsection (b), a State or local government shall submit written notice to the Attorney General describing the measure.

(f) **NONPREEMPTION.**—A measure of a State or local government authorized under subsection (b) is not preempted by any Federal law or regulation.

(g) **DEFINITIONS.**—In this section:

(1) **INVESTMENT.**—The "investment" of assets, with respect to a State or local government, includes—

(A) a commitment or contribution of assets;

(B) a loan or other extension of credit; and

(C) the entry into or renewal of a contract for goods or services.

(2) **ASSETS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term "assets" refers to public monies and includes any pension, retirement, annuity, or endowment fund, or similar instrument, that is controlled by a State or local government.

(B) **EXCEPTION.**—The term "assets" does not include employee benefit plans covered

by title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(h) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this section applies to measures adopted by a State or local government before, on, or after the date of the enactment of this Act.

(2) **NOTICE REQUIREMENTS.**—Subsections (d) and (e) apply to measures adopted by a State or local government on or after the date of the enactment of this Act.

**SEC. 203. SAFE HARBOR FOR CHANGES OF INVESTMENT POLICIES BY ASSET MANAGERS.**

(a) **IN GENERAL.**—Section 13(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-13(c)(1)) is amended to read as follows:

“(1) **IN GENERAL.**—Notwithstanding any other provision of Federal or State law, no person may bring any civil, criminal, or administrative action against any registered investment company, or any employee, officer, director, or investment adviser thereof, based solely upon the investment company divesting from, or avoiding investing in, securities issued by persons that the investment company determines, using credible information available to the public—

“(A) conduct or have direct investments in business operations in Sudan described in section 3(d) of the Sudan Accountability and Divestment Act of 2007 (50 U.S.C. 1701 note); or

“(B) engage in investment activities in Iran described in section 202(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009.”.

(b) **SEC REGULATIONS.**—Not later than 120 days after the date of the enactment of this Act, the Securities and Exchange Commission shall issue any revisions the Commission determines to be necessary to the regulations requiring disclosure by each registered investment company that divests itself of securities in accordance with section 13(c) of the Investment Company Act of 1940 to include divestments of securities in accordance with paragraph (1)(B) of such section, as added by subsection (a).

**SEC. 204. SENSE OF CONGRESS REGARDING CERTAIN ERISA PLAN INVESTMENTS.**

It is the sense of Congress that a fiduciary of an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), may divest plan assets from, or avoid investing plan assets in, any person the fiduciary determines engages in investment activities in Iran described in section 202(c) of this Act, without breaching the responsibilities, obligations, or duties imposed upon the fiduciary by section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104), if—

(1) the fiduciary makes such determination using credible information that is available to the public; and

(2) such divestment or avoidance of investment is conducted in accordance with section 2509.08-1 of title 29, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

**TITLE III—PREVENTION OF TRANSSHIPMENT, REEXPORTATION, OR DIVERSION OF SENSITIVE ITEMS TO IRAN**

**SEC. 301. DEFINITIONS.**

In this title:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Financial Services, the Committee on Foreign Affairs, and the

Permanent Select Committee on Intelligence of the House of Representatives.

(2) **END-USER.**—The term “end-user” means an end-user as that term is used in the Export Administration Regulations.

(3) **EXPORT ADMINISTRATION REGULATIONS.**—The term “Export Administration Regulations” means subchapter C of chapter VII of title 15, Code of Federal Regulations.

(4) **GOVERNMENT.**—The term “government” includes any agency or instrumentality of a government.

(5) **IRAN.**—The term “Iran” includes any agency or instrumentality of Iran.

(6) **STATE SPONSOR OF TERRORISM.**—The term “state sponsor of terrorism” means any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism pursuant to—

(A) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or any successor thereto);

(B) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or

(C) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)).

(7) **TRANSSHIPMENT, REEXPORTATION, OR DIVERSION.**—The term “transshipment, reexportation, or diversion” means the exportation, directly or indirectly, of items that originated in the United States to an end-user whose identity cannot be verified or to an entity in Iran in violation of the laws or regulations of the United States by any means, including by—

(A) shipping such items through 1 or more foreign countries; or

(B) by using false information regarding the country of origin of such items.

**SEC. 302. IDENTIFICATION OF LOCATIONS OF CONCERN WITH RESPECT TO TRANSSHIPMENT, REEXPORTATION, OR DIVERSION OF CERTAIN ITEMS TO IRAN.**

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Director of National Intelligence shall submit to the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the appropriate congressional committees a report that identifies all countries that the Director determines are of concern with respect to transshipment, reexportation, or diversion of items subject to the provisions of the Export Administration Regulations to an entity in Iran.

**SEC. 303. DESTINATIONS OF POSSIBLE DIVERSION CONCERN AND DESTINATIONS OF DIVERSION CONCERN.**

(a) **DESTINATIONS OF POSSIBLE DIVERSION CONCERN.**—

(1) **DESIGNATION.**—The Secretary of Commerce shall designate a country as a Destination of Possible Diversion Concern if the Secretary, in consultation with the Secretary of State and the Secretary of the Treasury, determines that such designation is appropriate to carry out activities to strengthen the export control systems of that country based on criteria that include—

(A) the volume of items that originated in the United States that are transported through the country to end-users whose identities cannot be verified;

(B) the inadequacy of the export and reexport controls of the country;

(C) the unwillingness or demonstrated inability of the government of the country to control diversion activities; and

(D) the unwillingness or inability of the government of the country to cooperate with the United States in interdiction efforts.

(2) **STRENGTHENING EXPORT CONTROL SYSTEMS OF DESTINATIONS OF POSSIBLE DIVERSION CONCERN.**—If the Secretary of Commerce designates a country as a Destination of Pos-

sible Diversion Concern under paragraph (1), the United States shall initiate government-to-government activities described in paragraph (3) to strengthen the export control systems of the country.

(3) **GOVERNMENT-TO-GOVERNMENT ACTIVITIES DESCRIBED.**—The government-to-government activities described in this paragraph include—

(A) cooperation by agencies and departments of the United States with counterpart agencies and departments in a country designated as a Destination of Possible Diversion Concern under paragraph (1) to—

(i) develop or strengthen export control systems in the country;

(ii) strengthen cooperation and facilitate enforcement of export control systems in the country; and

(iii) promote information and data exchanges among agencies of the country and with the United States; and

(B) efforts by the Office of International Programs of the Department of Commerce to strengthen the export control systems of the country to—

(i) facilitate legitimate trade in high-technology goods; and

(ii) prevent terrorists and state sponsors of terrorism, including Iran, from obtaining nuclear, biological, and chemical weapons, defense technologies, components for improvised explosive devices, and other defense items.

(b) **DESTINATIONS OF DIVERSION CONCERN.**—

(1) **DESIGNATION.**—The Secretary of Commerce shall designate a country as a Destination of Diversion Concern if the Secretary, in consultation with the Secretary of State and the Secretary of the Treasury, determines—

(A) that the government of the country allows substantial transshipment, reexportation, or diversion of items that originated in the United States to end-users whose identities cannot be verified or to entities in Iran; or

(B) 12 months after the Secretary of Commerce designates the country as a Destination of Possible Diversion Concern under subsection (a)(1), that the country has failed—

(i) to cooperate with the government-to-government activities initiated by the United States under subsection (a)(2); or

(ii) based on the criteria described in subsection (a)(1), to adequately strengthen the export control systems of the country.

(2) **LICENSING CONTROLS WITH RESPECT TO DESTINATIONS OF DIVERSION CONCERN.**—

(A) **REPORT ON SUSPECT ITEMS.**—

(i) **IN GENERAL.**—Not later than 45 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Director of National Intelligence, the Secretary of State, and the Secretary of the Treasury, shall submit to the appropriate congressional committees a report containing a list of items that, if the items were transshipped, reexported, or diverted to Iran, could contribute to—

(I) Iran obtaining nuclear, biological, or chemical weapons, defense technologies, components for improvised explosive devices, or other defense items; or

(II) support by Iran for acts of international terrorism.

(ii) **CONSIDERATIONS FOR LIST.**—In developing the list required under clause (i), the Secretary of Commerce shall consider—

(I) the items subject to licensing requirements under section 742.8 of title 15, Code of Federal Regulations (or any corresponding similar regulation or ruling) and other existing licensing requirements; and

(II) the items added to the list of items for which a license is required for exportation to North Korea by the final rule of the Bureau

of Export Administration of the Department of Commerce issued on June 19, 2000 (65 Fed. Reg. 38148; relating to export restrictions on North Korea).

(B) **LICENSING REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Commerce shall require a license to export an item on the list required under subparagraph (A)(i) to a country designated as a Destination of Diversion Concern.

(C) **WAIVER.**—The President may waive the imposition of the licensing requirement under subparagraph (B) with respect to a country designated as a Destination of Diversion Concern if the President—

(i) determines that such a waiver is in the national interest of the United States; and

(ii) submits to the appropriate congressional committees a report describing the reasons for the determination.

(c) **TERMINATION OF DESIGNATION.**—The designation of a country as a Destination of Possible Diversion Concern or a Destination of Diversion Concern shall terminate on the date on which the Secretary of Commerce determines, based on the criteria described in subparagraphs (A) through (D) of subsection (a)(1), and certifies to Congress and the President that the country has adequately strengthened the export control systems of the country to prevent transshipment, reexportation, and diversion of items through the country to end-users whose identities cannot be verified or to entities in Iran.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### **SEC. 304. REPORT ON EXPANDING DIVERSION CONCERN SYSTEM TO COUNTRIES OTHER THAN IRAN.**

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of Commerce, the Secretary of State, and the Secretary of the Treasury, shall submit to the appropriate congressional committees a report that—

(1) identifies any country that the Director determines may be transshipping, reexporting, or diverting items subject to the provisions of the Export Administration Regulations to another country if such other country—

(A) is seeking to obtain nuclear, biological, or chemical weapons, defense technologies, components for improvised explosive devices, or other defense items; or

(B) provides support for acts of international terrorism; and

(2) assesses the feasibility and advisability of expanding the system established under section 303 for designating countries as Destinations of Possible Diversion Concern and Destinations of Diversion Concern to include countries identified under paragraph (1).

#### **TITLE IV—EFFECTIVE DATE; SUNSET**

##### **SEC. 401. EFFECTIVE DATE; SUNSET.**

(a) **EFFECTIVE DATE.**—Except as provided in sections 104, 202, and 303(b)(2), the provisions of, and amendments made by, this Act shall take effect on the date that is 120 days after the date of the enactment of this Act.

(b) **SUNSET.**—The provisions of this Act shall terminate on the date that is 30 days after the date on which the President certifies to Congress that—

(1) the Government of Iran has ceased providing support for acts of international terrorism and no longer satisfies the requirements for designation as a state sponsor of terrorism under—

(A) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or any successor thereto);

(B) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or

(C) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)); and

(2) Iran has ceased the pursuit, acquisition, and development of nuclear, biological, and chemical weapons and ballistic missiles and ballistic missile launch technology.

Mr. REID. Madam President, I move to reconsider the vote by which the bill was passed and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I am pleased that the Senate just passed S. 2799, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009 and I thank Senators DODD, KERRY, SHELBY, LIEBERMAN, BAYH, KYL and many others who have worked so hard to get this important legislation passed.

I believe that passing this legislation is critical to send Iran the message that the United States is serious about keeping Iran from acquiring nuclear weapons capability. This legislation would impose new sanctions on Iran's refined petroleum sector and tighten existing U.S. sanctions in an effort to create new pressure on the Iranian regime and help stop Iran from acquiring a nuclear weapon.

We have all watched the Iranian regime oppress its own people on the streets of Iran. And we have watched them continue to defy the international community on nuclear issues.

That is why it is so important that we move this legislation forward quickly. I know that a number of Senators had concerns, or changes they wanted to make to this legislation, including Senator MCCAIN, who has an amendment he wanted to offer on human rights on Iran. I am committed to working with him, and others, as we move forward in conference.

#### **CITIZENS UNITED CASE**

Mr. MCCONNELL. Madam President, last night, the President spoke about many things. I would like to focus for a moment on one of them: his comments related to the Supreme Court's recent decision in *Citizens United vs. Federal Election Commission*. This is an issue to which I have devoted a great deal of time over the years, so I think it is important to set the record straight as to what the court did and did not do in this very important, and in my view, correct ruling.

Here's what the President said:

Last week, the Supreme Court reversed a century of law to open the floodgates for special interests—including foreign corporations—to spend without limit in our elections.

That is what the President said last night.

Here is why he is wrong.

According to title 2 of U.S.C. Section 441e:

Foreign nationals, specifically defined to include foreign corporations, are prohibited from “directly or indi-

rectly” making “a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State or local election.”

The statute goes on to prohibit foreign corporations from making any contribution or donation to any committee of any political party. Foreign corporations are also prohibited from making any “expenditure, independent expenditure, or disbursement for an electioneering communication.”

None of these prohibitions were at issue in the *Citizens United* case.

In other words, foreign corporations were prohibited from participating in U.S. elections before the *Citizens United* decision and they still are—unambiguously.

Let me make that perfectly clear: *Citizens United* did not change one thing in current law regarding the prohibition on foreign corporations engaging in U.S. elections. That law remains unchanged.

Further, the Federal Election Commission whom has been very clear in defining this what this prohibition means.

Here's what the FEC's regulation states:

A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision making process of any person, such as a corporation, labor organization, political committee, or political organization with regard to such person's Federal or non-Federal election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements in connection with elections for any Federal, State, or local office or decisions concerning the administration of a political committee.

So the law on this matter is crystal clear. Contrary to what the President, and some of his surrogates in Congress say, foreign persons, corporations, partnerships, associations, organizations or other combination of persons are strictly prohibited from any participation in U.S. elections, just as they were prohibited before the Supreme Court's *Citizens United* decision.

I have explained what the ruling did not do. Now let me explain what the ruling did do.

The Court ruled unconstitutional sections of Federal law that barred corporations and unions from spending their own money to express their views about issues and candidates.

This was the right decision because democracy depends upon free speech, not just for some but for all. As Justice Kennedy, writing for the majority, concluded:

Under our law and our tradition it seems stranger than fiction for our Government to make political speech a crime.

In *Citizens United* the Court ended the suppression of corporate and union speech.

Another way to look at it is prior to *Citizens United*, if you were a corporation that owned a media company you could say anything you wanted to 365



days a year without government interference. But if you were a corporation or union that did not own a media company, you couldn't. All this decision did was to level the playing field and strike an important blow for the first amendment and for free speech in our country, a decision that should be applauded by all, but at the very least not misinterpreted.

(Mr. BURRIS assumed the Chair.)

#### BUDGET SCOREKEEPING REPORT

Mr. CONRAD. Mr. President, I rise to submit to the Senate the fourth budget scorekeeping report for the 2010 budget resolution. The report, which covers fiscal year 2010, was prepared by the Congressional Budget Office pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended.

The report shows the effects of Congressional action through January 25, 2010, and includes the effects of legislation since I filed my last report for fiscal year 2010 on August 4, 2009. The new legislation includes:

P.L. 111-47, an act making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program;

P.L. 111-68, an act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes;

P.L. 111-69, the Fiscal Year 2010 Federal Aviation Administration Extension Act;

P.L. 111-80, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010;

P.L. 111-83, the Department of Homeland Security Appropriations Act, 2010;

P.L. 111-84, the National Defense Authorization Act for Fiscal Year 2010;

P.L. 111-85, the Energy and Water Development and Related Agencies Appropriations Act, 2010;

P.L. 111-88, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 and Further Continuing Appropriations, 2010;

P.L. 111-92, the Worker, Homeownership, and Business Assistance Act of 2009;

P.L. 111-96, an act to allow the funding for the interoperable emergency communications grant program established under the Digital Television Transition and Public Safety Act of 2005 to remain available until expended through fiscal year 2012, and for other purposes;

P.L. 111-115, the No Social Security Benefits for Prisoners Act of 2009;

P.L. 111-117, the Consolidated Appropriations Act, 2010;

P.L. 111-118, the Department of Defense Appropriations Act, 2010;

P.L. 111-124, an act to extend the Generalized System of Preferences and the Andean Trade Preference Act, and for other purposes; and

P.L. 111-126, an act to accelerate the income tax benefits for charitable cash contributions for the relief of victims of the earthquake in Haiti.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 13, the 2010 budget resolution.

The estimates show that for fiscal year 2010 current level spending is \$17.9 billion below the level provided for in the budget resolution for budget authority, while it is \$5.6 billion above it for outlays. For revenues, current level shows that \$18.6 billion in room remains relative to the budget resolution level.

I ask unanimous consent that the letter and accompanying tables from CBO be printed in the RECORD.

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, January 28, 2010.

Hon. KENT CONRAD,  
Chairman, Committee on the Budget, U.S. Senate,  
Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2010 budget and is current through January 20, 2010. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010, as approved by the Senate and the House of Representatives.

Pursuant to section 403 of S. Con. Res. 13, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 of Table 2 of the report).

Since my last letter, dated August 4, 2009, the Congress has cleared and President has signed the following acts which affect budget authority, outlays, or revenues for fiscal year 2010:

An act making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program (Public Law 111-47);

An act making appropriations for the Legislative Branch for the fiscal year ending

September 30, 2010, and for other purposes (Public Law 111-68);

Fiscal Year 2010 Federal Aviation Administration Extension Act (Public Law 111-69);

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111-80);

Department of Homeland Security Appropriations Act, 2010 (Public Law 111-83);

National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84);

Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111-85);

Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 and Further Continuing Appropriations, 2010 (Public Law 111-88);

Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111-92);

An act to allow the funding for interoperable emergency communication grants program . . . and for other purposes (Public Law 111-96);

No Social Security Benefits for Prisoners Act of 2009 (Public Law 111-115);

Consolidated Appropriations Act, 2010 (Public Law 111-117);

Department of Defense Appropriations Act, 2010 (Public Law 111-118);

An act to extend the Generalized System of Preferences and the Andean Trade Preference Act, and for other purposes (Public Law 111-124); and

An act to accelerate the income tax benefits for charitable cash contributions for the relief of victims of the earthquake in Haiti (Public Law 111-126).

Sincerely,  
DOUGLAS W. ELMENDORF,  
Director.

Enclosure.

TABLE 1.—SENATE CURRENT LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2010, AS OF JANUARY 25, 2010

[In billions of dollars]

	Budget resolution <sup>1</sup>	Current level <sup>2</sup>	Current level over/under (—) resolution
<b>ON-BUDGET</b>			
Budget Authority .....	2,887.9	2,869.9	— 17.9
Outlays .....	3,006.7	3,012.3	5.6
Revenues .....	1,614.8	1,633.3	18.6
<b>OFF-BUDGET</b>			
Social Security Outlays <sup>3</sup> .....	544.1	544.1	0.0
Social Security Revenues .....	668.2	668.2	0.0

<sup>1</sup> S. Con. Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010, includes \$10.4 billion in budget authority and \$5.4 billion in outlays as a disaster allowance to recognize the potential cost of disasters; those funds will never be allocated to a committee. At the direction of the Senate Committee on the Budget, the budget resolution totals have been revised to exclude those amounts for purposes of enforcing current level.

<sup>2</sup> Current level is the estimated effect on revenues and spending of all legislation, excluding amounts designated as emergency requirements (see footnote 2 of table 2), that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations, even if the appropriations have not been made.

<sup>3</sup> Excludes administrative expenses of the Social Security Administration, which are off-budget, but are appropriated annually.

SOURCE: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2010, AS OF JANUARY 25, 2010

[In millions of dollars]

	Budget authority	Outlays	Revenues
<b>Previously Enacted:<sup>1</sup></b>			
Revenues .....	n.a.	n.a.	1,665,986
Permanents and other spending legislation .....	1,637,423	1,621,675	n.a.
Appropriation legislation .....	0	600,500	n.a.
Offsetting receipts .....	— 690,251	— 690,251	n.a.
Total, previously enacted .....	947,172	1,531,924	1,665,986
<b>Enacted this session:</b>			
Authorizing Legislation:			
Helping Families Save Their Homes Act of 2009 (P.L. 111-22) .....	318	11,346	0

TABLE 2.—SUPPORTING DETAIL FOR THE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2010, AS OF JANUARY 25, 2010—Continued

(In millions of dollars)

	Budget authority	Outlays	Revenues
An act to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products . . . and for other purposes (P.L. 111–31) .....	10	13	46
An act to make technical corrections to the Higher Education Act of 1965, and for other purposes (P.L. 111–39) .....	32	36	0
A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes (P.L. 111–42) .....	0	0	6,862
An act to authorize the Director of the United States Patent and Trademark Office to use funds . . . and for other purposes (P.L. 111–45) .....	0	65	0
Judicial Survivors Protection Act of 2009 (P.L. 111–49) .....	–1	–1	0
Fiscal Year 2010 Federal Aviation Administration Extension Act (P.L. 111–69) .....	180	0	0
National Defense Authorization Act for Fiscal Year 2010 (P.L. 111–84) .....	8	8	20
Worker, Homeownership, and Business Assistance Act of 2009 (P.L. 111–92) .....	5,708	5,708	–38,940
An act to allow the funding for the interoperable emergency communications grant program . . . and for other purposes (P.L. 111–96) .....	0	–350	0
No Social Security Benefits for Prisoners Act of 2009 (P.L. 111–115) .....	–12	–12	0
Department of Defense Appropriations Act, 2010 (Division B of P.L. 111–118) <sup>3</sup> .....	1,260	1,260	0
An act to extend the Generalized System of Preferences and the Andean Trade Preference Act, and for other purposes (P.L. 111–124) .....	0	0	–589
An act to accelerate the income tax benefits for charitable cash contributions for the relief of victims of the earthquake in Haiti (P.L. 111–126) .....	0	0	–40
Total, authorizing legislation enacted this session .....	7,503	18,073	–32,641
<b>Appropriations Acts:</b>			
Supplemental Appropriations Act, 2009 (P.L. 111–32) <sup>2</sup> .....	11	33,530	0
An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes (P.L. 111–68) .....	4,656	3,914	0
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (P.L. 111–80) .....	119,826	96,198	0
Department of Homeland Security Appropriations Act, 2010 (P.L. 111–83) .....	44,137	26,619	0
Energy and Water Development and Related Agencies Appropriations Act, 2010 (P.L. 111–85) .....	33,465	19,573	0
Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 and Further Continuing Appropriations, 2010 (P.L. 111–88) .....	32,760	20,543	0
Consolidated Appropriations Act, 2010 (P.L. 111–117) .....	1,058,293	856,752	0
Department of Defense Appropriations Act, 2010 (Division A of P.L. 111–118) .....	636,626	403,122	0
Total, appropriations acts enacted this session .....	1,929,774	1,460,251	0
<b>Entitlements and mandates:</b>			
Budget resolution estimates of appropriated entitlements and other mandatory programs .....	–14,500	2,066	0
Total Current Level <sup>2 4 5</sup> .....	2,869,949	3,012,314	1,633,345
Total Budget Resolution <sup>4</sup> .....	2,898,207	3,012,191	1,614,788
Adjustment to the budget resolution for disaster allowance <sup>5</sup> .....	–10,350	–5,448	n.a.
Adjusted Budget Resolution .....	2,887,857	3,006,743	1,614,788
Current Level Over Budget Resolution .....	n.a.	5,571	18,557
Current Level Under Budget Resolution .....	17,908	n.a.	n.a.

<sup>1</sup> Includes the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111–3), the American Recovery and Reinvestment Act (ARRA) (P.L. 111–5), and the Omnibus Appropriations Act, 2009 (P.L. 111–8), which were enacted by the Congress during this session, before the adoption of S. Con. Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010. Although ARRA was designated as an emergency requirement, it is now included as part of the current level amounts.

<sup>2</sup> Pursuant to section 403 of S. Con. Res. 13, provisions designated as emergency requirements (and rescissions of provisions previously designated as emergency requirements) are exempt from enforcement of the budget resolution. The amounts so designated for fiscal year 2010, which are not included in the current level totals, are as follows:

	Budget authority	Outlays	Revenues
Supplemental Appropriations Act, 2009 (P.L. 111–32) .....	17	7,064	–2
An act making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program (P.L. 111–47) .....	0	2,000	–3
Department of Defense Appropriations Act, 2010 (Division B of P.L. 111–118) .....	12,025	11,976	–4,470
Total, amounts designated as emergency .....	12,042	21,040	–4,475

<sup>3</sup> At the direction of the Senate Committee on the Budget, Division B of the Department of Defense Appropriations Act, 2010 (P.L. 111–118) is considered authorizing legislation.

<sup>4</sup> For purposes of enforcing section 311 of the Congressional Budget Act in the Senate, the budget resolution does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level excludes these items.

<sup>5</sup> The estimate for P.L. 111–46, an act to restore the Highway Trust Fund, and for other purposes, does not change current level totals. P.L. 111–46 appropriated \$7 billion to the Highway Trust Fund. The enactment of this legislation followed an announcement by the Secretary of Transportation on June 24, 2009, of an interim policy to slow down payments to states from the Highway Trust Fund. The Congressional Budget Office estimates that P.L. 111–46 reversed this policy and will restore payments to states at levels already assumed in current level. Thus, no change is required.

<sup>6</sup> Periodically, the Senate Committee on the Budget revises the totals in S. Con. Res. 13, pursuant to various provisions of the resolution:

	Budget authority	Outlays	Revenues
Original Budget Resolution Totals .....	2,888,691	3,001,311	1,653,682
<b>Revisions:</b>			
For the Supplemental Appropriations Act, 2009 (section 401(c)(4)) .....	5	2,004	0
For an act to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products . . . and for other purposes (sections 311(a) and 307) .....	0	0	40
For the Congressional Budget Office's reestimate of the President's request for discretionary appropriations (section 401(c)(5)) .....	3,766	2,355	0
For further revisions to a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products . . . and for other purposes (sections 311(a) and 307) .....	10	13	6
For further revisions to the Supplemental Appropriations Act, 2009 (section 401(c)(4)) .....	6	–1,175	0
For an act to make technical corrections to the Higher Education Act of 1965, and for other purposes (section 303) .....	32	36	0
For further revisions to the Supplemental Appropriations Act, 2009 (section 401(c)(4)) .....	–11	–11	0
For an amendment in the nature of substitute to H.R. 3548, the Unemployment Compensation Extension Act of 2009 (sections 306(f) and 306(b)) .....	5,708	5,708	–38,940
For the Patient Protection and Affordable Care Act of 2009 (section 301(a)) .....	12,500	11,500	9,100
For the Department of Defense Appropriations Act, 2010 (section 401(c)(4)) .....	0	1,950	0
For further revisions to the Patient Protection and Affordable Care Act of 2009 (section 301(a)) .....	–5,220	–6,670	–9,630
For further revisions to the Patient Protection and Affordable Care Act of 2009 (section 301(a)) .....	–7,280	–4,830	530
Revised Budget Resolution Totals .....	2,898,207	3,012,191	1,614,788

<sup>7</sup> S. Con. Res. 13 includes \$10,350 million in budget authority and \$5,448 million in outlays as a disaster allowance to recognize the potential cost of disasters; those funds will never be allocated to a committee. At the direction of the Senate Committee on the Budget, the budget resolution totals have been revised to exclude those amounts for purposes of enforcing current level.

Source: Congressional Budget Office.

Note: n.a. = not applicable; P.L. = Public Law.

## RECOGNIZING PENOBSCOT BAY MEDICAL CENTER

Ms. SNOWE. Mr. President, nearly 2 weeks ago we first witnessed the devastation that came about as a result of the massive earthquake in Haiti. As millions of Americans watched the heart-wrenching scenes on television, we united as a people to send millions of dollars and tons of supplies to the Haitian people through dozens of established and respected relief organizations. Nonetheless, tens of thousands of Haitians remain displaced, without food or shelter, and many are still in

need of urgent medical attention. I rise today to recognize the efforts of Penobscot Bay Medical Center, a small hospital in my home State of Maine, to bring help to the people of Haiti in this time of tragedy.

The Penobscot Bay Medical Center got its start as an 11-bed hospital in 1901. Known then as the Knox County General Hospital, the small facility was run at that time by nine doctors. Over the years, the hospital had undergone renovations and grown into its present full-service, 109-bed location. Penobscot Bay employs a medical staff

of over 85 physicians, allowing the hospital to offer its patients an extensive range of specialty and subspecialty services.

The hospital was named to the 2008 Harvard Pilgrim Health Care Hospital Honor Roll for being among the top 25 percent of acute care hospitals evaluated nationally by the health plan. Additionally, the Maine State Employee Health Commission has repeatedly recognized Penobscot Bay Medical Center as a tier 1 hospital, and the Maine

Health Management Coalition's Pathways to Excellence Hospital Measurement and Reporting Initiative has given the facility multiple blue ribbon awards based on its performance in a number of critical safety and clinical quality areas.

Through the generosity of the hospital, three doctors—general surgeon Douglas Cole, urologist Lars Ellison, and orthopedist Kevin Olehnik—departed Maine en route to Haiti last Wednesday. Having been to the Caribbean nation in the past, as part of a Notre Dame Haiti Program trip in 2008, the doctors are all familiar with the people and places of Haiti. The Notre Dame Haiti Program, which is led by Father Tom Streit of the University of Notre Dame in Indiana, is dedicated to fighting lymphatic filariasis, a parasitic disease caused by microscopic, thread-like worms spread through infected mosquitoes. More than 26 percent of the Haitian population has the disease, which is prevalent in the subtropical regions of Asia and Africa, as well as parts of the Caribbean. In fact, the doctors were set to return to Haiti in February to help dozens more people through the Notre Dame Haiti Program. Yet after hearing about the earthquake, the doctors decided to fly to Haiti as quickly as possible to help with the ongoing relief efforts. They are in the country for a week or two, helping people with broken bones and performing other general surgeries. Their generosity is overwhelming, and it is a true testament to the magnanimous spirit of the resolute people of Maine.

We are defined as a people by what we do in times of tragedy, and I am proud to say that these three Mainers have gone above and beyond their Hippocratic Oath to willingly put their lives on hold in order to help the less fortunate in Haiti. They are extraordinary examples of how the American people time and again respond so charitably to the misfortunes of others. I commend Drs. Cole, Ellison, and Olehnik for their selfless service to others in this time of catastrophe, and I thank everyone at Penobscot Bay Medical Center for the remarkable work they do day in and day out to keep Mainers healthy.

#### TRIBUTE TO PAMELA GAVIN

Mr. LIEBERMAN. Mr. President, I rise today to salute Pamela Gavin, who retires this week after serving as Superintendent of the Senate Office of Public Records for 24 years.

In her service to the Senate, Pam has had the enormous responsibility of maintaining disclosure records under numerous laws, including those under the Federal Election Campaign Act, the Ethics in Government Act, and the Lobbying Disclosure Act. Tens of thousands of new records a year must be archived, adding to the already massive papers in this collection, and Pam's stewardship has been impeccable.

I especially want to pay tribute today to Pam's contributions to the implementation of the Lobbying Disclosure Act. As the Committee on Homeland Security worked to draft expansive changes to the Lobbying Disclosure Act, which were included in the Honest Leadership and Open Government Act of 2007, Pam provided indispensable technical expertise. And after the act was signed into law, she worked tirelessly to make sure its implementation was smooth. She has been the driving force behind the development of an electronic filing system, providing guidance to the lobbying community to assist it in complying with the law, and ensuring access to researchers, reporters and the public.

Pam is someone who understands that we can increase accountability through transparency, and in pursuit of that goal she has been a model not only for the Senate but for the entire government.

Those who have worked closely with Pam will miss her cheerful smile, her enthusiasm, and warm consideration of all her colleagues. Although she is retiring, she will always be a dear member of the Senate community, and I wish her and her family the very best as she embarks on this new stage of her life.

#### 65TH ANNIVERSARY OF THE LIBERATION OF AUSCHWITZ-BIRKENAU

Mr. LEMIEUX. Mr. President, this week marks the 65th anniversary of the liberation of the Auschwitz-Birkenau Nazi concentration camp. It was 65 years ago this week when the Soviet army entered Auschwitz and liberated more than 7,000 prisoners. It is estimated that a minimum of 1.1 million people were murdered in the camp as part of the Nazis' deliberate and systematic campaign to exterminate as many as 6 million European Jews and Roma. Winston Churchill called it a "crime that has no name."

Stories from the survivors are a chilling reminder of the unspeakable horrors that can be perpetrated by evil men when the forces of good are slow to respond. Some of these personal testimonies are preserved in museums around our Nation, including the U.S. Holocaust Memorial Museum.

In 1948, the United Nations pledged in the Genocide Convention that the horrors of the Holocaust would "never again" be repeated. Sadly, this pledge has not been upheld. In Cambodia, Rwanda, Bosnia, and Sudan people have been murdered solely on the basis of their national, ethnic and religious affiliations.

I urge my colleagues and members of the international community to renew our commitment to "never again" allow genocide to take place. I also call upon the Obama administration to continue upholding our pledge to protecting the personal freedoms of individuals around the globe.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO NORTH DAKOTA'S ELECTRICAL LINEMEN

• Mr. CONRAD. Mr. President, today I wish honor the brave crews of electrical line workers who helped restore power to thousands of North Dakotans.

Within the last week, severe weather hit the southwestern part of my State. These storms brought fierce winds, freezing rains, and eventually blizzard conditions. Ice coated miles of power lines, causing them to fail under the extra weight. Thousands of homes and businesses were left without electricity.

Severe weather is nothing new to North Dakotans. But living in a home without electricity during the depths of winter is an alarming prospect.

Thankfully, dedicated repair linemen immediately went to work. While I know these crews would tell me they are just doing their jobs, I think it is important to step back at a time like this and recognize the importance of their work. Repairing high-voltage power lines while battling subzero temperatures and strong prairie winds is a downright dangerous job. But these repair linemen work tirelessly in adverse conditions because they know their fellow North Dakotans depend on them.

Many people in my State still do not have access to power, but I know North Dakotans have enormous confidence in the ability of the repair linemen to restore power in a swift manner. They have shown tremendous resolve throughout this situation, and I am proud to commend their efforts.●

##### REMEMBERING RICKI CHANDRINOS

• Mr. ENSIGN. Mr. President, it isn't very often that we encounter an angel walking among us. However, Ms. Ricki Chandrinis was most certainly that. She was a tireless advocate working on behalf of veterans in our community, and her commitment to them will not soon be forgotten.

It wasn't until the love of her life, John Chandrinis, her husband of 35 years, began battling a terminal illness that she became passionately involved with the inner workings of the Veterans Affairs medical system. She muddled through the bureaucratic red tape to ensure that he received the care and benefits that he so richly deserved after defending the freedoms of our country for so many years. Tragically, her husband lost his battle, but her passion for America's heroes remained.

After moving to Las Vegas, following the death of her husband, she found her calling late in life. Ricki became deeply involved with the veterans living within her neighborhood, Siena. It is estimated that she personally assisted about 500 of our Nation's most heroic citizens, but she undoubtedly touched more hearts than that during her lifetime.

This extraordinary woman educated herself on VA policy in order to provide the best assistance to these men and women and went so far as to accompany many of them to the VA to ensure that they were served as thoroughly as possible. However, she knew that this wasn't enough for her and that she could serve these veterans even more.

Ricki arranged for speakers from the VA, American Legion, Disabled American Veterans, State of Nevada, and others to address the members of the Siena Veterans Club. Ricki knew that she would not rest until she had served the needs of these veterans, and serve them she did.

Ricki left this Earth for a place much better, but her time on Earth was heaven-sent for all those whose lives she touched. She began her advocacy by her husband's side, and she has finished this tireless crusade to be by his side once again.●

#### TRIBUTE TO LIEUTENANT GENERAL HERBERT J. CARLISLE

● Mr. INHOFE. Mr. President, today I pay tribute to LTG Herbert J. Carlisle, former Director of Legislative Liaison for Office of the Secretary of the Air Force and the current Commander of 13th Air Force, Hickam Air Force Base, HI. A command pilot with more than 3,400 flying hours in the T-38, AT-38, YF-110, YF-113, and F-15 Eagle, LTG "Hawk" Carlisle has commanded at the squadron, group, wing, and now Numbered Air Force levels. He has participated in Operations Restore Hope, Provide Comfort, and Noble Eagle, and his selection to lieutenant general and commander of the Jungle Air Force is a testament to his exceptional airmanship, leadership, and judgment.

General Carlisle graduated from the U.S. Air Force Academy in 1978 and was selected to attend pilot training at Williams Air Force Base, AZ. He excelled in pilot training and was selected to fly the Air Force's premier air superiority fighter, the F-15 Eagle. Stationed at Bittsburg Air Base, Germany, with the 525th Fighter Squadron, the Bulldogs, during the heart of the Cold War, then-Captain Carlisle again excelled in the air and on the ground as a pilot, flight lead, instructor pilot, and examiner pilot. His prowess in the air earned him a selection to attend the Air Force's Fighter Weapons School, and upon completion of the course he joined an elite team of fighter weapons school instructors. He became the chief of weapons and tactics at Holloman Air Force Base in New Mexico, only to be brought back to Nellis Air Force Base to become part of a recently declassified Air Force training program in which he flew Soviet fighters as adversaries against U.S. pilots to increase their capability and survivability in combat. Selected for promotion, Major Carlisle departed Nellis Air Force base for Maxwell Air Force Base, AL, to attend Air Command and Staff College and then de-

ployed to Riyadh, Saudi Arabia, as the chief of air operations, U.S. Central Command Forward from 1991 to 1993.

In 1993, now-Lieutenant Colonel Carlisle returned to the F-15 Eagle, as operations officer of the 19th Fighter Squadron and then commander of the 54th Fighter Squadron at Elmendorf Air Force Base, AK. Following command, Lieutenant Colonel Carlisle attended Army War College in 1996, was selected for promotion to colonel, and returned to the Pacific in the F-15 Eagle as the Deputy Commander, 18th Operations Group at Kadena Air Base, Japan. Following Kadena, Colonel Carlisle was selected to command the 1st Operations Group at Langley Air Force Base, VA, then the 33rd Fighter Wing at Eglin Air Force Base, FL, and finally, after a short staff tour, the 3rd Wing at Elmendorf Air Force Base.

General Carlisle has served several tours on the Air Staff to include chief of the plans and programs directorate, director of the operational planning, policy and strategy, deputy chief of staff for air, space and information operations, plans and requirements, and two tours in the Legislative Liaison Division, as deputy director and director. It was in these positions that I witnessed firsthand General Carlisle's adept ability to handle a myriad of complex issues that directly impacted our national security. General Carlisle's engagement with Congress during his tenure as both deputy director and director of the Legislative Liaison Division was faultless.

Under General Carlisle's leadership, the Air Force developed a comprehensive congressional notification plan, ensuring timely and accurate passage of information on the Air Force's most difficult issues including the \$40 billion KC-X acquisition program, creation of Air Force Cyber Command, force structure changes, and creation of Air Force Global Strike Command. General Carlisle prepared over 200 announcements to the Hill, cleared of over 500 witness statements, transcripts, inserts, and questions for the record through the Office of the Secretary of Defense and the Office of Management and Budget, and managed over 1,000 Congressional travel events to all 7 continents including 100 congressional Member visits to the Central Command Area of Responsibility. Finally, General Carlisle led the drive for what I consider the Air Force's most pressing issue: recapitalization. Through General Carlisle's leadership, the Air Force secured a budget of \$1.7 billion for bomber and air-to-ground weapons, yielded \$8.2 billion for fighter and munitions programs, and laid the foundation for \$200 million in supplemental munitions funding. The leadership, insight, and dedication of General Carlisle have been instrumental in building lasting and trusting relationships with the U.S. Congress, resulting in an overall increase in U.S. national security.

The breadth and depth of General Carlisle's assignments and the profes-

sionalism with which he has carried them out reflect a keen intellect and an unrivaled grasp of national security policies developed through both personal experience and academic instruction. General Carlisle earned a master's degree in business administration from Golden Gate University in San Francisco, attended the National Security Management Course at Syracuse University, the Seminar XXI—International Relations programs at Massachusetts Institute of Technology, and the Executive Course on National and International Security at George Washington University. While he has received many distinguished awards and decorations, it is General Carlisle's commitment and sacrifice to this Nation that make him stand out among his peers.

Today, General Carlisle is once again at the tip of the spear, leading our service men and women as commander of 13th Air Force, commander of Joint Task Force—Support Forces Antarctica, Operation Deep Freeze, and the Pacific Command's Joint Forces Air Component commander. On behalf of Congress and the United States of America, I thank Lieutenant General Carlisle, his wife Gillian, and their daughter Summer for their continued commitment, sacrifice, and contribution to this great Nation. I congratulate Lieutenant General Carlisle on his recent promotion to lieutenant general and wish him Godspeed as he leads our military in protecting this great nation and its way of life.●

#### REMEMBERING DAVE DEDRICK

● Mr. JOHNSON. Mr. President, I wish today to recognize the life and career of Dave Dedrick, most well known for his role as Captain 11, a children's television program in the upper Midwest. He passed away on January 22 after a lifetime of bringing together South Dakotans of all ages. Dave's welcoming spirit and warm heart touched children and adults alike.

The Captain 11 Show, broadcasted from 1955 through 1996, is the longest running children's program ever. Dave, dressed in a blue and yellow pilot's uniform, led a program filled with cartoons and games. Captain 11 had the ability to control time through his Time Converter and ended every show with Freezeburg, a dance the audience, and everyone watching at home, knew by heart. Dave always made children of all ages feel comfortable, and with his show, unified generations of South Dakotans.

Dave was inducted into the South Dakota Broadcasters Hall of Fame in 1997 and the South Dakota Hall of Fame in 1999. His set is displayed in the State Historical Museum in Pierre, representing the important role Dave played in so many lives. On air and off, his friendly personality extended to all areas of his life, representing South Dakota values in all he did. I would like to extend my deepest sympathies to his family on their loss.●

# TRIBUTE TO WILLIAM OUELLETTE

• Mr. JOHNSON. Mr. President, I rise today to recognize the Federal service of William "Will" Ouellette of Rapid City, SD. Mr. Ouellette is concluding a dozen years of service in South Dakota and is transferring to Pennsylvania to continue his Federal service career, which now spans 34 years with the Social Security Administration.

Mr. Ouellette began his career with the agency in 1976 as a claims representative in the Boston Region. Three years later, he moved to Billings, MT, where he served as a claims representative, field representative, operations analyst and operations supervisor for the agency. He was promoted to manager of the Rapid City office in 1998 and has continued in that position until the present time. He will soon transfer to a similar position in the Pottsville, PA, agency office to be closer to aging parents and a daughter.

I have appreciated the management work of Mr. Ouellette over his tenure in Rapid City. He has overseen a very dedicated and hard-working staff. Claims have increased substantially over the years and the coverage area in rural South Dakota is one of the largest in the country. I have always been impressed by the sense of professionalism, dedication and willingness to serve Social Security beneficiaries and claimants by Will and his staff. He was always timely and thorough in providing answers to constituent questions, addressing issues impacting beneficiaries and combining a strict, no-nonsense approach and adherence to agency regulations with a caring attitude.

I wish Mr. Ouellette well in the remaining years of his Federal service and wish to thank him for his term of service to South Dakotans over the past dozen years.●

# TRIBUTE TO FRANK TUMA

• Mr. LEVIN. Mr. President, the Office of Rural Development within the U.S. Department of Agriculture will say farewell to a dedicated colleague and friend later this week. Frank J. Tuma, Director of Community Programs for the Agency in Michigan, is retiring after 37 dedicated years of public service, and I am delighted to have an opportunity to recognize this significant milestone.

Frank began his Federal career with the Peace Corp and spent 2 years in the Philippines. He later accepted a position with the Farmers Home Administration, which would become the Office of Rural Development, where he has served the interests of rural Michigan for 31 years as part of the Community Programs Division. Throughout Frank's 31 years, he has consistently provided invaluable guidance and leadership on countless issues and projects. During the past 5 years, Frank has served as the Director of Community Programs, where he has led efforts to

bring critical funding to rural communities across Michigan. Countless communities now have safe drinking water and efficient waste water systems that protect the environment due to the efforts of Frank and his team.

Those who have worked with Frank describe him as devoted, loyal, and passionate about his work and the people with which he works, qualities that will surely be missed by his colleagues and friends. Beyond his personal qualities, he has distinguished himself through a number of impressive accomplishments and has served as a mentor to many on his staff. The Rural Development National Office has turned to Frank many times over the years for his input and recommendations on new processes and systems. He was instrumental in creating, testing, and implementing the CPAP System, a computer program that compiles data and underwrites loans and grants for water and sewer projects.

I am proud to join citizens and communities across rural Michigan in thanking Frank Tuma for his dedication, focus, and persistent efforts as a Federal employee. Frank has forged a wonderful legacy, and I know he and Connie are looking forward to many years together in retirement.●

# 100TH ANNIVERSARY OF DELTA TRUST BANK

• Mrs. LINCOLN. Mr. President, this year marks the 100th anniversary of a landmark institution in my home State of Arkansas. On February 1, Delta Trust & Bank will celebrate 100 years of service in our State. In honor of this milestone, the towns of Parkdale, Hamburg, Wilmot, Little Rock, and Bella Vista will proclaim Monday, February 1, as Delta Trust Day. At a time when many banks across our Nation are struggling, Delta Trust represents a long history of financial strength and security in Arkansas.

Founded as The Bank of Parkdale in 1910, Delta Trust's origins lie in the small town of Parkdale in Southern Arkansas. Parkdale is similar in many ways to my hometown of Helena, where faith, community, and family are an integral part of rural life. These values have stayed with Delta Trust throughout its 100-year history.

Delta Trust touches every corner of our State, with branches in northwest Arkansas in Bella Vista and Fayetteville; in central Arkansas in the Little Rock neighborhoods of Hillcrest, Chenal, and Walton Heights; and in the southeast part of the state in Parkdale, Hamburg, Eudora, and Wilmot.

Delta Trust's assets are impressive at \$298 million. But this institution is about much more than assets or the bottom line. Delta Trust is known for its commitment to community service, not to mention its top-notch customer service. Integrity, privacy, and intelligent advice are the trademarks of Delta Trust. Through its Women's Ad-

visory Council, Delta Trust has committed to serving the banking needs of women, their families, and their businesses.

Mr. President, I salute the partners, associates, and employees of Delta Trust for their dedication to serving the people of Arkansas. I send my best wishes for the next 100 years of service to Arkansans.●

# MESSAGE FROM THE HOUSE

At 9:36 a.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 bills, in which it requests the concurrence of the Senate:

H.R. 3726. An act to establish the Castle Nugent National Historic Site at St. Croix, United States Virgin Islands, and for other purposes.

H.R. 4474. An act to authorize the continued use of certain water diversions located on National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness in the State of Idaho, and for other purposes.

H.R. 4508. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

The message also announced that pursuant to section 114(b) of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1103), and the order of the House of January 6, 2009, the Speaker appoints the following Member on the part of the House of Representatives to the Board of Trustees for the John C. Stennis Center for Public Service Training and Development for a term of six years: Mr. TRAVIS CHILDERS of Booneville, Mississippi.

# MEASURES REFERRED

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

H.R. 3726. An act to establish the Castle Nugent National Historic Site at St. Croix, United States Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4474. An act to authorize the continued use of certain water diversions located on National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

# 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-4560. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota

Transfer” (RIN0648-XS73) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4561. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-grouper Fishery of the South Atlantic; Closure of the 2009-2010 Commercial Fishery for Black Sea Bass in the South Atlantic” (RIN0648-XS56) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4562. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for 2009 Winter II Period” (RIN0648-XS93) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4563. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Atlantic Herring Fishery; Rescission of Prohibition on Atlantic Herring Fishing in Management Area 2” (RIN0648-XT19) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4564. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfishery; 2010 Harvest Specifications and Management Measures for Petrale Sole” (RIN0648-AY07) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4565. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States” (RIN0648-AY09) received in the Office of the President of the Senate on January 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4566. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “International Fisheries Regulations; Fisheries in the Western Pacific; Pelagic Fisheries; Hawaii-based Shallow-set Longline Fishery” (RIN0648-AW49) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4567. A communication from the Acting Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications” (RIN0648-XR09) received in the Office of the President of the Senate on January 21, 2010; to the

Committee on Commerce, Science, and Transportation.

EC-4568. A communication from the Acting Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “International Fisheries Regulations; Fisheries in the Western Pacific; Pelagic Fisheries; Hawaii-based Shallow-set Longline Fishery; Correction” (RIN0648-AW49) received in the Office of the President of the Senate on January 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4569. A communication from the Acting Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species; Renewal of Atlantic Tunas Longline Limited Access Permits; Atlantic Shark Dealer Workshop Attendance Requirements” (RIN0648-AW46) received in the Office of the President of the Senate on January 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4570. A communication from the Co-Chief Privacy Officers, Federal Election Commission, transmitting, pursuant to law, an annual report relative to activities that affect privacy; to the Committee on Commerce, Science, and Transportation.

EC-4571. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report relative to the Board’s competitive sourcing efforts for fiscal year 2009; to the Committee on Commerce, Science, and Transportation.

EC-4572. A communication from the Secretary of the Department of Commerce, transmitting, pursuant to law, a report relative to the export to the People’s Republic of China of items not detrimental to the U.S. space launch industry; to the Committee on Commerce, Science, and Transportation.

EC-4573. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to the Government Accountability Office report entitled “Information Security: NASA Needs to Remedy Vulnerabilities in Key Networks”; to the Committee on Commerce, Science, and Transportation.

EC-4574. A communication from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled “Requirements for Consumer Registration of Durable Infant or Toddler Products; Final Rule” (16 CFR Part 1130) received in the Office of the President of the Senate on January 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4575. A communication from the Deputy Assistant Administrator for Regulatory Programs, Division of Endangered Species, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Endangered and Threatened Species: Final Threatened Listing Determination, Final Protective Regulations, and Final Designation of Critical Habitat for the Oregon Coast Evolutionary Significant Unit of Coho Salmon” (RIN0648-AW39) received in the Office of the President of the Senate on January 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4576. A communication from the Acting Assistant Administrator for Fisheries, Division of Endangered Species, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Endangered and Threatened Species; Designation of Critical Habitat for North Pacific Right Whale” (RIN0648-AV73) received in the Office of the President of the Senate on January 27, 2010;

to the Committee on Commerce, Science, and Transportation.

EC-4577. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Operation Regulation; Franklin Canal, Franklin, LA” ((RIN1625-AA09) (Docket No. USG-2009-0670)) received in the Office of the President of the Senate on January 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC-4578. A communication from the Assistant General Counsel for Legislation and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Weatherization Assistance Program for Low-Income Persons” (RIN1904-AB97) received in the Office of the President of the Senate on January 26, 2010; to the Committee on Energy and Natural Resources.

EC-4579. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled “Performance Profiles of Major Energy Producers 2008”; to the Committee on Energy and Natural Resources.

EC-4580. A communication from the Chair of the District of Columbia Judicial Nomination Commission, transmitting, pursuant to D.C. Code 1-204.34(d)(1), the nomination of Milton C. Lee, Jr. to be an Associate Judge for the Superior Court of the District of Columbia; to the Committee on the Judiciary.

EC-4581. A communication from the Deputy Assistant Secretary of Defense (Force Health Protection and Readiness), Department of Defense, transmitting, pursuant to law, a report relative to the Military Health System for Fiscal Year 2009; to the Committee on Armed Services.

EC-4582. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to relief operations in Haiti by the Department of Defense; to the Committee on Armed Services.

EC-4583. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Acrylic acid-benzyl methacrylate-1 propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monosodium salt copolymer; Tolerance Exemption” (FRL No. 8801-1) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4584. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Triticonazole; Pesticide Tolerances” (FRL No. 8808-6) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4585. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Pendimethalin; Pesticide Tolerances” (FRL No. 8804-2) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4586. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Oxirane, 2-Methyl-, Polymer with



Oxirane, Dimethyl Ether, Tolerance Exemptions" (FRL No. 8805-3) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4587. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Novaluron; Pesticide Tolerances" (FRL No. 8807-2) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4588. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "2-Propenoic acid, 2-ethylhexyl ester, polymer with ethenylbenzene and 2-methylpropyl 2-methyl-2-propenoate; Tolerance Exemption" (FRL No. 8807-4) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4589. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13348 relative to the former Liberian regime of Charles Taylor; to the Committee on Banking, Housing, and Urban Affairs.

EC-4590. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Addition to the List of Validated End-Users in the People's Republic of China" (RIN0694-AE70) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4591. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Final Model Privacy Form Under the Gramm-Leach-Bliley Act" (RIN3084-AA97) received in the Office of the President of the Senate on January 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4592. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "17 CFR Part 160 (74 FR 62890, December 1, 2009), Final Model Privacy Form Under the Gramm-Leach-Bliley Act" (RIN3265-AJ06) received in the Office of the President of the Senate on January 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4593. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled "Federal Home Loan Bank Membership for Community Development Financial Institutions" (RIN2590-AA18) received during adjournment of the Senate in the Office of the President of the Senate on January 4, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4594. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Demonstration of Coverage of Chiropractic Services under Medicare; to the Committee on Finance.

EC-4595. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Imple-

mentation Plans and Designations of Areas for Air Quality Planning Purposes; North Carolina: Greensboro-Winston Salem-High Point; Determination of Attaining Data for the 1997 Fine Particulate Matter Standard" (FRL No. 9098-8) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4596. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; North Carolina: Hickory-Morganton-Lenoir; Determination of Attaining Data for the 1997 Fine Particulate Matter Standard" (FRL No. 9098-9) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4597. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Shelby County, Tennessee Portion of the Memphis, Tennessee-Arkansas 1997 8-Hour Ozone Non-attainment Area to Attainment" (FRL No. 9099-1) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4598. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Georgia: State Implementation Plan Revision" (FRL No. 9098-5) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4599. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; South Carolina; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-hour Ozone Standard for Cherokee County; Correcting Amendment" (FRL No. 9099-9) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4600. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Finding of Failure to Submit Certain State Implementation Plans Required for the 1-Hour Ozone NAAQS" (FRL No. 9099-7) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4601. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revi-

sion" (FRL No. 9098-6) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4602. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to: The Requirements for Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, the Requirements for Export Shipments of Spent Lead-Acid Batteries, the Requirements for Submitting Exception Reports for Export Shipments of Hazardous Wastes, and the Requirements for Imports of Hazardous Wastes" (FRL No. 9098-7) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4603. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "TSCA Section 5 Premanufacture and Significant New Use Notification Electronic Reporting; Revisions to Notification Regulations" (RIN2070-AJ41) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4604. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Emissions from New Marine Compression-Ignition Engines at or Above 30 Liters per Cylinder" (FRL No. 9097-4) received during adjournment of the Senate in the Office of the President of the Senate on January 5, 2010; to the Committee on Environment and Public Works.

EC-4605. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District" (FRL No. 9104-7) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Environment and Public Works.

EC-4606. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Premanufacture Notification Exemption for Polymers; Amendment of Polymer Exemption Rule to Exclude Certain Perfluorinated Polymers" (FRL No. 8805-5) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Environment and Public Works.

EC-4607. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana" (FRL No. 8968-3) received in the Office of the President of the Senate on January 22, 2010; to the Committee on Environment and Public Works.

EC-4608. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Use Rules on Certain

Chemical Substances" (FRL No. 8438-4) received in the Office of the President of the Senate on January 27, 2010; to the Committee on Environment and Public Works.

EC-4609. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Primary National Ambient Air Quality Standards for Nitrogen Dioxide" (FRL No. 9107-9) received in the Office of the President of the Senate on January 27, 2010; to the Committee on Environment and Public Works.

EC-4610. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana" (FRL No. 9102-7) received in the Office of the President of the Senate on January 27, 2010; to the Committee on Environment and Public Works.

EC-4611. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the support of the Saudi Arabia Ministry of Defense and Aviation (MODA) Command and Control (C2) Computer Subsystem in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-4612. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Photography in Public Exhibit Space" (RIN3095-AB60) received in the Office of the President of the Senate on January 26, 2010; to the Committee on Homeland Security and Governmental Affairs.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

H.R. 3276. A bill to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes (Rept. No. 111-120).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S. Res. 275. A resolution honoring the Minute Man National Historical Park on the occasion of its 50th anniversary.

S. Res. 297. A resolution to recognize the Dyke Marsh Wildlife Preserve as a unique and precious ecosystem.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2924. A bill to reauthorize the Boys & Girls Clubs of America, in the wake of its Centennial, and its programs and activities.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Albert Diaz, of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

James A. Wynn, Jr., of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

André Birotte, Jr., of California, to be United States Attorney for the Central District of California for the term of four years.

Richard S. Hartunian, of New York, to be United States Attorney for the Northern District of New York for the term of four years.

Ronald C. Machen, Jr., of the District of Columbia, to be United States Attorney for the District of Columbia for the term of four years.

Willie Lee Richardson, Jr., of Georgia, to be United States Marshal for the Middle District of Georgia for the term of four years.

By Mr. AKAKA for the Committee on Veterans' Affairs.

\*Raul Perea-Henze, of New York, to be an Assistant Secretary of Veterans Affairs (Policy and Planning).

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. LEAHY (for himself and Mr. LUGAR):

S. 2960. A bill to exempt aliens who are admitted as refugees or granted asylum and are employed overseas by the Federal Government from the 1-year physical presence requirement for adjustment of status to that of aliens lawfully admitted for permanent residence, and for other purposes; to the Committee on the Judiciary.

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

S. 2961. A bill to provide debt relief to Haiti, and for other purposes; to the Committee on Foreign Relations.

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

S. 2962. A bill to amend title II of the Social Security Act to apply an earnings test in determining the amount of monthly insurance benefits for individuals entitled to disability insurance benefits based on blindness; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 2963. A bill to designate certain land in the State of Oregon as wilderness, to provide for the exchange of certain Federal land and non-Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2964. A bill to amend title XVIII, XIX, and XXI of the Social Security Act to prevent fraud, waste, and abuse under Medicare, Medicaid, and CHIP, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN:

S. 2965. A bill to establish a Commission for Fiscal Sustainability, to assure the long-term fiscal stability and economic security of the Federal Government of the United States, and to create prosperity for all Americans; to the Committee on the Budget.

By Mr. RISCH (for himself and Mr. CRAPO):

S. 2966. A bill to authorize the continued use of certain water diversions located on

National Forest System land in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CARDIN:

S. 2967. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for small business job growth, and for other purposes; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. SESSIONS):

S. 2968. A bill to make certain technical and conforming amendments to the Lanham Act; considered and passed.

By Mr. CASEY:

S. 2969. A bill to provide additional emergency mortgage assistance to struggling homeowners, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KERRY (for himself, Mr. FEINGOLD, and Mrs. FEINSTEIN):

S. Res. 400. A resolution urging the implementation of a comprehensive strategy to address instability in Yemen; to the Committee on Foreign Relations.

By Mr. NELSON of Florida (for himself and Mr. LEMIEUX):

S. Res. 401. A resolution expressing the sense of the Senate recognizing coach Bobby Bowden for his accomplishments in college football upon his retirement; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 518

At the request of Mr. CARDIN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 518, a bill to establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes.

S. 557

At the request of Mr. KOHL, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 557, a bill to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize grants for the assistance of organizations to find missing adults, and for other purposes.

S. 604

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 604, a bill to amend title 31, United States Code, to reform the manner in which the Board of Governors of the Federal Reserve System is audited by the Comptroller General of the United States and the manner in which such audits are reported, and for other purposes.

S. 752

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 870

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass.

S. 908

At the request of Mr. BAYH, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 947

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 947, a bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare program.

S. 977

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 977, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Utah (Mr. HATCH), the Senator from Wyoming (Mr. ENZI) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1255

At the request of Mr. SCHUMER, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 1255, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the authorized time period for rebuilding of certain overfished fisheries, and for other purposes.

S. 1282

At the request of Mr. BROWNBAC, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 1282, a bill to establish a Commission on Congressional Budgetary Accountability and Review of Federal Agencies.

S. 1340

At the request of Mr. LEAHY, the name of the Senator from New Jersey

(Mr. MENENDEZ) was added as a cosponsor of S. 1340, a bill to establish a minimum funding level for programs under the Victims of Crime Act of 1984 for fiscal years 2010 to 2014 that ensures a reasonable growth in victim programs without jeopardizing the long-term sustainability of the Crime Victims Fund.

S. 1389

At the request of Mr. NELSON of Nebraska, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1389, a bill to clarify the exemption for certain annuity contracts and insurance policies from Federal regulation under the Securities Act of 1933.

S. 1397

At the request of Ms. KLOBUCHAR, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1397, a bill to authorize the Administrator of the Environmental Protection Agency to award grants for electronic device recycling research, development, and demonstration projects, and for other purposes.

S. 1408

At the request of Mr. MENENDEZ, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1408, a bill to amend the Internal Revenue Code of 1986 to encourage alternative energy investments and job creation.

S. 1425

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1425, a bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1619

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1619, a bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant pro-

gram, to establish a sustainability challenge grant program, and for other purposes.

S. 1668

At the request of Mr. BENNET, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1668, a bill to amend title 38, United States Code, to provide for the inclusion of certain active duty service in the reserve components as qualifying service for purposes of Post-9/11 Educational Assistance Program, and for other purposes.

S. 1792

At the request of Mr. ROCKEFELLER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to modify the requirements for windows, doors, and skylights to be eligible for the credit for nonbusiness energy property.

S. 2800

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2800, a bill to amend subtitle B of title VII of the McKinney-Vento Homeless Assistance Act to provide education for homeless children and youths, and for other purposes.

S. 2853

At the request of Mr. GREGG, the name of the Senator from Utah (Mr. BENNETT) was withdrawn as a cosponsor of S. 2853, a bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the long-term fiscal stability and economic security of the Federal Government of the United States, and to expand future prosperity growth for all Americans.

S. 2900

At the request of Mrs. GILLIBRAND, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 2900, a bill to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems.

S. 2924

At the request of Mr. LEAHY, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 2924, a bill to reauthorize the Boys & Girls Clubs of America, in the wake of its Centennial, and its programs and activities.

S. RES. 316

At the request of Mr. MENENDEZ, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. Res. 316, a resolution calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes.

AMENDMENT NO. 3309

At the request of Mr. BROWNBAC, the names of the Senator from Wyoming

(Mr. BARRASSO), the Senator from Idaho (Mr. CRAPO) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of amendment No. 3309 proposed to H.J. Res. 45, a joint resolution increasing the statutory limit on the public debt.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. LUGAR):

S. 2960. A bill to exempt aliens who are admitted as refugees or granted asylum and are employed overseas by the Federal Government from the 1-year physical presence requirement for adjustment of status to that of aliens lawfully admitted for permanent residence, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I introduce today the Refugee Opportunity Act, legislation that corrects an unfortunate limitation under current law. I thank Senator LUGAR for joining me in support of this legislation. The immigration statute requires a refugee who is resettled in the United States to remain on U.S. soil for a full year before adjusting to lawful permanent residence. For many, this requirement offers no obstacles. The majority of resettled refugees immediately begin to work, learn English, and contribute to their local communities. Yet the 1-year physical presence requirement poses a significant barrier to resettled refugees who are eager and willing to serve the U.S. Government overseas. If they do, they lose that settlement. We can correct that.

One of the tragic legacies of the war in Iraq is the humanitarian crisis that grew out of the conflict, in which millions of people have been displaced both internally and externally, and in which many others have been killed in horrific acts of political and religious persecution. Violent reprisals, kidnappings, and bombings were committed during the insurgency that rose up after May 2003, when President Bush declared the end of major combat operations. Diplomatic and military efforts to quell the insurgency and bring order to Iraq were aided by many brave Iraqi citizens, who, at great risk to themselves and their families, assisted the United States as interpreters or in other capacities. These individuals took such risks knowing the dangers they faced, and many lost their lives.

In 2007, I worked with Senator Ted Kennedy to enact legislation to provide special visas for Iraqi interpreters who had assisted the United States in Iraq and who wished to resettle in the United States to escape the grave dangers they faced as a result of their cooperation with our government. I was proud to join Senator Kennedy in that effort. The enactment of that legislation made clear our commitment to aiding those who had assisted the United States with the critical mission in Iraq. It was the right thing to do.

In 2008, I joined Senator SCHUMER in sponsoring the Military Personnel Citizenship Processing Act. This legislation removed bureaucratic barriers to becoming U.S. citizens for immigrants serving in our military. Congress enacted this legislation to recognize the contributions of immigrants who serve the United States and to fulfill many soldiers' dreams of becoming U.S. citizens. Also in 2008, I worked with Senator MIKULSKI to enact the complementary Kendell Frederick Citizenship Assistance Act, a bill that made the pathway to citizenship for immigrants serving in the military simpler and more efficient. Congress has spoken consistently in favor of recognizing the value of immigrants and refugees who embrace the United States through service to their adopted Nation.

Today I introduce the Refugee Opportunity Act, legislation that builds upon this strong commitment by correcting an unfortunate limitation under current law. I thank Senator LUGAR for joining me in support of this legislation. The immigration statute requires a refugee who is resettled in the United States to remain on U.S. soil for a full year in order to adjust to lawful permanent residence. For many, this requirement presents no obstacles. The majority of resettled refugees immediately begin to work, learn English, and contribute to their local communities. The 1-year physical presence requirement poses a significant barrier to resettled refugees who are eager and willing to serve the U.S. Government overseas, whether as an engineer, a translator, or in some other meaningful capacity. Accepting such employment will result in the delay of a refugee's ability to adjust his or her status and fully integrate into our society. There is no logical reason to deter these refugees from taking U.S.-affiliated positions overseas, especially when they seek to serve the government that has offered them protection.

One example of such a case can be found in the story of Mr. Ahmed Alrais. Mr. Alrais came to the United States as a refugee with his family after he worked as an interpreter for the U.S. Army in Iraq. His work for the Army led to threats against his life, and the United States appropriately granted him refugee status. But then, after struggling to find work in the Chicago area and wanting to provide for his family, Mr. Alrais decided to again face the risks of working in Iraq. He joined the staff of a U.S. Army contractor and began to work on a military base in Iraq. Ironically, taking this risk has delayed his ability to earn lawful permanent residence in the United States because the Department of Homeland Security will not give him credit toward the 1 year physical presence requirement for the time he has spent working with the Army contractor in Iraq. If he had remained in the United States for a full year unemployed, he would not have been penalized under the immigration law. By choosing to

work, to support his family, and serve our Nation's military effort in Iraq, he has sacrificed months toward obtaining a green card.

To recognize the past and future contributions of refugees like Mr. Alrais, this legislation proposes to create an exception in our immigration law to waive the continuous presence requirement for any refugee who, during their first year of residence in the United States, accepts employment overseas to aid the U.S. Government. This legislation will not only recognize the commendable actions of refugees who wish to honor the United States by working for our government overseas, it will also enrich our government's military and diplomatic missions by drawing upon the professional and language skills of refugees. Finally, this bill will encourage more refugees to assist the U.S. efforts abroad. These are goals we should all support.

Our refugee policies have long been a beacon of hope and promise to many around the world. This legislation is the beginning of a renewed effort to improve and modernize our refugee policies to adapt to our changing world. March 17 will mark the 30th anniversary of the enactment of the Refugee Act of 1980, a law originally introduced by Senator Kennedy, a champion of refugees and asylum seekers. I intend to introduce legislation this year to mark that important anniversary. In the coming weeks, I will introduce a bill to enhance protections by bringing our refugee and asylum laws up to date. This comprehensive refugee package will also build on legislation I introduced in the 106th and 107th Congresses, the Refugee Protection Act. I will speak in greater detail on this comprehensive refugee protection package in the coming weeks.

There is no reason to delay introduction of the bill I offer today, however. In 2007, Congress recognized the value and the bravery of those refugees who assisted us in Iraq, and once we pledge American protection, we must follow through with that promise. The circumstances of Mr. Alrais and his family demonstrate the grave inequity that results from current law. They escaped from tyranny and won protection here in the United States. They hope to build a safe and stable life in our country. They will contribute to our communities, educate their children, and become entwined in the fabric of the United States. And the evidence of such dreams is already seen in the actions of this family. Mr. Alrais' wife, Nada Alkhaddar, helps other refugees adjust to life in Chicago under the auspices of a nonprofit community organization. Mr. Alrais' 17-year-old son plays football at his Chicago high school and recently told a reporter that he wants to become a Chicago policeman the embodiment of the public servant "for America," he said.

I urge all Senators to join me in supporting the Refugee Opportunity Act, a sensible, appropriate, and overdue modification to our immigration law.

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

S. 2962. A bill to amend title II of the Social Security Act to apply an earnings test in determining the amount of monthly insurance benefits for individuals entitled to disability insurance benefits based on blindness; to the Committee on Finance.

Mr. DODD. Mr. President, I rise today with my colleague from Arizona, Senator JOHN MCCAIN, to reintroduce legislation on an issue we have worked on together for over a decade. The Blind Persons Return to Work Act of 2010 will remove disincentives to work for blind individuals in the Social Security Disability Insurance, SSDI, program. Removal of these barriers will facilitate the transition of blind Americans from SSDI to income-earning, taxpaying, productive members of the American workforce.

Today there are over 1.3 million Americans who are legally blind and an estimated 10 million Americans with visual impairments. The Americans with Disabilities Act and advances in technology have eliminated many barriers for blind individuals. Today blind individuals are employed in nearly every type of job and profession. They lead businesses and governments. Time and again, they have proven they are more than capable. Yet, societal misperceptions, attitudes, and barriers persist. Unfortunately, more than 70 percent of working-age blind individuals remain unemployed. This is an enormous untapped resource of skills and talents for our country, and it is simply unacceptable.

One thing is clear: blind individuals want to work. I don't know how you put a price tag on the personal value of work. The dignity it provides is priceless. There are many challenges to increasing the employment rate of blind individuals. However, one common sense step we should take is to correct unintended disincentives and barriers within our SSDI program.

Within the SSDI program are earnings limits for beneficiaries. Historically, there was a longstanding linkage between the treatment of earnings for blind individuals and seniors. In 1996, Congress passed the Senior Citizens Freedom to Work Act. This legislation was adopted to encourage seniors to continue working later in life. While it significantly reduced restrictions on earnings for seniors, it created disparities for individuals who are blind. My friend from Arizona and I have worked tirelessly since then to correct this issue of fairness.

The Blind Persons Return to Work Act will replace the monthly earnings limit for individuals who are blind with a gradual phase-out, allowing blind individuals to systematically replace benefits with earned income. Under the current system, if a blind person earns just one single dollar over the limit, they lose their entire SSDI benefit. Clearly, this is a drastic reduction in income and disincentive to work and

earn to the fullest potential. Instead of this "cash cliff," our legislation will gradually reduce benefits by \$1 for every \$3 earned over the limit. It also establishes annual versus monthly earnings tests and a standard deduction for impairment-related work expenses, changes that will reduce administrative burdens for both blind individuals and the Social Security Administration.

As we work to turn our economy around, the Federal Government should do everything within its power to support all Americans in returning to work. I urge my colleagues to join us in sponsoring this common sense approach of removing barriers to employment for blind Americans.

Mr. MCCAIN. Mr. President, I am pleased today to join my colleague, Senator DODD, in introducing an important piece of legislation that will have an enormously positive impact on and improve the lives of blind Americans in the workforce. For too long, capable and talented blind Americans who have the desire and ability to fully participate in the workforce have been discouraged from doing so because of outdated federal disability laws.

Current law stifles earnings opportunities for blind individuals by cancelling all disability assistance for the first dollar of earnings over the government-set threshold. As a result, blind individuals covered by Social Security Disability Insurance, SSDI, which was created to provide security and stability to blind workers during periods of unemployment, are discouraged from expanding their employment opportunities beyond the earnings limitation for fear of suddenly losing their benefits.

Senator DODD and I have been longtime supporters of legislation that would increase the earnings limit for those covered by SSDI. A similar policy was enacted for senior citizens with the adoption of the Senior Citizens Freedom to Work Act. The act eliminated the earnings limit for certain seniors covered by Social Security and thereby encouraged more seniors to participate in the workforce.

The current proposal, the Blind Persons Return to Work Act, is an improvement on past policy proposals focusing on modestly increasing the earnings limit. Rather than simply increasing the earnings limit for blind individuals, the act would allow for a gradual phase-out of Federal benefits for every \$3 earned over the current limit, providing blind individuals the opportunity to increase their earnings as the SSDI benefit decreases.

The unemployment rate for working-age blind people is currently 70 percent. Many of these individuals are extremely talented and capable of fully contributing to the workforce, and we should provide them an incentive to reach their full potential while reducing the number of federal beneficiaries. The proposal will ease the transition from relying solely upon SSDI benefits

to becoming active and productive members of the workforce.

I urge my colleagues to join me in supporting the Blind Americans Return to Work Act, to treat blind individuals fairly and to allow them to achieve increased financial independence.

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 2963. A bill to designate certain land in the State of Oregon as wilderness, to provide for the exchange of certain Federal land and non-Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I rise to introduce new Wilderness legislation to protect two of Oregon's natural treasures. But, this bill will do even more than that. It will also help Oregon's economy, because visitors from all over the world come to our State to experience first-hand the unique scenic beauty of place like the lands preserved by this bill.

The legislation I introduce today with my colleague Senator MERKLEY—the Cathedral Rock and Horse Heaven Wilderness Act of 2010—will consolidate what is currently a splintered ownership of land in this area and protect 16,477 acres of new Wilderness along the Lower John Day River. The fractured land ownership in this area makes it difficult for visitors to fully appreciate these areas when they hike, fish or hunt there because of the scattered and misunderstood lines of private and public ownership. This bill will solve that problem and make these lands more inviting to visitors while giving the landowners more contiguous property to call home.

The area in question is stunning. The Cathedral Rock and Horse Heaven Wilderness proposals encompass dramatic basalt cliffs and rolling hills of juniper, sagebrush and native grasses. These new areas build on the desert Spring Basin Wilderness that was established last year as a result of legislation I introduced, and are located directly across the John Day River from Spring Basin.

With 500 miles of undammed waters, the John Day River is the second-longest free-flowing river in the continental U.S. and is a place that is cherished by Oregonians. The Lower John Day Wild and Scenic River offers world-class opportunities for outdoor recreation as well as crucial wildlife habitat for elk, mule deer, bighorn sheep and native fish such as salmon and steelhead trout. Through land consolidation between public and private landowners, this bill will allow for better management and easier public access for this important natural treasure. With the current fragmentation of public and private land ownership in the area, river campsites are limited. Many federal lands among them can't be reached by the hikers, campers and other outdoors recreationists who could most appreciate them. With the

equal-value land exchanges included in this bill, public lands would be consolidated into two new Wilderness areas. This would enhance public safety, improve land management, and increase public access and recreational opportunities. This solution will create an incredible, new heritage for public lands recreationists who are an important factor in keeping Oregon's economy healthy and thriving.

Rafters of the John Day River can attest to the need for more campsites and public access to the Cathedral Rock area. Backcountry hunters will be able to scan the hillsides for elk, deer and game-birds without having to worry about accidentally trespassing on someone's private land. Anglers will be able to access nearly 5 miles of the John Day River that today are only reachable from privately owned lands. Likewise, such a solution ensures that local landowners can manage their lands effectively without running across unwitting trespassers.

One good example of the value of these land swaps is Young Life's Washington Family Ranch. This Ranch is home to a Christian youth camp that welcomes over 20,000 kids to the lower John Day area each year. This bill sets out private and public land boundaries that can clearly be seen on the ground and create a safer area for campers on the Ranch; this serves the children who visit the area well and ensures the continued viability of the Ranch, which, in turn, provides big economic dividends to the local community.

The Cathedral Rock and Horse Heaven Wilderness proposal is described as "win-win-win" by many stakeholders—nearly five miles of new river access for the public and 18,000 acres of protected wild land for outdoor enthusiasts; better management for private landowners and public agencies; and important habitat protections for sensitive and endangered species. This proposal is an example of the positive solutions that can result when varied, bipartisan interests in a community come together to craft solutions that will work for everyone. All three of the counties involved in this legislation, Wheeler, Wasco and Jefferson, have endorsed this proposal as well as a number of user and recreation groups. I especially want to thank the Oregon Natural Desert Association, Young Life and Forrest Reinhardt, and Matt Smith for their role in developing this collaborative solution that will benefit all Oregonians.

Oregon's wildlands play an increasingly important role in the economic development of our State, especially in traditionally rural areas east of the Cascades. Visitors come from thousands of miles away to hike, fish, raft and hunt in Oregon's desert Wilderness. Beyond tourism, the rich quality of life and the diverse natural amenities that we enjoy as Oregonians are key to attracting new businesses to Oregon. The Cathedral Rock and Horse Heaven Wilderness areas will help make sure that

this rural area will enjoy the benefits that permanently connecting these disparate pieces of natural landscape will bring for generations to come.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2963

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Cathedral Rock and Horse Heaven Wilderness Act of 2010".

#### SEC. 2. DEFINITIONS.

(1) **FEDERAL LAND.**—The term "Federal land" means the Federal land authorized to be conveyed by the United States under section 4(a).

(2) **LANDOWNER.**—The term "landowner" means the owner of the applicable non-Federal land.

(3) **NON-FEDERAL LAND.**—The term "non-Federal land" means the land authorized to be conveyed to the United States under section 4(a).

(4) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(5) **STATE.**—The term "State" means the State of Oregon.

(6) **WILDERNESS AREA.**—The term "wilderness area" means any of the areas designated as components of the National Wilderness Preservation System by section 3(a).

(7) **WILDERNESS MAP.**—The term "wilderness map" means the map entitled "Cathedral Rock-Horse Heaven Wilderness Proposals" and dated January 21, 2010.

#### SEC. 3. CATHEDRAL ROCK WILDERNESS AND HORSE HEAVEN WILDERNESS.

(a) **DESIGNATION.**—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) **CATHEDRAL ROCK WILDERNESS.**—The approximately 8,686 acres of Bureau of Land Management land in the State, as depicted on the wilderness map, to be known as the "Cathedral Rock Wilderness".

(2) **HORSE HEAVEN WILDERNESS.**—The approximately 7,791 acres of Bureau of Land Management land in the State, as depicted on the wilderness map, to be known as the "Horse Heaven Wilderness".

(b) **MAPS; LEGAL DESCRIPTIONS.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) **FORCE OF LAW.**—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the map and legal description.

(3) **AVAILABILITY.**—The maps and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in—

(A) the Office of the Chief of the Forest Service; and

(B) the Office of the Director of the Bureau of Land Management.

(4) **CONFLICT BETWEEN MAP AND LEGAL DESCRIPTION.**—In the case of a conflict between the maps and legal descriptions filed under paragraph (1), the maps shall control.

(c) **ADMINISTRATION OF WILDERNESS.**—

(1) **IN GENERAL.**—Subject to valid existing rights, the wilderness areas shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act.

(2) **INCORPORATION OF ACQUIRED LAND AND INTERESTS.**—Any land within or adjacent to the boundary of a wilderness area that is acquired by the United States shall—

(A) become part of the wilderness area; and

(B) be managed in accordance with—

(i) this section; and

(ii) any other applicable laws.

(3) **WITHDRAWAL.**—Subject to valid rights in existence on the date of enactment of this Act, the Federal land within the wilderness areas is withdrawn from all forms of—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws relating to mineral and geothermal leasing or mineral materials.

(4) **GRAZING.**—The grazing of domestic livestock in a wilderness area shall be administered in accordance with—

(A) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(B) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405) and H.R. 5487 of the 96th Congress (H. Rept. 96-617).

(5) **ACCESS TO NON-FEDERAL LAND.**—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary shall provide reasonable access to non-Federal land within the boundaries of the wilderness areas.

(6) **STATE WATER LAWS.**—Nothing in this section constitutes an exemption from State water laws (including regulations).

(7) **TRIBAL RIGHTS.**—Nothing in this section—

(A) affects, alters, amends, repeals, interprets, extinguishes, modifies, or is in conflict with—

(i) the treaty rights of an Indian tribe, including the rights secured by the Treaty with the Tribes and Bands of Middle Oregon of June 25, 1855 (12 Stat. 963);

(ii) any other rights of an Indian tribe;

(B) prevents, prohibits, terminates, or abridges the exercise of treaty-reserved rights, including the rights secured by the Treaty with the Tribes and Bands of Middle Oregon of June 25, 1855 (12 Stat. 963), within the boundaries of the wilderness areas; or

(C) affects any non-Federal land acquired by the United States under section 4.

#### SEC. 4. LAND EXCHANGES.

(a) **AUTHORIZATION.**—

(1) **SMITH EXCHANGE.**—

(A) **IN GENERAL.**—If Derby Smith Partners, LLC, of Bend, Oregon (referred to in this section as "Smith"), offers to convey to the United States all right, title, and interest of Smith in and to the non-Federal land described in subparagraph (B)(i), the Secretary shall—

(i) accept the offer; and

(ii) on receipt of acceptable title to the non-Federal land and subject to valid existing rights, convey to Smith all right, title, and interest of the United States in and to the Federal land described in subparagraph (B)(ii).

(B) **DESCRIPTION OF LAND.**—

(i) **NON-FEDERAL LAND.**—The non-Federal land referred to in subparagraph (A) is the approximately 1,057 acres of non-Federal land identified on the wilderness map as "Lands proposed for transfer from Smith to the Federal Government".



(ii) **FEDERAL LAND.**—The Federal land referred to in subparagraph (A)(ii) is the approximately 1,195 acres of Federal land identified on the wilderness map as “Lands proposed for transfer from the Federal Government to Smith”.

(2) **SHRUM EXCHANGE.**—

(A) **IN GENERAL.**—If Milton Shrum (referred to in this section as “Shrum”) offers to convey to the United States all right, title, and interest of Shrum in and to the non-Federal land described in subparagraph (B)(i), the Secretary shall—

(i) accept the offer; and

(ii) on receipt of acceptable title to the non-Federal land and subject to valid existing rights, convey to Shrum all right, title, and interest of the United States in and to the Federal land described in subparagraph (B)(ii).

(B) **DESCRIPTION OF LAND.**—

(i) **NON-FEDERAL LAND.**—The non-Federal land referred to in subparagraph (A) is the approximately 416 acres of non-Federal land identified on the wilderness map as “Lands proposed for transfer from Shrum to the Federal Government”.

(ii) **FEDERAL LAND.**—The Federal land referred to in subparagraph (A)(ii) is the approximately 594 acres of Federal land identified on the wilderness map as “Lands proposed for transfer from the Federal Government to Shrum”.

(3) **YOUNG LIFE EXCHANGE.**—

(A) **IN GENERAL.**—If Young Life of Colorado Springs, Colorado (referred to in this section as “Young Life”), offers to convey to the United States all right, title, and interest of Young Life in and to the non-Federal land described in subparagraph (B)(i), the Secretary shall—

(i) accept the offer; and

(ii) on receipt of acceptable title to the non-Federal land and subject to valid existing rights, convey to Young Life all right, title, and interest of the United States in and to the Federal land described in subparagraph (B)(ii).

(B) **DESCRIPTION OF LAND.**—

(i) **NON-FEDERAL LAND.**—The non-Federal land referred to in subparagraph (A) is the approximately 8,715 acres of non-Federal land identified on the wilderness map as “Lands proposed for transfer from Young Life to the Federal Government”.

(ii) **FEDERAL LAND.**—The Federal land referred to in subparagraph (A)(ii) is the approximately 12,335 acres of Federal land identified on the wilderness map as “Lands proposed for transfer from the Federal Government to Young Life”.

(b) **APPLICABLE LAW.**—Except as otherwise provided in this section, the Secretary shall carry out the land exchanges under subsection (a) in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(c) **CONDITIONS.**—The conveyances of the Federal land and non-Federal land under subsection (a) shall be subject to such terms and conditions as the Secretary may require.

(d) **EQUAL VALUE EXCHANGE.**—

(1) **IN GENERAL.**—The value of the Federal land and non-Federal land to be exchanged under this section—

(A) shall be equal; or

(B) shall be made equal in accordance with paragraph (2).

(2) **EQUALIZATION.**—

(A) **SURPLUS OF FEDERAL LAND.**—If the value of the Federal land exceeds the value of the non-Federal land, the value of the Federal land and non-Federal land shall be equalized, as determined to be appropriate and acceptable by the Secretary and the landowner—

(i) by reducing the acreage of the Federal land to be conveyed; or

(ii) by adding additional State land to the non-Federal land to be conveyed.

(B) **SURPLUS OF NON-FEDERAL LAND.**—If the value of the non-Federal land exceeds the value of the Federal land, the value of the Federal land and non-Federal land shall be equalized by reducing the acreage of the non-Federal land to be conveyed, as determined to be appropriate and acceptable by the Secretary and the landowner.

(e) **APPRAISALS.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary and the landowner shall select an appraiser to conduct an appraisal of the Federal land and non-Federal land to be exchanged.

(2) **REQUIREMENTS.**—An appraisal under paragraph (1) shall be conducted in accordance with nationally recognized appraisal standards, including—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(B) the Uniform Standards of Professional Appraisal Practice.

(f) **SURVEYS.**—

(1) **IN GENERAL.**—The exact acreage and legal description of the Federal land and non-Federal land to be exchanged under subsection (a) shall be determined by surveys approved by the Secretary.

(2) **COSTS.**—The Secretary and the landowner shall divide equally between the Secretary and the landowner—

(A) the costs of any surveys conducted under paragraph (1); and

(B) any other administrative costs of carrying out the land exchange under this section.

(g) **DEADLINE FOR COMPLETION OF LAND EXCHANGE.**—It is the intent of Congress that the land exchanges under this section be completed not later than 2 years after the date of enactment of this Act.

(h) **ADDITION TO WILDERNESS AREAS.**—On completion of the land exchanges under this section, the non-Federal land shall—

(1) become part of the wilderness areas; and

(2) be managed in accordance with—

(A) this Act;

(B) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(C) any other applicable law.

By Mr. GRASSLEY:

S. 2964. A bill to amend title XVIII, XIX, and XXI of the Social Security Act to prevent fraud, waste, and abuse under Medicare, Medicaid, and CHIP, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, in 2009 the Medicare, Medicaid and CHIP programs accounted for over \$800 billion of the \$2.3 trillion spent on health care in the U.S. Together, these programs constitute around 35 percent of national health spending. With so much taxpayer money at stake, it is no surprise that all this spending brings crooks, scam artists and even organized crime out of the woodwork.

Low estimates are that fraudsters steal \$60 billion from the Medicare and Medicaid programs every year. As Federal health care spending continues to skyrocket, so will the dollars lost to fraud, waste and abuse.

This is a crime against not only the taxpayer, but against each and every beneficiary who depends on these programs for their health care. The examples of fraud are all around us. In a 60

Minutes segment late last year, we saw a medical supply company that billed Medicare \$2 million last July—despite being empty and having apparently no staff.

One man interviewed said he was waking up every day making \$20,000–\$40,000. Every single day. He said it was like winning the lottery, and you and me and every taxpayer were footing the bill. He was running a fake medical supply company that didn't actually sell any medical equipment to anyone. He says he stole at least \$20 million from Medicare. He said it was, “real easy.”

This must change.

I don't think Members on either side of the aisle dispute this. Back when health care reform was a bipartisan endeavor, I developed a set of legislative proposals with Senator BAUCUS to combat fraud, waste and abuse. These proposals are in the bill that the Finance Committee reported as well as the health care reform bill that the Senate passed late last year. And these provisions did not draw opposition from either side of the aisle. Tackling fraud, waste and abuse in health care is one of the areas where there is widespread agreement.

That is why I am here today to introduce the Strengthening Program Integrity and Accountability in Health Care Act. This legislation includes the critical measures that I developed on a bipartisan basis. This bill also includes legislation and amendments I have subsequently introduced to strengthen these proposals to address fraud, waste and abuse.

They are designed to deter, detect and prevent those that would steal from Federal health care programs, to assist those tasked with catching these criminals, and to protect taxpayer dollars. These commonsense changes will go a long way in helping to make sure Medicare, Medicaid and CHIP dollars are going to bona fide providers, instead of fraudsters set on scamming the system.

This legislation would make it harder for fraudsters to enroll in Federal health programs as providers and bilk the system. This includes requiring meaningful screening of health care providers and suppliers. Additional tools would also be provided to prevent fraud, waste and abuse including enhanced oversight measures, disclosure requirements, authority to impose enrollment moratoriums and requirements for developing compliance programs.

This bill would impose additional requirements on providers and suppliers to ensure that bona fide providers are billing Federal health programs for bona fide items and services. This includes providing documentation or performing a face-to-face evaluation before certifying a beneficiary's eligibility for an item or service.

It would also improve Federal monitoring for fraud, waste and abuse by requiring better data sharing and data

access across the Federal government. Government agencies would be able to share information with each other in an effort to identify crooks in the system promptly. It would also create a national clearinghouse of information so we can better detect and prevent and thereby deter medical identity theft. Again, this is about the Federal Government sharing information it already has in ways that protect the Taxpayer and work against those defrauding the system and hopefully deter those who are thinking about stealing from you.

The legislation takes several steps to end the current "pay and chase" model of Federal health care spending. It takes the commonsense approach of allowing the government to withhold taxpayer dollars from those under investigation for health care fraud.

It would change Federal laws that require Medicare to pay providers quickly, regardless of the risk of fraud, waste, or abuse. Under current law, the government is required to make payment for a "clean" claim within 14 to 30 days before interest accrues on the claim. That is not enough time for the limited number of Medicare auditors to determine if the claim is legitimate before the payment has to be made. The result is that this "prompt payment rule" requires that Medicare pay fraudsters first, and ask questions later.

This requirement doesn't make any sense. This bill would give the Secretary of Health and Human Services the authority to ask questions first and then and only then to make the payment if the health care provider and the payment for services check out. The Secretary would also be required to suspend payments pending the investigation of credible allegations of fraud against the provider or supplier.

This legislation would also increase funding for those fighting health care fraud. Study after study has shown that every dollar spent fighting health care fraud is repaid multiple times over in funds recovered and fraud prevented. This is a good investment for the taxpayer and bad news for health care fraudsters.

This bill would provide powerful disincentives for those that would rob the taxpayer through health care fraud. It would better arm those fighting fraud with tools to catch and prosecute fraudsters. It also would make the consequences for committing health care fraud more meaningful by increasing civil monetary penalties and expanding the types of acts and omissions that would be subject to civil monetary penalties and exclusion from Federal health programs.

This legislation would also strengthen the government's most powerful tool for preventing and recovering taxpayer dollars lost to fraud, the False Claims Act. It also ensures that courageous whistleblowers that come forward to speak up against fraud and file False Claims Act cases are protected from retaliation by their employers.

These changes would go a long way to deter those who would defraud our health care programs. It also would provide greater protections to the taxpayer. In these difficult economic times, we have got to do everything we can to protect taxpayer dollars and the resources of health care programs on which so many Americans depend.

By Mr. CARDIN:

S. 2967. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for small business job growth, and for other purposes; to the Committee on Finance.

Mr. CARDIN. Mr. President, I am introducing today the Boosting Entrepreneurship and New Jobs Act that I believe is desperately needed. I think it is very clear that our economy, which is coming out of the worst recession since the Great Depression, has turned a corner. But we need to create more jobs in America. We know that. We know that 1 out of 10 Americans who wish to work cannot find jobs. Our first responsibility must be to help create more jobs so our economy can rebound and grow. To do that, we need to invest in small businesses.

I was pleased to hear the President of the United States last night talk about the importance of small business in our recovery. As we develop our policies, we need to focus on helping small businesses grow. In the American Recovery and Reinvestment Act, we took action and increased the loan limits under the Small Business Administration. We were able to make it less expensive for businesses to borrow from the Small Business Administration. These were good steps we took. I was proud of an amendment I offered to increase the surety bond limits so small construction companies could, in fact, get work in this economy. I was proud of the amendment that passed to increase the SBA's budget by about \$180 million so they could have the capacity to help small companies with technical assistance in order to get government jobs. All of that has happened.

We all know 99.7 percent of all firms in America are small businesses. That is the economic engine of America. Just over half of the private sector employees work for small companies. We have to pay attention to small companies if we are going to grow out of this economic problem. Forty-four percent of the total U.S. private payroll comes from small employers. Sixty-four percent of the net new jobs over the past 15 years came from small businesses. And 97.3 percent of all identified exporters came from small companies. On a per-employee basis, for those companies that applied for patents, small companies have 13 times more patents per employee than larger companies. That is where innovation comes from in New Hampshire, and I can tell my colleagues that in Maryland, I look at companies every day, small companies coming up with the innovations that will lead America into the future. They

come up with the new ways to deal with our problems. It is the small companies that are the most prolific in providing that type of innovation to our society, whether it is Maryland, New Hampshire, or any of our States. So it is for that reason that I have introduced this legislation.

This legislation would provide some additional tools to help small businesses create new jobs. We need new jobs. It establishes a temporary 3-year refundable tax credit for new hires by small businesses. Businesses with up to 25 employees would be eligible for a refundable tax credit equal to 15 percent of the first \$20,000 of wages for new hires. That is a strong incentive for a company to put on new employees. It establishes a credit to help small companies deal with providing health benefits for their employees.

The two issues I hear about most from small businesses is the affordability of health insurance and the availability of credit. Both are dealt with through this legislation by providing a way in which small companies can have more affordable health insurance and by providing a way in which small companies can directly access SBA loans.

Following up on what the President said last night, this legislation will set aside \$30 billion from the TARP funds so that small companies could directly get SBA loans. I think that is the way to do it because there is a reluctance among banks to lend money to small businesses even though today 90 percent of that loan is guaranteed by the SBA. My legislation would use the same standard for SBA to make direct loans—so basically 100 percent guaranteed by the Federal Government rather than 90 percent. Then we know the loans will be made.

I can't tell my colleagues how many companies I have talked to in Maryland who are creditworthy. They are prepared to hire more workers. They are prepared to believe in our economy and believe in our future. The problem is they don't have a bank to partner with. If they have an existing relationship with a community bank, they may be OK. But if they don't, to try to establish a relationship today is very difficult.

The President recognized that last night when he talked about the credit crunch affecting small businesses. We haven't eased that. This legislation would provide for the SBA, using the same standards it uses today for their SBA loans, to make direct loans to small companies in order to get our economy back on track by helping small businesses. It will create more jobs. It increases the SBA 7(a) program from \$2 million to \$5 million. It increases the microloan program from \$35,000 to \$50,000. It increases the SBA 504 loan program from \$1.5 million to \$5.5 million. These increases in loan limits are desperately needed if we are going to be realistic in today's marketplace as the type of loans businesses need in order to expand jobs.

There are two more things this bill does that I wish to mention that are a direct help to small business. One is the sense of the Congress that the SBA Administrator should be a Cabinet-level position. I think we need to make sure an advocate for small business has the ear of our President. We know what happened in 2009. We know we had to bail out Wall Street and we had to deal with the large banks in order to save our system from going off a cliff. We all understand that. But we also know there were certain commitments made to help small businesses. Yet it never got into your community banks, into your States or to your small businesses. We need the advocate for small businesses to have a direct line to the President. For that reason, I urge that the SBA Administrator be a part of the Cabinet.

Another part of the bill expresses a sense of Congress that the financial institutions that have benefited from our bailout carry out what they said they would do; that is, loan money to small companies. They say they are doing it, but the evidence shows the reverse, that they are not making these types of loans. I think it would be interesting to see exactly what types of loans these banks that relied upon the Federal Government are making to help our communities. I think we all would be disappointed to see their lack of participation in small company financing which could create jobs in our communities.

The last provision of the bill provides for offsets to make sure it is fully paid. I don't believe we should add to the deficit. I think this bill will help create jobs, help us deal with the economic growth of America, and deal with narrowing the budget deficit through economic growth. I think we all have a responsibility to make sure we have adequate offsets in the bill so we don't add further to the Federal deficit. That is called budget discipline. We talked about that a little bit on the floor of the Senate today. This bill is fully paid for through offsets.

I urge my colleagues, as we look in the weeks ahead at what we will call a jobs bill, which will help put more Americans to work—and I fully support that—that we follow the leadership of our President. The first thing he mentioned in the State of the Union Address last night was that we ought to pay attention to small businesses. I agree with the President. I hope that is a major part of our jobs bill; that it will be provisions that will provide tax credits for new job hires, help for small businesses dealing with health insurance and that it will increase the SBA's capacity to make loans to small businesses and will, indeed, provide a new avenue for opening credit to small businesses, putting the spotlight on the banking community so they do more, as they should, to help small businesses grow so we can create new jobs and grow our economy. That should be our first priority. I pledge to work with

my colleagues in the Senate and work with the administration so we can get the job done in the Senate.

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 400—URGING THE IMPLEMENTATION OF A COMPREHENSIVE STRATEGY TO ADDRESS INSTABILITY IN YEMEN

Mr. KERRY (for himself, Mr. FEINGOLD, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 400

Whereas al Qaeda-affiliated terrorist groups operating in the Republic of Yemen are a threat to the national security of the United States;

Whereas on October 12, 2000, an explosives-laden motorboat detonated alongside the United States Navy destroyer USS Cole while it was docked in the Yemeni port of Aden, killing 17 members of the United States armed forces and wounding 39 others in the deadliest terrorist attack against the United States military since the 1983 attack on United States Marine barracks in Beirut, Lebanon;

Whereas on September 17, 2008, after several previous failed attacks, Yemeni militants attacked the entrance of the United States Embassy in Sana'a, Yemen, killing 17 people, including a United States citizen;

Whereas al Qaeda in the Arabian Peninsula has claimed responsibility for the alleged attempt by a Nigerian national, Umar Farouk Abdulmutallab, to detonate explosives on board Northwest Airlines flight 253 bound for Detroit, Michigan on Christmas Day 2009;

Whereas members of al Qaeda in the Arabian Peninsula have used Yemeni territory as a base from which to launch attacks against the Kingdom of Saudi Arabia, including an August 2009 assassination attempt that injured Deputy Interior Minister for Security Affairs Prince Mohammed bin Nayef bin Abdul Aziz al Saud;

Whereas the Government of Yemen, since December 17, 2009, has undertaken a number of military operations against al Qaeda in the Arabian Peninsula leadership;

Whereas stability in Yemen is threatened by rapid population growth, endemic poverty, the inadequate provision of basic services, widespread corruption, and natural resource shortages stemming from extreme water scarcity and dwindling oil production;

Whereas a tribal insurgency in northern Yemen being waged by al-Houthi fighters and a southern secessionist movement threaten the stability of Yemen;

Whereas hundreds of thousands of Somalis and Ethiopians are seeking asylum in Yemen to escape civil war, political grievances, and poverty;

Whereas these refugees create significant additional pressures on Yemen's limited resources and government institutions;

Whereas the February 2009 Department of State report on Human Rights in Yemen found that "significant human rights problems persisted," including "reports of arbitrary and unlawful killings by government forces, politically motivated disappearances, and torture in many prisons";

Whereas on January 21, 2010, Secretary of State Clinton remarked, "The success of [United States Government assistance to Yemen] depends upon Yemen's ability to make the tough choices necessary to im-

prove the capacity to govern, to reform its economy, to protect human rights, to combat corruption, and create a better environment for business and investment.";

Whereas the weakening of government institutions in Yemen could contribute to the ability of al Qaeda-inspired and affiliated militants to recruit, train, and plan terrorist operations against United States targets in the Middle East and in the United States;

Whereas potential large-scale population displacement and migration from Yemen due to civil conflict, economic collapse, or resource failure could jeopardize the stability and security of the region;

Whereas al Qaeda in the Arabian Peninsula, al Qaeda in East Africa, and al-Shabab militants could take advantage of instability in Somalia and Yemen to expand their reach and effectiveness;

Whereas the United States recognizes the importance of cooperating with Yemen to counter the al Qaeda threat, promote economic development, and preserve Yemen's stability as it seeks to expand good governance;

Whereas in September 2009, USAID and Yemen signed a 3-year economic assistance agreement to fund development projects in the fields of health, education, democracy and governance, agriculture and economic development;

Whereas President Obama has significantly increased United States military and economic assistance to Yemen, including—

(1) \$66,800,000 in fiscal year 2009 to build the capacity of the Yemeni military to conduct counterterrorist operations; and

(2) \$52,500,000 in fiscal year 2010 for economic assistance administered by the Department of State;

Whereas Yemen aspires to join the Gulf Cooperation Council, some of whose members pledged more than \$4,000,000,000 to support Yemen's economic development at a November 2006 international donors conference in London; and

Whereas the challenges of Yemeni stability are not just a concern for the United States and Yemen, but are also a concern for countries in the region and for the entire international community:

Now, therefore, be it

*Resolved*, That the Senate—

(1) reaffirms its commitment to helping prevent state collapse in Yemen, denying terrorists a safe-haven, and supporting the people and Government of Yemen in dealing with Yemen's profound and interlocking security, development, and economic challenges;

(2) reaffirms its commitment to disrupting, dismantling, and defeating al-Qaeda and affiliated movements worldwide;

(3) urges the Government of Yemen to strengthen and sustain efforts against al Qaeda in the Arabian Peninsula;

(4) calls upon the Government of Yemen to strengthen efforts to address corruption, to respect human rights, and to work with its citizens and the international community to address the significant factors driving the instability in Yemen;

(5) calls upon the international community to closely coordinate and strengthen assistance programs in Yemen;

(6) recognizes the critical role of Saudi Arabia and other members of the Gulf Cooperation Council in these assistance programs;

(7) urges intensive dialogue toward ceasing armed hostilities through a negotiated political settlement between the Government of Yemen and the Houthi rebellion;

(8) requests that the Secretary of State, the Secretary of Defense, and the Director of National Intelligence submit a joint, comprehensive strategy for Yemen, in classified

and unclassified form, to the Senate, including—

- (A) counterterrorism cooperation;
- (B) development, humanitarian, and security assistance;
- (C) regional and international diplomatic coordination; and
- (D) democracy, human rights, and governance promotion; and
- (9) urges the President to work with the people and Government of Yemen, the international community, and the international organizations to implement the strategy submitted pursuant to paragraph (8).

#### SENATE RESOLUTION 401—EXPRESSING THE SENSE OF THE SENATE RECOGNIZING COACH BOBBY BOWDEN FOR HIS ACCOMPLISHMENTS IN COLLEGE FOOTBALL UPON HIS RETIREMENT

Mr. NELSON of Florida (for himself and Mr. LEMIEUX) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 401

Whereas Bobby Bowden, over a 44-year career during which he coached at Howard College (now Samford University), West Virginia University, and Florida State University, where he has coached for the past 34 years, established a record as one of the most successful coaches in college football history;

Whereas the 388 coaching victories of Bobby Bowden are second only to the 393 coaching victories recorded by Joe Paterno at Pennsylvania State University;

Whereas Bobby Bowden coached Florida State University to victory in 2 national championships in 1993 and 1999, and to a bowl game in every year since 1982, making it the longest streak in the Nation;

Whereas Bobby Bowden became a member of the College Football Hall of Fame in 2006;

Whereas Bobby Bowden helped promote 164 student athletes onto careers in the National Football League;

Whereas Bobby Bowden profoundly influenced many professional and collegiate coaches and players with his wisdom, loyalty, and warmth throughout his coaching career; and

Whereas the accomplishments of Bobby Bowden on and off the field have come to personify Florida State University: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that Bobby Bowden is to be recognized for his monumental achievements in college football upon his retirement.

#### NOTICES OF HEARINGS

##### COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, February 2, 2010, at 10 a.m., to hear testimony on “Corporate America vs. The Voter: Examining the Supreme Court’s Decision to Allow Unlimited Corporate Spending in Elections.”

For further information regarding this meeting, please contact Lynden Armstrong at the Rules and Administration Committee on 202–224–6352.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the infor-

mation of the Senate and the public, that the hearing scheduled before the Senate Committee on Energy and Natural Resources, for Tuesday, February 2, 2010, will begin at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nominations of Larry Persily, to be Federal Coordinator for Alaska Natural Gas Transportation Projects, and Patricia A. Hoffman, to be an Assistant Secretary of Energy (Electricity Delivery and Energy Reliability).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to [amanda\\_kelly@energy.senate.gov](mailto:amanda_kelly@energy.senate.gov).

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

##### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has scheduled a hearing for Thursday, February 4, 2010, entitled, “Keeping Foreign Corruption Out of the United States: Four Case Histories.” The Subcommittee hearing will examine how some politically powerful foreign officials, their relatives, or close associates—referred to in international agreements as “Politically Exposed Persons” or PEPs—have used the services of U.S. professionals and U.S. financial institutions to bring millions of dollars in suspect funds into the United States to advance their interests. Four case histories will illustrate how some PEPs have used U.S. lawyers, realtors, escrow agents, lobbyists, bankers, and others to circumvent U.S. anti-money laundering and anti-corruption safeguards. It will also look at how some U.S. professionals have actively helped PEPs avoid bank scrutiny or facilitated suspect transactions with no questions asked. The hearing will also examine whether U.S. policies and practices to combat foreign corruption and money laundering need strengthening. Witnesses will include government agencies, including the State Department, Immigration & Customs Enforcement (ICE), and Financial Crimes Enforcement Network (FinCEN), as well as lawyers, a realtor, and representatives of financial institutions.

The Subcommittee hearing has been scheduled for Thursday, February 4, 2010, at 9:30 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Laura Stuber of the Permanent Subcommittee on Investigations at 202–224–9505.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND THE SUBCOMMITTEE ON GREEN JOBS AND THE NEW ECONOMY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works and the Subcommittee on Green Jobs and the New Economy be authorized to meet during the session of the Senate on January 28 at 9 a.m. in room 406 of the Dirksen Office Building.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on January 28, 2010, at 9 a.m., to hold a hearing entitled “Haiti: From Rescue to Recovery and Reconstruction.”

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on January 28, 2010, at 3:30 p.m.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on January 28, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on January 28, 2010, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

##### COMMITTEE ON VETERANS’ AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on January 28, 2010. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 28, 2010 at 2:30 p.m.

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

## EXECUTIVE SESSION

## NOMINATION OF M. PATRICIA SMITH TO BE SOLICITOR FOR THE DEPARTMENT OF LABOR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 474, the nomination of M. Patricia Smith to be Solicitor for the Department of Labor.

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

The clerk will report.

The legislative clerk read the nomination of M. Patricia Smith, of New York, to be Solicitor for the Department of Labor.

## CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk, and I ask that it be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of M. Patricia Smith, of New York, to be Solicitor for the Department of Labor.

Harry Reid, Tom Harkin, Jeff Bingaman, Mark Begich, Byron L. Dorgan, Edward E. Kaufman, Barbara Boxer, Benjamin L. Cardin, Robert Menendez, Kay R. Hagan, Sheldon Whitehouse, Barbara A. Mikulski, Jon Tester, Roland W. Burris, Kirsten E. Gillibrand, Bill Nelson, Mary L. Landrieu.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. I further ask unanimous consent that the vote on the motion to invoke cloture on the nomination occur at 5:30 p.m., Monday, February 1.

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

## LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that the Senate resume legislative session.

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

## EXECUTIVE SESSION

## NOMINATION OF MARTHA N. JOHNSON TO BE ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

Mr. REID. I now ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 188, the nomination of Martha Johnson to be Administrator of General Services.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the nomination of Martha N. Johnson, of Maryland, to be Administrator, General Services Administration.

## CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Martha N. Johnson, of Maryland, to be Administrator of General Services.

Harry Reid, Joseph I. Lieberman, Jeff Bingaman, Mark Begich, Byron L. Dorgan, Edward E. Kaufman, Barbara Boxer, Benjamin L. Cardin, Robert Menendez, Kay R. Hagan, Sheldon Whitehouse, Barbara A. Mikulski, Jon Tester, Blanche L. Lincoln, Roland W. Burris, Kirsten E. Gillibrand, Bill Nelson, Mary L. Landrieu.

Mr. REID. I ask unanimous consent the mandatory quorum be waived.

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

## LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that the Senate resume legislative session.

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

## TRADEMARK TECHNICAL AND CONFORMING AMENDMENT ACT OF 2010

Mr. REID. I ask unanimous consent that the Senate now proceed to the consideration of S. 2968.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2968) to make certain technical and conforming amendments to the Lanham Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, legislation will facilitate trademark owners' maintenance of protection for their brands. I appreciate the Senate acting swiftly to pass this bill. Trademark protection is critical both for businesses that have invested in creating a reliable product, and for consumers who trust a "brand name" product to be safe and of high quality.

Last Congress, I authored legislation to provide our law enforcement community with the tools, resources, and intragovernmental coordination necessary to combat intellectual property theft. Theft of intellectual property harms our businesses, weakens our economy, and costs jobs. I am proud that the legislation, the Prioritizing Resources and Organization of Intellectual Property, or PRO-IP, Act, was co-

sponsored by a bipartisan group of 21 Senators, and was signed into law.

The Senate Judiciary Committee has held numerous hearings in recent years on the importance of intellectual property protection. In 2004, Burton Snowboards, a successful Vermont business, testified before the Judiciary Committee about how small businesses were being harmed by the rise in intellectual property theft. I am pleased that this administration is taking intellectual property protection seriously, and that it recognizes that effective enforcement of our intellectual property laws is an important component of our economic recovery.

The legislation we are introducing today is focused on the process for maintaining trademark protection. It is a targeted bill that will improve the efficiency of the trademark maintenance system. Inefficiencies cost businesses money, which can lead to higher prices for consumers and can cost workers their jobs. When Congress has an opportunity to take waste out of a government process, it should do so on a bipartisan basis. That is what we are doing today. This bill will harmonize the system for submitting maintenance filings to the United States Patent and Trademark Office, USPTO. Maintenance filings are required for continuing the protection of a trademark. Our legislation will also permit the Director of the USPTO to permit applicants to correct good faith and harmless errors and will make several technical amendments within our trademark laws.

This legislation also requires a study of how the current system can better protect small businesses from abuses of the trademark system by larger corporations. Congress provides strong enforcement tools to intellectual property owners, as we should, to deter infringing activity and to remove counterfeit products from the market. I have become concerned, however, that large corporations are at times abusing the substantial rights Congress has granted them in their intellectual property to the detriment of small businesses. In fact, we saw a high-profile case like this in Vermont last year involving a spurious claim against Rock Art Brewery in Morrisville. When a corporation exaggerates the scope of its rights far beyond a reasonable interpretation in an attempt to bully a small business out of the market, that is wrong. This legislation therefore directs the Secretary of Commerce, in coordination with the Intellectual Property Enforcement Coordinator, to consider options for protecting small businesses from such harassing litigation, while ensuring that legitimate trademark infringement actions are handled efficiently and expeditiously by the courts.

This is commonsense legislation, and I thank all Senators for supporting it.

Mr. REID. I ask unanimous consent the bill be read three times and passed,

the motion to reconsider be laid on the table with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The bill (S. 2968) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2968

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Trademark Technical and Conforming Amendment Act of 2010.”

#### SEC. 2. DEFINITION.

For purposes of this Act, the term “Trademark Act of 1946” means the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (commonly referred to as the “Lanham Act”; 15 U.S.C. 1051 et. seq.).

#### SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CERTIFICATES OF REGISTRATION.—Section 7 of the Trademark Act of 1946 (15 U.S.C. 1057) is amended—

(1) by inserting “United States” before “Patent and Trademark Office” each place that term appears;

(2) in subsection (b), by striking “registrant’s” each place that appears and inserting “owner’s”;

(3) in subsection (e)—

(A) by striking “registrant” each place that term appears and inserting “owner”; and

(B) in the third sentence, by striking “or, if said certificate is lost or destroyed, upon a certified copy thereof”; and

(4) by amending subsection (g) to read as follows:

“(g) CORRECTION OF PATENT AND TRADEMARK OFFICE MISTAKE.—Whenever a material mistake in a registration, incurred through the fault of the United States Patent and Trademark Office, is clearly disclosed by the records of the Office a certificate stating the fact and nature of such mistake shall be issued without charge and recorded and a printed copy thereof shall be attached to each printed copy of the registration and such corrected registration shall thereafter have the same effect as if the same had been originally issued in such corrected form, or in the discretion of the Director a new certificate of registration may be issued without charge. All certificates of correction heretofore issued in accordance with the rules of the United States Patent and Trademark Office and the registrations to which they are attached shall have the same force and effect as if such certificates and their issue had been specifically authorized by statute.”.

(b) INCONTESTABILITY OF RIGHT TO USE MARK UNDER CERTAIN CONDITIONS.—Section 15 of the Trademark Act of 1946 (15 U.S.C. 1065) is amended—

(1) by striking “right of the registrant” and inserting “right of the owner”;

(2) by amending paragraph (1) to read as follows:

“(1) there has been no final decision adverse to the owner’s claim of ownership of such mark for such goods or services, or to the owner’s right to register the same or to keep the same on the register; and”;

(3) in paragraph (2), by inserting “United States” before “Patent and Trademark Office”.

(c) APPEAL TO COURTS.—Section 21 of the Trademark Act of 1946 (15 U.S.C. 1071) is amended—

(1) by inserting “United States” before “Patent and Trademark Office” each place that term appears;

(2) in subsection (a)(1), by inserting “or section 71” after “section 8”; and

(3) in subsection (b)(4), by striking “If there be” and inserting “If there are”.

(d) CONFORMING REQUIREMENTS FOR AFFIDAVITS.—

(1) DURATION, AFFIDAVITS AND FEES.—Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

#### “SEC. 8. DURATION, AFFIDAVITS AND FEES.

“(a) TIME PERIODS FOR REQUIRED AFFIDAVITS.—Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Director unless the owner of the registration files in the United States Patent and Trademark Office affidavits that meet the requirements of subsection (b), within the following time periods:

“(1) Within the 1-year period immediately preceding the expiration of 6 years following the date of registration under this Act or the date of the publication under section 12(c).

“(2) Within the 1-year period immediately preceding the expiration of 10 years following the date of registration, and each successive 10-year period following the date of registration.

“(3) The owner may file the affidavit required under this section within the 6-month grace period immediately following the expiration of the periods established in paragraphs (1) and (2), together with the fee described in subsection (b) and the additional grace period surcharge prescribed by the Director.

“(b) REQUIREMENTS FOR AFFIDAVIT.—The affidavit referred to in subsection (a) shall—

“(1)(A) state that the mark is in use in commerce;

“(B) set forth the goods and services recited in the registration on or in connection with which the mark is in use in commerce;

“(C) be accompanied by such number of specimens or facsimiles showing current use of the mark in commerce as may be required by the Director; and

“(D) be accompanied by the fee prescribed by the Director; or

“(2)(A) set forth the goods and services recited in the registration on or in connection with which the mark is not in use in commerce;

“(B) include a showing that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

“(C) be accompanied by the fee prescribed by the Director.

“(c) DEFICIENT AFFIDAVIT.—If any submission filed within the period set forth in subsection (a) is deficient, including that the affidavit was not filed in the name of the owner of the registration, the deficiency may be corrected after the statutory time period, within the time prescribed after notification of the deficiency. Such submission shall be accompanied by the additional deficiency surcharge prescribed by the Director.

“(d) NOTICE OF REQUIREMENT.—Special notice of the requirement for such affidavit shall be attached to each certificate of registration and notice of publication under section 12(c).

“(e) NOTIFICATION OF ACCEPTANCE OR REFUSAL.—The Director shall notify any owner who files any affidavit required by this section of the Director’s acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

“(f) DESIGNATION OF RESIDENT FOR SERVICE OF PROCESS AND NOTICES.—If the owner is not

domiciled in the United States, the owner may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the last designated address, or if the owner does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.”.

(2) AFFIDAVITS AND FEES.—Section 71 of the Trademark Act of 1946 (15 U.S.C. 1141k) is amended to read as follows:

#### “SEC. 71. DURATION, AFFIDAVITS AND FEES.

“(a) TIME PERIODS FOR REQUIRED AFFIDAVITS.—Each extension of protection for which a certificate has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director unless the holder of the international registration files in the United States Patent and Trademark Office affidavits that meet the requirements of subsection (b), within the following time periods:

“(1) Within the 1-year period immediately preceding the expiration of 6 years following the date of issuance of the certificate of extension of protection.

“(2) Within the 1-year period immediately preceding the expiration of 10 years following the date of issuance of the certificate of extension of protection, and each successive 10-year period following the date of issuance of the certificate of extension of protection.

“(3) The holder may file the affidavit required under this section within a grace period of 6 months after the end of the applicable time period established in paragraph (1) or (2), together with the fee described in subsection (b) and the additional grace period surcharge prescribed by the Director.

“(b) REQUIREMENTS FOR AFFIDAVIT.—The affidavit referred to in subsection (a) shall—

“(1)(A) state that the mark is in use in commerce;

“(B) set forth the goods and services recited in the extension of protection on or in connection with which the mark is in use in commerce;

“(C) be accompanied by such number of specimens or facsimiles showing current use of the mark in commerce as may be required by the Director; and

“(D) be accompanied by the fee prescribed by the Director; or

“(2)(A) set forth the goods and services recited in the extension of protection on or in connection with which the mark is not in use in commerce;

“(B) include a showing that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

“(C) be accompanied by the fee prescribed by the Director.

“(c) DEFICIENT AFFIDAVIT.—If any submission filed within the period set forth in subsection (a) is deficient, including that the affidavit was not filed in the name of the holder of the international registration, the deficiency may be corrected after the statutory time period, within the time prescribed after notification of the deficiency. Such submission shall be accompanied by the additional



deficiency surcharge prescribed by the Director.

“(d) NOTICE OF REQUIREMENT.—Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

“(e) NOTIFICATION OF ACCEPTANCE OR REFUSAL.—The Director shall notify the holder of the international registration who files any affidavit required by this section of the Director’s acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

“(f) DESIGNATION OF RESIDENT FOR SERVICE OF PROCESS AND NOTICES.—If the holder of the international registration of the mark is not domiciled in the United States, the holder may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the last designated address, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.”.

#### SEC. 4. STUDY AND REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Intellectual Property Enforcement Coordinator, shall study and report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on—

(1) the extent to which small businesses may be harmed by litigation tactics by corporations attempting to enforce trademark rights beyond a reasonable interpretation of the scope of the rights granted to the trademark owner; and

(2) the best use of Federal Government services to protect trademarks and prevent counterfeiting.

(b) RECOMMENDATIONS.—The study and report required under paragraph (1) shall also

include any policy recommendations the Secretary of Commerce and the Intellectual Property Enforcement Coordinator deem appropriate.

#### ADDITIONAL TEMPORARY EXTENSION OF SMALL BUSINESS PROGRAMS

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of H.R. 4508.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4508) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 4508) was ordered to a third reading, was read the third time, and passed.

#### STAR PRINT—S. 2939

Mr. REID. Mr. President, I now ask unanimous consent that S. 2939 be star printed with the changes at the desk.

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

#### ORDERS FOR FRIDAY, JANUARY 29, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it adjourn until 9:30 a.m. on Friday, January 29; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes during tomorrow’s session of the Senate. The next vote will be at 5:30 p.m. Monday. That vote will be on the motion to invoke cloture on the nomination of Patricia Smith to be Solicitor for the Department of Labor.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

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

There being no objection, the Senate, at 6:41 p.m., adjourned until Friday, January 29, 2010, at 9:30 a.m.

#### CONFIRMATION

Executive nomination confirmed by the Senate, Thursday, January 28, 2010:

##### FEDERAL RESERVE SYSTEM

BEN S. BERNANKE, OF NEW JERSEY, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOUR YEARS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE’S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.