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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Unto You, O Lord, do we lift our hearts this day in praise and thanksgiving. You are our God and we put our trust in You. Lead us away from shame, for You are our rock and refuge.

Today, give Your grace and strength to our lawmakers. Empower them to live worthy of every trust this Nation commits to their hands. Make them champions of liberty, messengers of peace, and servants of Your kingdom.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 15, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following any leader remarks, there will be a period of morning business until 11 a.m. Senators will be permitted to speak for up to 10 minutes each during that period of time. At 11 a.m. the Senate will resume consideration of the FAA authorization bill.

At 11:40 a.m. the Senate will resume consideration of the Nelson of Nebraska amendment. There will be up to 20 minutes of debate equally divided prior to a vote in relation to the amendment, as amended. The Nelson amendment relates to criminal penalties for the unauthorized distribution of advanced imaging technology. At about noon, the Senate will proceed to vote in relation to the Nelson amendment, as amended.

The Senate will then recess from 12:30 until 2:15 p.m. for our weekly caucus meetings. After caucus, there will be 10 minutes for debate equally divided prior to a vote in relation to the Wicker amendment, as modified. The Wicker amendment relates to the collective bargaining rights of TSA employees. Senators should expect a vote in relation to the Wicker amendment to begin at about 2:30, 2:25 p.m.

Both of these amendments are subject to 60-vote thresholds. Additional rollcall votes in relation to FAA amendments are expected to occur throughout the day.

MEASURE PLACED ON THE CALENDAR—H.R. 359

Mr. REID. Madam President, H.R. 359 is at the desk and due for a second reading, I am told.

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

The legislative clerk read as follows:

A bill (H.R. 359) to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions.

Mr. REID. I object to any further proceedings at this time, Madam President.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar under rule XIV.

TRIBUTE TO MANNY PACQUIAO

Mr. REID. Madam President, I am going to take a few minutes today to talk about a friend of Nevada's and a friend of mine. This man is from the other side of the world. His name is Manny Pacquiao. He is in Washington today. Every time I visit with him, I come away more impressed than the last time.

Although those of us who serve here are close with our colleagues in the U.S. Congress—and some even achieve celebrity status inside the beltway itself, the so-called beltway bubble—few of our names and faces are recognizable beyond our shores.

Senator Ted Kennedy was an exception to that rule with fame he earned through the decades he and his family dedicated to public service. So was Senator Clinton—and in her current role as Secretary of State, even more of the world recognizes and respects her. I traveled to Europe with Senator John Glenn. He was a rock star all over Europe. He was a global hero because he orbited the globe.

But no one in our national legislature comes close to the level of worldwide fame of the Congressman from the

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

southern tip of the Philippines, Manny Pacquiao.

The bond between the Philippines and the United States is deep and strong. During World War II, when the Pacific nation was a commonwealth of this country, brave and patriotic Filipino troops served under the American flag. With the leadership of Senator DAN INOUYE, who acted so heroically in the Second World War, we fought in the legislative branches of our government to give those troops, those Filipino troops, the well-deserved and long-overdue pensions they earned during a time of war.

Now Congressman Pacquiao is a Member of Congress from the Philippines. He is also a boxer who holds many other titles than that of Congressman. He holds the title of Super Welterweight Champion. He is the only person in the history of boxing to hold eight world titles. He is the first person in history to win 10 world titles in 8 different weight divisions. He started out being a champion at 106 pounds.

He has fought them all. He has fought people who outweighed him 35, 40 pounds. He has been declared the fighter of the decade and three times the fighter of the year. He is rated the No. 1 pound-for-pound best boxer in the world. From Flyweight to Light Middleweight Champion, Welterweight Champion, Lightweight Champion—no other boxer in history has achieved what he has achieved.

He is an ambitious young man with a closet full of championship belts and the start of a promising political career already under his belt. I am most gratified, as I mentioned, that he is a friend of Nevada's, where his sport is a major player in our economic arena. He is someone I really admire.

Manny Pacquiao and I come from opposite sides of the globe, but in our hearts we come from the same place. Manny grew up with nothing. He was just a kid when he had to leave his home and live in the streets. He started fighting in the streets and went into the ring where he certainly has been one of the all-time greats.

He fought for money when he was a mere boy. He has done so well in life. He has fought to get an education he was not able to get as a young boy. He is married to a wonderful woman named Jinkee. They have four children. He is a devout Roman Catholic. When he stepped into the ring for the first time, it changed his life.

He is a fighter. I have talked about that. There is near unanimous agreement he is the best pound-for-pound fighter on the planet today and perhaps ever, and that takes into consideration some great fighters—Sugar Ray Leonard, Sugar Ray Robinson.

He is a man who is so fun to watch. In his last fight—I watched that fight—he was outweighed by some 30 pounds. He won the fight. He won every round of that fight, and the man he fought had been a champion. But he knows it is not enough just to fight for yourself—and he does that very well—or to be a world champion many times over. You have to be a champion for others. That is what he believes.

He is very tough—we know that—not because he can take punches as forcefully as he gives one but because he fights for those who cannot fight for themselves.

The large and vibrant Filipino community in Nevada looks up to Manny, as do Filipinos and fight fans all over the world. He sets a welcome example of an athlete who does good for many. He is someone who is not in public service for fame or glory or money but because he knows his people need his advice and need his voice.

He is a friend, I repeat, of Nevada's, a friend of America, and—I am happy to say—a friend of mine.

THE PRESIDENT'S BUDGET

Mr. REID. Madam President, when President Obama released his budget yesterday, he made one thing very clear: getting our economy back above water will require shared sacrifice.

Few documents are more intricate and complex than our national budget. But beyond the numbers, what I found deep in this budget is an affirmation of our principles. Among those values is a commitment to recognize and adapt to reality—investing in what works and changing what does not.

I appreciate the President's call for shared sacrifice and living within our means and, more than that, his willingness to do more than just talk but actually lead toward fiscal responsibility. He did not just talk about tough choices, he made them. I do not agree with all of his choices. I disagree with some of his cuts. But I cannot deny that by making the difficult decisions he showed leadership.

I also found in the President's budget the recognition that we are not in a competition to determine who can cut the most; rather, we need to cooperate to discover where we can cut the smartest.

This budget proposes a long-term plan to responsibly cut the deficit in half in President Obama's first term. It does not do that by blindly chopping zeros off bottom lines or eliminating programs wholesale. It invests in that which will grow our economy—such as education, such as innovation, and such as infrastructure.

It does not buy into the partisan talking point that there is no difference between spending and investing, because there is. In other words, it recognizes we can lower the deficit not just by subtraction but also by addition. When we invest in education, we create a smarter and stronger workforce. When we invest in innovation, we create jobs before the rest of the world beats us to those jobs. When we invest in our infrastructure—from the interstates to the Internet—we lay the foundation for prosperity.

I am disappointed the congressional Republicans seem to have learned nothing from recent history. They are again trying to slash the programs that keep us safe and eliminate the programs that keep us competitive. They are still fighting for billions in special breaks for oil and gas companies, the insurance industry, and billionaires.

In the last few days, the former president of Chevron oil said: We don't need those subsidies. But yet Republicans are fighting for subsidies for oil companies when the oil company executives say they do not need them.

We have already tried it their way. They are fighting and substantiating billions in special breaks for oil and gas companies, the insurance industry, and billionaires. We tried it. It does not work. That is why we are in the mess we are in. But the Republican reaction to the President's budget has been an attempt to go back in time.

If they want to time travel in search of fiscal responsibility, they should not stop at President Bush's failed administration; they should keep going to his predecessor's, when we balanced the budget with President Clinton.

We live in the present and we budget for the future. We have spending challenges before us. We cannot afford to forget those challenges will not be solved by extreme rhetoric or unrealistic idealism. They will be solved only when reasonable partners are willing to come to negotiate with responsible proposals that find a critically important balance: one that brings down our deficit while keeping our economy moving in the right direction.

When we find that middle ground, we will leave the next generation with an economy they can count on, with the confidence we seek in our future, and with the knowledge that when difficult decisions need to be made, Americans do not shirk that responsibility; when presented with a tough choice, we make it.

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, the Senate will be in a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

The Senator from Illinois.

EDUCATION FUNDING

Mr. DURBIN. Madam President, the President presented to Congress a budget. It is the annual process or ritual where the President makes the first move, presenting a budget, and then Congress responds. The House and

the Senate come up with a budget resolution within the confines of the President's spending and decide how to spend money. We are now at that phase. But I want to say a word about what the President suggested and what we are hearing from across the Rotunda from the House Republicans.

The President understands we have two challenges as a nation. The first is to create more jobs because we have too many people out of work. Secondly, we need to reduce our deficit. It seems they are cross-purposes, but they do not have to be.

The President is trying to chart a course that moves us forward in a responsible way, cutting spending where it will not hurt economic recovery and growth and investing with the Federal funds we will spend in programs that count. He has talked about an agenda for more education, more innovation, more infrastructure, and economic growth. That is the appropriate balance.

However, when we look at what the Republicans have done in the House of Representatives, we see they have ignored that balance. They believe just cutting spending by itself, without concern about the impact, is best for America's future, but it defies our common human experience. If we said to our family just starting out: There are going to be tough economic times ahead; there are some things we will have to do without, but is there one thing we want to make certain we invest in, most families would say: Well, we want to get the kids educated. We want to make sure our children go to school because that is their only chance. If they don't get a good education, their lives are not going to be as full. They will not make as great a contribution. The same thing is true at the national level. What the President has suggested is, we need sound investment in education.

Unfortunately, the House Republicans, in their approach, cut some of the most basic programs when it comes to education. The President understands—and I think all of us appreciate—the United States has slipped from first to No. 6 in the world in the percentage of high school graduates going to college. How can we be more competitive in this century? How can we expect to attract good businesses and the right kind of inventors and innovators who will spark growth in our economy if we don't have more of our students attending and graduating from college?

We have also slipped from 1st to 12th in the percentage of people holding college degrees. America better wake up and look around the world. I recently spoke at a commencement for a law school in Chicago, and I was surprised when it came to the master's degrees in law. Those are advanced degrees. Anyone with that degree has been in school at least 20 years of their life. When I looked at the graduates with master's degrees from a law school in the city of Chicago, more than half of them were women from China. I thought to myself: I never would have dreamed this. During my time—and this goes back quite a few years—there weren't that many women in law school. Now they make up the majority of law students. But who would have guessed that Chinese women would have the majority of graduate degrees from a law school in Chicago? Wake up, America. That is what is happening.

China, India, and other countries are focused on promoting education for those with the skills to lead their countries in the future. Can we do anything less? Our Nation's strength lies in its ability to outcompete and outinnovate every other country in the world. We can't do it if we are not preparing the next generation of scientists, entrepreneurs, and innovators.

Let's take a look at what the House Republicans did. They are promising we can cut off investments in education, even as quickly as the remainder of this fiscal year, and still prosper. I question that. They released their continuing resolution for the fiscal year on Friday night. Their proposal cuts $4.9 billion in education programs from prekindergarten through college, the money that helps schools teach and helps students get to college. Here is what they cut: $1.1 billion from Head Start, a program that helps low-income, disadvantaged kids enter kindergarten ready to learn. The Presiding Officer has seen these Head Start programs, and I have too. We think to ourselves: Where would these kids be without it? Many of them come from single-parent families, and many of their parents are struggling, making basic minimum wage and hardly any more, and this is where they send their kids during the day so the kids, at an early age—3, 4, and 5 years old—are exposed to socialization, getting to know other children, having mentors and teachers in the room, and learning the basics. Then, when the day comes when they are ready to go to kindergarten, they are truly prepared and ready to go. The House Republicans' cut in Head Start would drop 127,000 low-income preschoolers from the program—over 5,000 in Illinois. That means cutting the rolls by 20 percent and laying off 55,000 teachers and staff. So is that where we start to build for the future, by taking these children out of the Head Start classrooms and laying off 55,000 teachers? What does that say about the future of those children? Will it be as good or worse? I think we know the answer to that.

Under the House Republicans' proposal, $700 million would be cut from schools serving more than 1 million disadvantaged students. We understand, because we are testing, that kids who go to school and who happen to be from lower income families, disadvantaged families, many times don't do as well. We know it. We see it in the test scores. We try to put money into the districts, for what purpose? To reduce the size of the class, provide extra help, including mentoring and teaching after school, and give these students who would otherwise fall behind and might drop out a chance to succeed. Well, the Republicans say: There is an area to cut. They take $700 million out and end up firing 10,000 teachers in these programs—over 280 of those from schools in my State.

Innovative programs that are working today to move our States toward reform in education would be seriously cut. Race to the Top gave to our Secretary of Education, Arne Duncan, incentives of millions of dollars to offer to States if they will do things that are bold, innovative, and successful in improving education. It is interesting that the first two States to be awarded, if I am not mistaken, were Delaware and Tennessee. It is pretty clear the Department of Education wasn't looking for any political agenda here; they were looking for States truly committed to reform. I am sorry Illinois didn't make the cut. One would have thought the President's State might have had an advantage. We didn't make it. In fairness, there are things we could have done that would have improved our chances. But other States changed the laws, moved forward, to try to make sure there is accountability in education as well as good results.

What did the House Republicans think about that? Well, they think we should cut that, dramatically cut that program.

They would cut Pell grants by $845 per student. What does that mean? I know the Senator now presiding over the Senate, similar to myself, has met many of the students receiving Pell grants. A lot of these kids come from families where no one has ever gone on to college. Many of them come from low-income families who can't give them any financial support, and many of them struggle to try to stay in school and still take a job and earn enough money to get by. The Pell grant helps them. The Pell grant says: If you are from a low-income family, we are going to give you a helping hand. To say we are going to cut that grant means many of these students will not be able to continue in school. They will quit. Some may return at a later time; many will not. We will have wasted an opportunity for young, ambitious students who use the Pell grants and student loans to have an education that can lead somewhere.

I might say, in fairness, that I know a little bit about this subject because I went to college and law school borrowing money from the Federal Government. Had I not been able to do that, I am not sure I would be standing here today. It gave me my chance. I still had to go to classes and take the tests and earn the grades and eventually pass the bar exam, but the fact is that money made all the difference in the world to me. There was no way my widowed mother was ever going to pay

for my education in those days. She couldn't do it.

That was my story. Now repeat that story millions of times across America and ask ourselves: What are the House Republicans thinking? They are going to cut Pell grants for these students who are struggling to go through college? Why would we do that when 80 percent of our Nation's fastest growing jobs require higher education? In Illinois, an estimated 61,000 students are going to see their Pell grants significantly reduced or eliminated.

The House Republicans also want to eliminate $1.5 billion in grants to States for job training. When we think about the number of unemployed in America today and how few of them will be able to return to the same job they left, we understand they need new skills, new training. They have to move into new areas of opportunity. Job training offers that. The Republicans eliminate it.

Now take a look at what the President does. The President makes a dramatic cut in spending, freezing our spending, reducing our spending by over $400 billion over the next 5 years, and bringing domestic discretionary spending in America as a percentage of our gross domestic product down to a level lower than it was in the 1950s under President Eisenhower. So he calls for sacrifice, as we should. But the President understands the importance of education. His budget includes $8.1 billion for Head Start to serve nearly 1 million children and families. It includes $1.3 billion to support almost 2 million children and families through the childcare development block grant program.

The President's budget also includes $26.8 billion, an increase of about 7 percent, for elementary and secondary education, focused on raising standards, encouraging innovation, and rewarding success.

Last week, the heads of many school districts in Illinois came to see me. They are struggling. We can understand why. With real estate prices going down and values going down, property tax receipts are not what they used to be. Our State is in bankruptcy. It doesn't have the money to send back to school districts. A small amount—about 5 percent that comes from the Federal Government—is important to them. If Republicans have their way, that amount will be reduced. The President tries to maintain that contribution from the Federal level to help local school districts.

There is something else the President does which I think is essential to better education. He invests $185 million for a new Presidential teaching fellows program which would provide scholarships to talented and aspiring teachers who commit to teaching for 3 years in a high-needs school. It also invests $80 million to improve teacher training in the STEM subjects—science, technology, engineering, and math.

I think most would agree the success of an education depends, first, in my case and many others, on strong family support and encouragement but also on the quality of the teacher in the classroom. We want to make sure we have the best teachers so we have the best students, the best graduates who are then in the best position to compete in the years ahead.

The President's budget maintains a maximum Pell grant award of $5,550 per year, ensuring nearly 8 million students across the country can continue to pursue a college degree.

There is also money in the President's budget for worker training, which we desperately need.

There is also an investment of $1.4 billion in competitive programs to bring about reform in education, including the Early Learning Challenge Fund, spurring States to improve quality; the new Race to the Top, bringing resources to school districts willing to make reforms; and a new First in the World competition, which encourages colleges and universities to demonstrate success in graduating more high-needs students and preparing them for employment.

There are skeptics who believe that no matter what the government does, it is not going to create jobs or create opportunity in America. I think we can go too far in selling the government's role, and we shouldn't. But we can understand in education that the government's role does make a difference.

I try to calculate in my mind. It has been barely 50 or 54 years since we made a decision in Congress that we were going to invest in student loans to help young people go to college—the same program that helped me go to college. It happened after Sputnik was launched and we were concerned about the Russian effort to put satellites in outer space, followed by missiles, followed by a Cold War face-off that we might experience. So we said we need more engineers and scientists and more college grads. We made the investment and it worked. We not only made it to the Moon, but we moved the American economy forward to lead the world in the last half of the 20th century. It was no accident. Part of it was the investment of our government in education for our citizens. The President believes we have to keep that commitment. I agree with him.

I think the House Republicans have gone too far in their cuts. I think they start with the skepticism that government cannot do anything right. Many of them were the beneficiaries of college student loans through the government, and they have forgotten. They shouldn't. Families across America count on it, and we should too. We have to make sure we have a strong budget that cuts deficits—and I agree we must—but maintains essential economic investment. Congress needs to enact a plan that will lead to fiscal sustainability over the long term if we want to ensure a strong economic future. The President has provided an excellent starting point in that conversation.

Madam President, before I yield the floor, I ask unanimous consent that the time consumed in any quorum call during the period of morning business be charged equally to both sides.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

HAPPY 70TH BIRTHDAY TO T. ROGERS WADE

Mr. ISAKSON. Madam President, I rise to speak for a few minutes about a gentleman whose 70th birthday will be celebrated next Monday night in Atlanta, GA. He is a gentleman who has deep ties to the Senate. His name is T. Rogers Wade.

He came to the Senate in 1973 as an administrative assistant and later chief of staff to Georgia Senator Herman Talmadge. During those years, Senator Talmadge was chairman of the powerful Agriculture Committee which, in my State of Georgia, is instrumental. Rogers Wade is one of those unique people whom all of us, such as the Presiding Officer and myself, are lucky enough to have in our offices, somebody who supports us, keeps us moving in the right direction, helps us back home with our people—in other words, kind of drives our ship of State. My chief of staff does. Rogers Wade did it for Herman Talmadge.

He took those talents and brought them back to Georgia after 1980 to do a number of memorable and tremendous things. For example, when he first came back he founded a firm called Edington Wade & Associates, a public affairs firm that represented many Fortune 500 companies throughout the State of Georgia and their locations.

Following that, he did many other things in Georgia. He founded Leadership Georgia, a program today celebrating over 40 years in our State, generating new leaders for our State. It is a great program. He came to the Fanning Institute of Leadership at the University of Georgia and serves on its board. He serves on the board of the Richard Russell Foundation. Most importantly, he is a can-do guy who became president of something known as the Georgia Public Policy Foundation, an organization that is nonpartisan and dedicates itself to opine on legislation going through the Georgia Legislature or initiatives coming before the people on the ballot to give them an unvarnished, nonpolitical, straight-talk expression of what that law or what that issue would be. It has become one of the most respected foundations in our State and, in fact, around

the country. He served as president of that foundation from 1997 to 2009 and today is a trustee of the foundation.

One of the interesting things T. Rogers Wade did—a lot of people talk about what they want to do to reform education and help kids in need. T. Rogers Wade did it. He founded something called Tech High in Atlanta, GA, a school in an old dilapidated building that he raised the money to rehabilitate. He brought in excellent faculty in STEM math and science and opened it as a charter school approved by the State of Georgia for the most in need, free-and-reduced-lunch kids in the metropolitan city of Atlanta public school system. He began attracting those kids to that charter school. So successful has Tech High been that Arne Duncan, the Secretary of Education, chose it to be one of his first visits after he became Secretary of Education under President Obama. It still is a guiding light today of what can be done, with a focus on excellence and helping kids in need to brighten their future.

Just recently, with the election of Nathan Deal as the new Governor of Georgia, he picked one person out of our State to guide him in his transition team. It was T. Rogers Wade.

T. Rogers Wade has touched the lives of American servicemen by being on the board of the USO, Georgia businesses by being on the board of the chamber of commerce, and citizens around our State by being the president of the Public Policy Foundation.

Next Monday night, I am going to have dinner with a great Georgian and great American. And I rise at this moment on the floor of the Senate to pay tribute to T. Rogers Wade on the occasion of his 70th birthday.

I yield back the remainder of my time. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

ESSENTIAL AIR SERVICE

Mr. BAUCUS. Madam President, I realize we are in morning business, but I rise to oppose the McCain amendment to the FAA bill, which will probably come up later when we get to the bill.

The McCain amendment will eliminate the Essential Air Service Program. I applaud my colleague for exploring ways to address our deficit, and I want to join him in looking for opportunities to control spending, but this is one program we must preserve. We won't improve the deficit by stifling local economies.

The Department of Transportation estimates that 1.1 million travelers from more than 150 communities rely on the Essential Air Service Program. The Essential Air Service Program is a promise to rural America, which absolutely needs airports for economic development, as noted in the 2009 Journal of Rural Studies report entitled, ''The Economic Importance of Air Travel in High-Amenity Rural Areas.''

Nearly half of the American West consists of publicly owned lands containing mountain ranges, forests, rivers, lakes, parks, and areas for wilderness, wildlife, and grazing. Many people come to the West to visit—especially from the East—especially in the summer, to go fly fishing, camping, for tourism, and in the winter for skiing. People enjoy public lands in the West. We have so many public lands in the West, we don't have private land for development. This means we have tremendous distances between population centers, and we need reliable air travel to ensure jobs, private enterprise, and access to medical assistance.

Montana is primarily a rural State. We rank 47th in population—that is only three States with less populace than we—while being the fourth largest in land mass. To put it differently, although we are slightly larger than the country of Japan, we have fewer citizens than the State of Rhode Island, the smallest State in the Nation.

Montana has eight Essential Air Service communities: Sidney, Glendive, Wolf Point, Miles City, Glasglow, Havre, and West Yellowstone. The first seven rely on industries such as agricultural and mineral extraction—industries that are vital to America's growth and industries which exist in rural America rather than in downtown metropolitan areas. A couple of those airports also lie near Indian reservations where economic needs are paramount. Without the Essential Air Service all these areas risk isolation.

In 2008, Montana's Essential Air Service provider went out of business. We lost air travel for months. At this point, I want to read a passage from a recent Great Falls Tribune article to illustrate the impact on jobs and the economy. It says:

When Havre, a city of about 10,000 people, lost its air service . . . BNSF Railway closed its local office and moved its operation to Billings.

Think of that. Think of the irony. The railroad needs reliable air services. They didn't have them so they moved to another location. That shows how interconnected our economy is.

I want to take this opportunity to also announce that I have launched a Senate Essential Air Service Caucus. Senator COLLINS from Maine is co-chairman of the bipartisan caucus, and several other Democratic and Republican Senators have already joined us, and I encourage my other colleagues to join and stand with us.

It is important to rein in the deficit. That is clear. But let us be responsible about how we do it. Pulling the rug out from under programs such as Essential Air Service will shrink the economy rather than shrinking the deficit. I will not turn my back on communities that rely on this program as a lifeline.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 223, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 223) to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

Pending:

Wicker modified amendment No. 14, to exclude employees of the Transportation Security Administration from the collective bargaining rights of Federal employees and provide employment rights and an employee engagement mechanism for passenger and property screeners.

Blunt amendment No. 5, to require the Under Secretary of Transportation for Security to approve applications from airports to authorize passenger and property screening to be carried out by a qualified private screening company.

Paul amendment No. 21, to reduce the total amount authorized to be appropriated for the Federal Aviation Administration for fiscal year 2011 to the total amount authorized to be appropriated for the Administration for fiscal year 2008.

Rockefeller (for Wyden) amendment No. 27, to increase the number of test sites in the National Airspace System used for unmanned aerial vehicles and to require one of those test sites to include a significant portion of public lands.

Inhofe amendment No. 7, to require the Administrator of the Federal Aviation Administration to initiate a new rulemaking proceeding with respect to the flight time limitations and rest requirements for supplemental operations before any of such limitations or requirements be altered.

Rockefeller (for Ensign) amendment No. 32, to improve provisions relating to certification and flight standards for military remotely piloted aerial systems in the National Airspace System.

McCain amendment No. 4, to repeal the Essential Air Service Program.

Rockefeller (for Leahy) amendment No. 50, to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 to include

nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits, and to clarify the liability protection for volunteer pilots that fly for public benefit.

Reid amendment No. 54, to allow airports that receive airport improvement grants for the purchase of land to lease the land and develop the land in a manner compatible with noise buffering purposes.

Reid amendment No. 55, to require the Secretary of the Interior to convey certain Federal land to the city of Mesquite, NV.

Udall (NM)/Bingaman amendment No. 49, to authorize Dona Ana County, NM, to exchange certain land conveyed to the county for airport purposes.

Udall (NM) amendment No. 51, to require that all advanced imaging technology used as a primary screening method for passengers be equipped with automatic target recognition software.

Nelson (NE) amendment No. 58, to impose a criminal penalty for unauthorized recording or distribution of images produced using advanced imaging technology during screenings of individuals at airports and upon entry to Federal buildings.

Paul amendment No. 18, to strike the provisions relating to clarifying a memorandum of understanding between the Federal Aviation Administration and the Occupational Safety and Health Administration.

Rockefeller (for Baucus) modified amendment No. 75, of a perfecting nature.

The ACTING PRESIDENT pro tempore. I understand the Senator from Montana wants to make a modification?

Mr. BAUCUS. That is correct.

AMENDMENT NO. 75, AS FURTHER MODIFIED

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, I ask that my amendment No. 75 be modified further with the changes that are at the desk.

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

The amendment, as further modified, is as follows:

Strike title VIII and insert the following:

TITLE VIII—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES

SEC. 800. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 801. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) is amended by striking ''March 31, 2011'' and inserting ''September 30, 2013''.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) is amended by striking ''March 31, 2011'' and inserting ''September 30, 2013''.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking ''March 31, 2011'' and inserting ''September 30, 2013''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2011.

SEC. 802. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended—

(1) by striking ''April 1, 2011'' in the matter preceding subparagraph (A) and inserting ''October 1, 2013'', and

(2) by striking the semicolon at the end of subparagraph (A) and inserting ''or the FAA Air Transportation Modernization and Safety Improvement Act;''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) is amended by striking ''April 1, 2011'' and inserting ''October 1, 2013''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2011.

SEC. 803. MODIFICATION OF EXCISE TAX ON KEROSENE USED IN AVIATION.

(a) RATE OF TAX ON AVIATION-GRADE KEROSENE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 35.9 cents per gallon.''.

(2) FUEL REMOVED DIRECTLY INTO FUEL TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) EXEMPTION FOR AVIATION-GRADE KEROSENE REMOVED INTO AN AIRCRAFT.—Subsection (e) of section 4082 is amended—

(A) by striking ''kerosene'' and inserting ''aviation-grade kerosene'',

(B) by striking ''section 4081(a)(2)(A)(iii)'' and inserting ''section 4081(a)(2)(A)(iv)'', and

(C) by striking ''KEROSENE'' in the heading and inserting ''AVIATION-GRADE KEROSENE''.

(4) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 4081(a)(2)(A) is amended by inserting ''other than aviation-grade kerosene'' after ''kerosene''.

(B) The following provisions are each amended by striking ''kerosene'' and inserting ''aviation-grade kerosene'':

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Subparagraph (D) of section 4081(a)(3) is amended—

(i) by striking ''paragraph (2)(C)(i)'' in clause (i) and inserting ''paragraph (2)(C)'', and

(ii) by striking ''paragraph (2)(C)(ii)'' in clause (ii) and inserting ''paragraph (2)(A)(iv)''.

(D) Paragraph (4) of section 4081(a) is amended—

(i) by striking ''KEROSENE'' in the heading and inserting ''AVIATION-GRADE KEROSENE'', and

(ii) by striking ''paragraph (2)(C)(i)'' and inserting ''paragraph (2)(C)''.

(E) Paragraph (2) of section 4081(d) is amended by striking ''(a)(2)(C)(ii)'' and inserting ''(a)(2)(A)(iv)''.

(b) RETAIL TAX ON AVIATION FUEL.—

(1) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—Paragraph (2) of section 4041(c) is amended by inserting ''at the rate specified in subsection (a)(2)(A)(iv) thereof'' after ''section 4081''.

(2) RATE OF TAX.—Paragraph (3) of section 4041(c) is amended to read as follows:

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax in effect under section 4081(a)(2)(A)(iv) (4.3 cents per gallon with respect to any sale or use for commercial aviation).''.

(c) REFUNDS RELATING TO AVIATION-GRADE KEROSENE.—

(1) AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—Clause (ii) of section 6427(l)(4)(A) is amended by striking ''specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be,'' and inserting ''so imposed''.

(2) KEROSENE USED IN AVIATION.—Paragraph (4) of section 6427(l) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(3) AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—Subsection (l) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—If tax has been imposed under section 4081 at the rate specified in section 4081(a)(2)(A)(iv) and the fuel is used other than in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the amount of tax imposed on such fuel reduced by the amount of tax that would be imposed under section 4041 if no tax under section 4081 had been imposed.''.

(4) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 4082(d)(2) is amended by striking ''6427(l)(5)(B)'' and inserting ''6427(l)(6)(B)''.

(B) Paragraph (4) of section 6427(i) is amended—

(i) by striking ''(4)(C) or (5)'' and inserting ''(4)(B) or (6)'', and

(ii) by striking '', (l)(4)(C)(ii), and (l)(5)'' and inserting ''and (l)(6)''.

(C) Subsection (l) of section 6427 is amended by striking ''DIESEL FUEL AND KEROSENE'' in the heading and inserting ''DIESEL FUEL, KEROSENE, AND AVIATION FUEL''.

(D) Paragraph (1) of section 6427(l) is amended by striking ''paragraph (4)(C)(i)'' and inserting ''paragraph (4)(B)''.

(E) Paragraph (4) of section 6427(l) is amended—

(i) by striking ''KEROSENE USED IN AVIATION'' in the heading and inserting ''AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION'', and

(ii) in subparagraph (A)—

(I) by striking ''kerosene'' and inserting ''aviation-grade kerosene'',

(II) by striking ''KEROSENE USED IN COMMERCIAL AVIATION'' in the heading and inserting ''IN GENERAL''.

(d) TRANSFERS TO THE AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Subparagraph (C) of section 9502(b)(1) is amended to read as follows:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(2) TRANSFERS ON ACCOUNT OF CERTAIN REFUNDS.—

(A) IN GENERAL.—Subsection (d) of section 9502 is amended—

(i) by striking ''(other than subsection (l)(4) thereof)'' in paragraph (2), and

(ii) by striking ''(other than payments made by reason of paragraph (4) of section 6427(l))'' in paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (4) of section 9503(b) is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by inserting after subparagraph (D) the following new subparagraphs:

''(E) section 4081 to the extent attributable to the rate specified in clause (ii) or (iv) of section 4081(a)(2)(A), or

''(F) section 4041(c).''.

(ii) Subsection (c) of section 9503 is amended by striking paragraph (5).

(iii) Subsection (a) of section 9502 is amended—

(I) by striking ''appropriated, credited, or paid into'' and inserting ''appropriated or credited to'', and

(II) by striking '', section 9503(c)(5),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels removed, entered, or sold after March 31, 2011.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation-grade kerosene fuel which is held on April 1, 2011, by any person, there is hereby imposed a floor stocks tax on aviation-grade kerosene equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date on such kerosene under section 4081 of the Internal Revenue Code of 1986, as in effect on such date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation-grade kerosene on April 1, 2011, shall be liable for such tax.

(B) TIME AND METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to the Airport and Airway Trust Fund, the tax imposed by this subsection shall be treated as imposed by section 4081(a)(2)(A)(iv) of the Internal Revenue Code of 1986.

(4) DEFINITIONS.—For purposes of this subsection—

(A) AVIATION-GRADE KEROSENE.—The term ''aviation-grade kerosene'' means aviation-grade kerosene as such term is used within the meaning of section 4081 of the Internal Revenue Code of 1986.

(B) HELD BY A PERSON.—Aviation-grade kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to any aviation-grade kerosene held by any person exclusively for any use to the extent a credit or refund of the tax is allowable under the Internal Revenue Code of 1986 for such use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation-grade kerosene held on April 1, 2011, by any person if the aggregate amount of such aviation-grade kerosene held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(B) EXEMPT AVIATION-GRADE KEROSENE.—For purposes of subparagraph (A), there shall not be taken into account any aviation-grade kerosene held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this subsection—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control if 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 on the aviation-grade kerosene involved shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section.

SEC. 804. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.

(a) IN GENERAL.—Section 9502 is amended by adding at the end the following new subsection:

''(f) ESTABLISHMENT OF AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Airport and Airway Trust Fund a separate account to be known as the 'Air Traffic Control System Modernization Account' consisting of such amounts as may be transferred or credited to the Air Traffic Control System Modernization Account as provided in this subsection or section 9602(b).

''(2) TRANSFERS TO AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—On October 1, 2011, and annually thereafter the Secretary shall transfer $400,000,000 to the Air Traffic Control System Modernization Account from amounts appropriated to the Airport and Airway Trust Fund under subsection (b) which are attributable to taxes on aviation-grade kerosene.

''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Air Traffic Control System Modernization Account shall be available subject to appropriation for expenditures relating to the modernization of the air traffic control system (including facility and equipment account expenditures).''.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 9502(d) is amended by striking ''Amounts'' and inserting ''Except as provided in subsection (f), amounts''.

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

SEC. 805. TREATMENT OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.

(a) FUEL SURTAX.—

(1) IN GENERAL.—Subchapter B of chapter 31 is amended by adding at the end the following new section:

''SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF A FRACTIONAL OWNERSHIP PROGRAM.

''(a) IN GENERAL.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in an aircraft which is—

''(1) registered in the United States, and

''(2) part of a fractional ownership aircraft program.

''(b) AMOUNT OF TAX.—The rate of tax imposed by subsection (a) is 14.1 cents per gallon.

''(c) FRACTIONAL OWNERSHIP AIRCRAFT PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—The term 'fractional ownership aircraft program' means a program under which—

''(A) a single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners,

''(B) 2 or more airworthy aircraft are part of the program,

''(C) there are 1 or more fractional owners per program aircraft, with at least 1 program aircraft having more than 1 owner,

''(D) each fractional owner possesses at least a minimum fractional ownership interest in 1 or more program aircraft,

''(E) there exists a dry-lease aircraft exchange arrangement among all of the fractional owners, and

''(F) there are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

''(2) MINIMUM FRACTIONAL OWNERSHIP INTEREST.—

''(A) IN GENERAL.—The term 'minimum fractional ownership interest' means, with respect to each type of aircraft—

''(i) a fractional ownership interest equal to or greater than 1/16 of at least 1 subsonic, fixed wing or powered lift program aircraft, or

''(ii) a fractional ownership interest equal to or greater than 1/32 of a least 1 rotorcraft program aircraft.

''(B) FRACTIONAL OWNERSHIP INTEREST.—The term 'fractional ownership interest' means—

''(i) the ownership of an interest in a program aircraft,

''(ii) the holding of a multi-year leasehold interest in a program aircraft, or

''(iii) the holding of a multi-year leasehold interest which is convertible into an ownership interest in a program aircraft.

''(3) DRY-LEASE AIRCRAFT EXCHANGE.—The term 'dry-lease aircraft exchange' means an agreement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis without crew, to each fractional owner.

''(d) TERMINATION.—This section shall not apply to liquids used as a fuel in an aircraft after September 30, 2013.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 4082 is amended by inserting ''(other than an aircraft described in section 4043(a))'' after ''an aircraft''.

(3) TRANSFER OF REVENUES TO AIRPORT AND AIRWAY TRUST FUND.—Subsection (1) of section 9502(b) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program),''.

(4) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 31 is amended by adding at the end the following new item:

''Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership program.''.

(b) FRACTIONAL OWNERSHIP PROGRAMS TREATED AS NON-COMMERCIAL AVIATION.—Subsection (b) of section 4083 is amended by adding at the end the following new sentence: ''For uses of aircraft before October 1, 2013, such term shall not include the use of any aircraft which is part of a fractional

ownership aircraft program (as defined by section 4043(c)).''.

(c) EXEMPTION FROM TAX ON TRANSPORTATION OF PERSONS.—Section 4261, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be imposed by this section or section 4271 on any air transportation provided before October 1, 2013, by an aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).''.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to fuel used after March 31, 2011.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to uses of aircraft after March 31, 2011.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable transportation provided after March 31, 2011.

SEC. 806. TERMINATION OF EXEMPTION FOR SMALL JET AIRCRAFT ON NON-ESTABLISHED LINES.

(a) IN GENERAL.—the first sentence of section 4281 is amended by inserting ''or when such aircraft is a turbine engine powered aircraft'' after ''an established line''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable transportation provided after March 31, 2011.

SEC. 807. TRANSPARENCY IN PASSENGER TAX DISCLOSURES.

(a) IN GENERAL.—Section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended—

(1) by redesignating subsection (c) as subsection (d),

(2) by striking ''subsection (a) or (b)'' in subsection (d), as so redesignated, and inserting ''subsection (a), (b), or (c)'', and

(3) by inserting after subsection (b) the following new subsection:

''(c) NON-TAX CHARGES.—

''(1) IN GENERAL.—In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), if such amounts are separately disclosed, it shall be unlawful for the disclosure of such amounts to include any amounts not attributable to such taxes.

''(2) INCLUSION IN TRANSPORTATION COST.—Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after March 31, 2011.

SEC. 808. TAX-EXEMPT BOND FINANCING FOR FIXED-WING EMERGENCY MEDICAL AIRCRAFT.

(a) IN GENERAL.—Subsection (e) of section 147 is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to any fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services (within the meaning of 4261(g)(2)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 809. PROTECTION OF AIRPORT AND AIRWAY TRUST FUND SOLVENCY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended by adding at the end the following new sentence: ''Unless otherwise provided by this section, for purposes of this paragraph for fiscal year 2012 or 2013, the amount available for making expenditures for such fiscal year shall not exceed 90 percent of the receipts of the Airport and Airway Trust Fund plus interest credited to such Trust Fund for such fiscal year as estimated by the Secretary of the Treasury.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fiscal years beginning after September 30, 2011.

Mr. BAUCUS. I thank my friend from West Virginia. He is a good man.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. SHAHEEN. Mr. President, I am here to speak on the legislation that is pending before us. We all know this country faces big challenges. We face a declining infrastructure that is critical to our business. We need safe, reliable transportation if we are going to keep the flow of commerce moving. But as President Obama mentioned in his State of the Union Address, when American engineers took a look at our transportation infrastructure, they gave us a ''D'' grade. That is not quite failing, but it is certainly not very good.

Our declining infrastructure threatens not only our safety but also our global economic competitiveness. America is falling behind economic competitors such as Europe and China which are making significantly more robust investments in their infrastructure. In the United States, we currently spend about 2 percent of our GDP on infrastructure. That is a 50-percent decline since 1960. China and Europe, on the other hand, spend close to 9 percent for China and 5 percent for Europe of their GDP respectively on infrastructure. We need to make the kind of smart investments that will help keep America competitive.

That is why I am very glad we are moving forward with this bipartisan FAA reauthorization bill. It has been almost 4 years since Congress passed an FAA bill, and in that time our economic competitors have continued to invest in their 21st century aviation systems.

Airports are critical to commerce and economic activity in all of our States. The major airport in my home State of New Hampshire, Manchester Airport, generates over $1.2 billion in economic activity every year. Much of that comes from out-of-State residents and foreign travelers. Without that airport, without that air infrastructure, we would not be able to generate that kind of economic activity. The aviation industry in New Hampshire and across the country also provides good jobs for pilots, flight attendants, mechanics, air travel controllers, and so many others. Manchester Airport alone provides over 1,900 jobs.

The FAA legislation that is now before us will accomplish the long overdue task of upgrading one critical component of our aviation infrastructure, the air traffic control system. It will upgrade the system to an efficient 21st-century system called NextGen.

I do not think very many people realize that when they get into an airplane, the pilots and the air traffic controllers are using 20th-century technology to navigate the skies. I was just at a meeting of the High Tech Council in New Hampshire and having this conversation with them. They did not realize that that is the kind of aviation system we use to fly our planes.

So although our cell phones and cars have GPS systems, our multimillion-dollar airplanes use World War II era radar systems. The system we have now is inefficient. It wastes the time and money of everyone involved in the aviation industry. As Chairman ROCKEFELLER has pointed out so many times, even Mongolia has a more advanced air traffic control system than we do. That is unacceptable.

Not surprisingly, our outdated system is at capacity. According to the FAA, delays resulting from the constraints on the system cost the United States over $9 billion every year. That number is going to continue to rise if we do nothing.

We need to take action. The FAA forecasts that the aviation system will carry more than 1 billion airline passengers annually by 2023. We cannot afford to let such an important part of our 21st-century economy languish with 20th-century technology.

By investing in NextGen, our air traffic controllers will finally have the 21st-century technologies they need to make our system more efficient. Let me give an example of the progress NextGen would make. Right now, air traffic controllers give all of their commands to pilots over the radio. They tell them when and where they will be landing. Now, because all of the pilots in the area are listening, there is the potential for miscommunication sometimes. Our pilots and controllers are very professional. They do their jobs well. But sometimes people talk over each other and pilots hear the wrong information. This system we currently have wastes time, and it puts the flying public in jeopardy. Once NextGen is in place, controllers will be able to type a command and send it directly to the plane. To all of us who use e-mail, this sounds pretty basic, but it is an example of the kinds of upgrades that are needed to make our aviation system more efficient and safer.

By funding NextGen, this bill will bring our air traffic control system into the 21st century. NextGen will reduce congestion by allowing planes to fly more direct routes, it will conserve energy, and it will make flying safer for everyone.

Of course, some flight delays are unavoidable. We cannot control the weather, as we all know. But when delays cannot be avoided, we can make sure airlines are treating their customers fairly. That is another critical component of this legislation. That is why this bill includes the passengers' bill of rights.

I cosponsored the passengers' bill of rights after a businesswoman from Bedford, NH—a woman named Jennifer Shirkani—told me her stories of being stuck on tarmacs for hours without access to food or water. These experiences were so frustrating to Jennifer that she became a leader in the movement to get this legislation passed. Unfortunately, her stories have been all too common in recent years. According to the Department of Transportation, hundreds of thousands of passengers have been stuck on a tarmac for more than 3 hours. This bill will codify protections put in place last year by the Department of Transportation so we will not go back to the days when airlines left travelers on the tarmac.

I wish to commend Chairman ROCKEFELLER and Ranking Member HUTCHISON for producing a strong bill, and I look forward to being able to support this legislation with all of my colleagues and pass it very soon so we can upgrade our transportation system to compete with the rest of the world.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. 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. HUTCHISON. Mr. President, we are working very hard to have an amendment on the perimeter rule that would accommodate all the concerns of western Senators who do not have easy access to Reagan Washington National Airport and the concerns of the Virginia Senators who are concerned about congestion and other Senators from the Far West who want to try to have a better chance at a direct flight.

Senator ROCKEFELLER and I have filed an amendment that we think is a fair approach. We did this because we did not have enough consensus, and we are trying to drive that consensus. So I would like to ask that the amendment be brought up. It is our intention then to set it aside for Senator NELSON's amendment, which is scheduled for a vote. I have informed everyone that I am going to ask the Chair to call up amendment No. 84, the Rockefeller-Hutchison amendment on the perimeter rule.

The PRESIDING OFFICER. Is there objection?

Ms. CANTWELL. Mr. President, reserving the right to object, I know my colleagues, the ranking member and the chairman of the committee, have been working diligently to try to resolve this issue. It certainly is a thorny one, given the history of the Commerce Committee and previous votes on this issue.

For me, the issue is that I certainly do want access to the West, and I certainly want to make sure the Nation's Capital is accessible to all parts of the country, but we also want to make sure there is a fair process, that a decision to open access to National Airport is run through the Department of Transportation in an FAA process, that we do not handpick here on the Senate floor any of the people who would be winners in this process but that we make the decision on how much access is available.

I would say to my colleagues that the whole issue here about airports is that anytime you have a limited footprint, you have had discussion about how to give access to that through a process of the FAA.

So I would say to my colleague, let's keep dialoguing and working on this issue. But a process and an amendment that includes conversion; that is to say, that a predominant carrier out of National Airport can continue to hold that dominance in the marketplace, I think is the wrong approach. I look at what is happening now with what the Department of Justice has said about the Delta-US Air swap between New York and DCA. It basically said they have too much market share and they ought to divest if they want to engage in that kind of swap behavior. So any kind of conversion process that would allow slots to be converted is like saying, if you own real estate around the Capitol, then you can buy more real estate around the Capitol.

So I hope we can come up with a process that puts the FAA in charge of this, opens up how much access, but not make the decision here on the Senate floor; allow the FAA and DOT to do their job, as they have on this issue in the past. So at this point in time, I object to the Senator's proposal.

The PRESIDING OFFICER. Objection is heard.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to have 1 minute to respond to the objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, the reason for the conversions was to accommodate the needs of the Washington National Airport people and to also understand that the incumbent carriers—of which there are four—have mostly paid the lion's share of the cost of the additions to Washington National Airport.

We do want a fair process. That is why we have separated the new entrants, which would be five, to accommodate carriers that have no presence but also have conversions of flights that are already in place, so there would be fewer new flights into Washington National and there would be a fair process with the incumbent carriers who have paid such a lion's share of the cost at the airport to keep it competitive and fair.

So, with that, we will continue to discuss. We hope we will have an amendment that can be voted on, and I think it is imperative that we vote on this issue so there is a Senate position.

Mr. President, I yield the floor.

AMENDMENT NO. 58

The PRESIDING OFFICER. Under the previous order, there will now be 20 minutes of debate equally divided on the Nelson amendment No. 58.

The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, the amendment which Senators SCHUMER, AKAKA, SHAHEEN, TESTER—our Presiding Officer—WHITEHOUSE, MENENDEZ, BILL NELSON of Florida, and I have offered, which we will be voting on shortly, is a commonsense approach to addressing the serious issue of protecting an individual's privacy when they pass through security checkpoints at airports and public buildings.

Nebraskans and Americans understand that every step must be taken to keep Federal buildings and air travel safe in America, particularly after the 9/11 attacks. However, as we promote security, safeguards are necessary to protect everybody's privacy from misuse of images generated by body scanning machines.

Our legislation sends a commonsense message: We will not ignore people's privacy as we make sure air travel and Federal buildings are safe. The amendment is very straightforward.

It would, No. 1, make it a crime to photograph or record a body scan image or distribute a body scan image, taken at either an airport or any Federal building, without express authorization to do so either by law or regulation.

Second, it imposes a penalty of up to 1 year in prison and $100,000 fine on violators.

Third, we provide an exception from prosecution if the actions taken occur while an individual is engaged in their official duties during the course of an authorized intelligence investigation or criminal prosecution. This language, which was worked out with officials at the FBI and DNI, is important. This is not an abstract concern. There has already been a case where these images have been taken and posted on line inappropriately. So it is my hope that by creating a very strong deterrent and establishing criminal penalties for those who take and distribute body scan images inappropriately, we will help prevent that from occurring again.

By adopting this amendment, we are telling our constituents we are not going to ignore their privacy in the process of making sure we have safe airports and Federal buildings.

I ask my colleagues to support our amendment.

AMENDMENT NO. 85, AS MODIFIED, TO AMENDMENT NO. 58

Mr. NELSON of Nebraska. Mr. President, I call up my second-degree amendment No. 85 which is at the desk and ask unanimous consent that it be modified with the changes that are at the desk.

The amendment is as follows:

Beginning on page 2 of the amendment, strike line 18 and all that follows through page 3, line 21, and insert the following:

''(b) EXCEPTION.—The prohibition under subsection (a) shall not apply to an individual who, while engaged in or on account of the performance of official duties, distributes, photographs, or otherwise records an image described in subsection (a) during the course of authorized intelligence activities, a Federal, State, or local criminal investigation or prosecution, or other lawful activities by Federal, State, or local authorities, including training for intelligence or law enforcement purposes.

''(c) PENALTY.—An individual who violates the prohibition in subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

''(d) ADVANCED IMAGING TECHNOLOGY DEFINED.—In this section, the term 'advanced imaging technology'—

''(1) means a device that creates a visual image of an individual showing the surface of the skin beneath clothing and revealing other objects on the body that are covered by clothing;

''(2) may include devices using backscatter x-rays or millimeter waves and devices referred to as 'whole-body imaging technology' or 'body scanning'; and

''(3) does not include a device equipped with software that produces a generic representation of the human form instead of a visual image of an individual.''.

The PRESIDING OFFICER. Under the previous order, the second-degree amendment, as modified, is agreed to.

(The amendment (No. 85), as modified, was agreed to.

Mr. NELSON of Nebraska. Mr. President, I ask my colleagues to support our amendment, and I ask for the yeas and nays. I believe other colleagues are here to respond.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. NELSON of Nebraska. Mr. President, I believe other colleagues are here to speak. I notice Senator SCHUMER is here. I appreciate very much his support. Working together very carefully with total collaboration, we have been able to, with our colleagues, bring about what I think is important privacy legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President.

First I wish to congratulate my good friend and hunting buddy, the Senator from Nebraska, for the great work he has done. It has been a pleasure to work with him. We have had parallel interests and his amendment hopefully will solve a problem that has arisen lately because of the full-body scanners that are being installed at airports.

As everyone knows, late last year the TSA began installing full-body advanced imaging scanners at airports across the country. These new scanners are better able to quickly and accurately detect explosives than the older scanners and would likely have thwarted the Christmas Day bomber before he had even gotten on the plane.

But from the get-go, legitimate questions popped up about the potential for privacy violations from the use of these scanners. What happens if a rogue TSA employee disseminates your full-body image? What happens if a fellow passenger or reporter takes pictures of body scan images with his phone and e-mails it to his friends or places the pictures on a Web site or in a newspaper? Are there safeguards to prevent such abuses? If it happens, what are the consequences?

Obviously, airline safety is our paramount concern. We can oftentimes, by carefully legislating, have our cake and eat it too—to make sure safety stays No. 1, but to also make sure, as the Senator from Nebraska and I are trying to do, that privacy is protected whenever possible. That is why Senator NELSON and I teamed up to work with TSA and privacy advocates to devise a sensible solution to the problem—a solution that would protect privacy without sacrificing safety.

The legislation we came up with, which Senator NELSON is now offering as an amendment to the FAA bill, strikes just the right balance. First and foremost, the amendment makes it a Federal crime to record and disseminate images from airport scanners. It provides a sentence of up to 1 year in prison and a fine of up to $100,000 per violation to anyone who is convicted of violating the law.

I should note the amendment not only covers the misuse of the original images recorded from the scanners but also photographs of scans taken by security personnel, airline employees, passengers, or anybody else.

Americans want to know when they take to the skies that every possible precaution has been taken for their safety. At the same time, they want to know that precautions have been taken to ensure their privacy. The amendment would offer the flying public that much-needed assistance.

Again, I applaud Senator NELSON, who is a member of the Emerging Threats and Capabilities Subcommittee, for his leadership on this issue. I urge my colleagues to support the smart, practical amendment we are offering today, and I urge that it be passed as quickly as possible by this body.

Mr. President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Nebraska.

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

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

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent to add Senator BILL NELSON of Florida to amendment No. 58 as an original cosponsor.

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

Mr. NELSON of Nebraska. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Mr. President, I wish to say, very briefly, that I strongly support the Nelson amendment for a whole variety of reasons, all of which are very logical, extremely well ordered, and which I do not have time to give.

The yeas and nays have been ordered. Perhaps we can proceed with the vote.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I too wish to say I support the Nelson amendment and appreciate his working with the Intelligence Committee and the Judiciary Committee to assure all the bases are covered. I will be supporting it as well.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 58, as amended. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—98

Akaka	Crapo	Lee
Alexander	DeMint	Levin
Ayotte	Durbin	Lieberman
Barrasso	Ensign	Lugar
Baucus	Enzi	Manchin
Begich	Feinstein	McCain
Bennet	Franken	McCaskill
Bingaman	Gillibrand	McConnell
Blumenthal	Graham	Menendez
Blunt	Grassley	Merkley
Boozman	Hagan	Mikulski
Boxer	Harkin	Moran
Brown (MA)	Hatch	Murkowski
Brown (OH)	Hoeven	Murray
Burr	Hutchison	Nelson (NE)
Cantwell	Inhofe	Nelson (FL)
Cardin	Inouye	Paul
Carper	Isakson	Portman
Casey	Johanns	Reed
Chambliss	Johnson (SD)	Reid
Coats	Johnson (WI)	Risch
Coburn	Kirk	Roberts
Cochran	Klobuchar	Rockefeller
Collins	Kohl	Rubio
Conrad	Kyl	Sanders
Coons	Landrieu	Schumer
Corker	Lautenberg	Sessions
Cornyn	Leahy	Shaheen

Shelby	Toomey	Webb
Snowe	Udall (CO)	Whitehouse
Stabenow	Udall (NM)	Wicker
Tester	Vitter	Wyden
Thune	Warner	

NOT VOTING—2

Kerry	Pryor

The amendment (No. 58), as amended, was agreed to.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the vote on Nelson of Nebraska amendment No. 58, as amended, to the FAA reauthorization bill. If I had attended today's session, I would have voted in support of that amendment.•

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that at 2:15 p.m. on this day there be 20 minutes of debate equally divided in the usual form on the Wicker amendment prior to the vote in relation to the Wicker amendment, and that the remaining provisions of the previous order remain in effect.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT—Continued

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent I speak on my amendment and ask the time not be counted or charged from either side.

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

AMENDMENT NO. 4

Mr. McCAIN. Mr. President, a few days ago I offered an amendment that would eliminate the Essential Air Service Program, which is at least authorized in this bill at about $200 million. I had no idea we would approach the end of Western civilization as we know it if we eliminated this obviously outdated and unnecessary $200 million of the taxpayers' money.

I am reminded of a comment once made by President Ronald Reagan. To paraphrase what he said: The closest thing to eternal life here on Earth is a government program. There is nothing that illustrates that point more than the Essential Air Service Program.

I ask unanimous consent that three letters be printed in the RECORD. One is from FreedomWorks, one from the National Taxpayers Union, and another is from the Citizens Against Government Waste.

I ask unanimous consent they be printed in the RECORD.

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

FREEDOMWORKS,
Washington, DC, February 14, 2011.

DEAR SENATOR, On behalf of over a million FreedomWorks members nationwide, I urge you to vote YES on Sen. McCain's (R–Ariz.) amendment to S. 223 the Federal Aviation Administration (FAA) Air Transportation Modernization and Safety Improvement Act which would eliminate the Essential Air Service (EAS). The EAS was created in the 1970's to help a small number of rural communities retain access to air service after airline deregulation. Like so many other government programs, Congress initially enacted it to be a relatively small and temporary ten year program costing several million dollars annually. However, the needless program has continued for 23 years while costing taxpayers $200 million every year.

Along with many fiscally conservative groups, even the Government Accountability Office (GAO) questioned the usefulness of the EAS by stating ''current conditions raise concerns about whether the program can continue to operate as it has . . . the growth of air service especially by low-cost carriers—weighted against the relatively high fares and inconvenience of EAS flights.'' Los Angeles Times reports that taxpayers are forced to subsidize airline service to small communities at a loss. Most of the money provides service to rural airports with fewer than 30 passengers a day.

The ESA is a prime example of wasteful spending. A graph produced by the FAA shows that 99.95 percent of all Americans live within 120 miles of a major public airport. Airports should operate where there are consumers to support such an airport. Taxpayers should not be forced to subsidize rural airports with too little demand to justify their existence. I urge you to repeal the EAS to save taxpayers $1 billion over the next five years. It's a step in the right direction to cut excessive spending wherever we find it.

This, however, is a modest step and should be easily supported by anyone serious about reining in the federal government. In order to produce even more savings, Congress should look into privatizing airports to allow private capital to flow in. Many other countries have successfully and fully privatized some of their airports including Britain, Italy and Australia. The private sector has produced more efficient airports which have led to an increase in airport revenue. The privatization of airports has been beneficial for consumers, airlines and taxpayers.

We will count your vote on Sen. McCain's amendment to the FAA Air Transportation Modernization and Safety Improvement Act as a KEY VOTE when calculating the FreedomWorks Economic Freedom Scorecard for 2011. The Economic Freedom Scorecard is used to determine eligibility for the Jefferson Award, which recognizes members of Congress with voting records that support economic freedom.

Sincerely,

MATT KIBBE,
President and CEO.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, February 15, 2011.

DEAR SENATOR: On behalf of the 362,000-member National Taxpayers Union (NTU), I urge you to vote ''Yes'' on Senator John McCain's amendment to S. 223, the Federal Aviation Administration (FAA) Reauthorization Bill. Approving this amendment, which would repeal the Essential Air Service (EAS) program, is an ideal way for the Senate to demonstrate its commitment toward eliminating low-priority expenditures and beginning to restore fiscal responsibility to the federal budget.

Created in 1978 as a 10-year venture that would ease the transition to a more market-driven commercial aviation sector, EAS has, like many other federal programs, engendered constituencies that have kept the program alive far beyond any demonstrable purpose. Indeed, NTU questioned the need for EAS in the first place, given the fact that robust and competitive air services would fulfill consumers' needs more efficiently than any government subsidization scheme. Unfortunately, many of the taxpayers' worst fears about EAS have come true. The program now operates in more than 100 areas of the country, even as air travelers' choices are numerous. In fact, the Government Accountability Office concluded in 2009 that many Americans are shunning EAS-subsidized flights and airports in favor of lower-cost fares offered at hubs that are still reasonably accessible by automobile. This free-market evolution can be encouraged by easing tax and regulatory burdens on airlines and customers.

Just as other federal transportation programs like Amtrak pour tax dollars into unprofitable and low-traveled routes which consumers bypass out of preference for other commercial alternatives, EAS seems to operate more out of satisfying political considerations than addressing any perceived market defects. Your colleague Senator Coburn provided a vivid illustration of these flaws in a report, Wastebook 2010, late last year:

The cities of Macon and Athens, Georgia are both less than a 90-minute drive from Atlanta's Hartsfield-Jackson International airport. Despite this, the U.S. Department of Transportation subsidized 26 flights per week to and from each city at a clip of $464 per passenger for Macon and $135 for Athens. Passengers pay $39 each for a seat on the 50-minute flight. . . . The local newspaper reports that the Macon [service] averaged 10 passengers a day, while Athens averaged 12 EAS-subsidized flights. By law, the Department of Transportation subsidies are capped at $200 for flights to airports less than 210 miles from a large or medium hub, which Atlanta is.

EAS's justification may always have been dubious, but in today's fiscal environment its continued existence is even less defensible. The savings at stake from passage of the McCain Amendment—$200 million—certainly won't erase the current fiscal year's projected $1.5 trillion deficit, but if the Senate cannot eliminate this blatant example of low-priority spending, taxpayers will have every right to question Congress's sincerity in the vital endeavor of bringing the budget back under control.

NTU has expressed concerns over several portions of the FAA bill, including the threat of higher Passenger Facility Charges and a lack of progress in moving toward a private sector-driven model for air traffic control. Senator McCain's proposal provides a key opportunity to break from the tax-and-spend philosophy that has dominated past FAA legislation and to recognize the role of commercial aviation in America's economic recovery. Once again, NTU asks that you support the McCain Amendment; roll call votes pertaining to this measure

will be significantly weighted in our annual Rating of Congress.

Sincerely,

PETE SEPP,
Executive Vice President.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, February 11, 2011.

U.S. Senate,
Washington, DC.

DEAR SENATOR, Senator John McCain (R–Ariz.) recently introduced Amendment #4 to S. 223, the FAA Air Transportation Modernization and Safety Improvement Act. Senator McCain's amendment would repeal a $200 million government subsidy for the Essential Air Service. On behalf of the more than one million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I urge you to support this amendment.

Federal spending has ballooned out of control and taxpayers are bracing themselves as the nation rapidly approaches its statutory $14.3 trillion debt limit. Yet, Congress continues to fund wasteful and unnecessary programs. The Essential Air Service was created in 1978 to subsidize airline carriers that provide service to small communities. Originally funded at $7 million, the program has since grown to cost taxpayers $200 million, subsidizing a dozen airline carriers in more than 100 communities.

Ironically, this air service program is anything but essential, as 99.95 percent of Americans live within 120 miles of a public airport that accommodates more than 10,000 takeoffs and landings each year. CCAGW has been a long-time proponent of eliminating funding for worthless, money-draining airports that have long been protected under the Essential Air Service. One such egregious example is the John Murtha Johnstown-Cambria ''Airport for No One.'' This airport services fewer than 30 people per day, yet it has received more than $1.3 million under this program. This is hardly an efficient use of taxpayer dollars, especially when the government is facing a record-breaking $1.5 trillion budget deficit.

The Essential Air Service program has been repeatedly cited in CAGW's Prime Cuts, a proprietary database comprised of 763 recommendations that would save taxpayers $350 billion in the first year and $2.2 trillion over five years.

Congress cannot continue on a spending rampage while ignoring the nation's balance sheets. Senator McCain's amendment would cut a profligate, indefensible government program that Americans do not need and taxpayers simply cannot afford. All votes on Amendment #4 to S. 223 will be among those considered in CCAGW's 2011 Congressional Ratings.

Sincerely,

THOMAS SCHATZ,
President.

Mr. MCCAIN. FreedomWorks says:

The ESA is a prime example of wasteful spending. A graph produced by the FAA shows that 99.95 percent of all Americans live within 120 miles of a major public airport. Taxpayers should not be forced to subsidize rural airports with too little demand to justify their existence. I urge you to repeal the EAS to save taxpayers $1 billion over the next 5 years.

The National Taxpayers Union cites:

The cities of Macon and Athens, Georgia are both less than a 90-minute drive from Atlanta's Hartsfield-Jackson International Airport. Despite this, the U.S. Department of Transportation subsidized 26 flights per week to and from each city at a clip of $426 per passenger from Macon and $135 for Athens.

Then, of course, the Citizens Against Government Waste points out that:

Congress cannot continue on a spending rampage while ignoring the nation's balance sheets.

Probably the loudest complaints have been from the State of Alaska, a State I love and enjoy. There is a great article that appeared in an Alaskan newspaper. It is called ''Self-Sustainability—Is it time for Alaska to grow up?''

Among other things I didn't know about is:

While the nation faces a $14 trillion fiscal hole and Congress is looking to tighten its belt, it's inevitable that Alaska is going to feel some of the pain.

But what is interesting is that the State of Alaska, he goes on to state, has ''$12 billion in reserves and another $40 billion banked away in the permanent fund.''

Wow. I don't know of another State in the Union that is that well off. He, Andrew Halcro, goes on to say:

We Alaskans fancy ourselves as rugged individualists, who are quick to eschew the long arm of the federal government and Big Brother. However our actions sometimes don't match our rhetoric.

He goes on:

What about the amendment to eliminate essential air service subsidies in small rural communities throughout Alaska? Currently the feds subsidize air service to more than 44 communities to the tune of $12 million per year.

The author goes on to say:

Is it really the federal government's role to subsidize air service to Rampart, a community with 15 people?

An interesting question. He goes on to say:

We've known this day was coming but have done little to prepare our communities for it. We have continued to live in a subsidized world, where one of the biggest issues so far this legislative session has been a debate over suspending Alaska's measly gas tax. . . .

This past week, Alaska Senator Mark Begich, in response to the announced ban on earmarks stated, ''I have said many times Alaska is a young State with many needs, and we deserve our fair share of Federal funding to develop our resources and our infrastructure.''

The author goes on to say:

While I would absolutely agree that federal policies have restricted Alaska's ability to develop its vast resources, the ''young state'' argument has been used for decades to justify growing demands on the Federal budget for things like the Denali Commission and earmarks for controversial bridges.

This year Alaska turns 52, so arguably we are not kids anymore. Is it time for us to grow up?

Is it time for all of us to grow up and eliminate these Federal programs that cost billions of dollars of the taxpayers' money, which originally may have—and I emphasize ''may have''—in 1978, when we deregulated the airlines, have had a legitimate reason? Obviously, it does not anymore.

I look forward to the fact that our conservative organizations are all judging these as a key vote. I also point out to my colleagues, if we are serious, if we are serious about cutting spending and going about making tough decisions, this is an easy decision. If we vote against my amendment, if the majority votes against my amendment to eliminate essential air service, the message to the American people as of November 2 is, we aren't serious. We aren't serious. If we can't eliminate a program like this, how can we make the tough decisions that are coming?

The yeas and nays have been ordered. I hope we will have a vote as soon as reasonably possible, and I look forward to the continued debate on this issue which seems to have created quite a large degree of controversy throughout the country.

I yield the floor.

AMENDMENT NO. 14, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes of debate equally divided prior to a vote in relation to amendment No. 14 offered by the Senator from Mississippi, as modified.

The Senator from Mississippi.

Mr. WICKER. Mr. President, under the previous order I yield 4 minutes to the Senator from Maine, Ms. COLLINS.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I am pleased to be a cosponsor of the amendment of Senator WICKER to provide additional workforce protections for Transportation Security Officers while at the same time ensuring the management flexibility that is vital to the operational efficiency of the TSA, and thus the security of the American people. Instead of dramatically changing the TSA personnel system in a way that could interfere with TSA's ability to carry out its essential mission, as the administration plans, we should, instead, make some targeted but important reforms in the system to ensure that TSA employees are treated fairly.

First, we should bring TSA employees under the Whistleblower Protection Act, which safeguards the rights of whistleblowers throughout the Federal Government.

Second, we should give TSA workers the right to an independent appeal of adverse personnel actions—for example, a demotion would qualify. What we are proposing is that a TSA employee so affected would be able to appeal to the Merit Systems Protection Board.

Third, we should make clear that TSA members can, in fact, join a union. That is a different issue from collective bargaining. So our amendment specifically provides that we are not depriving employees of that choice—which they have right now.

I have just received a letter from former TSA Administrator Kip Hawley, who was extremely well regarded and served as the head of TSA for 4 years. He expresses support for the amendment that Senator WICKER and I are offering. Mr. Hawley knows firsthand how important it is for TSA to have

the flexibility in order to respond quickly and effectively to changing conditions, to emerging threats, to new intelligence, and to impending crises. I note this is not theoretical. TSA has used this authority in the past.

In 2006, for example, TSA had to respond virtually overnight to the liquids plot to blow up airplanes that originated in Great Britain. Overnight, TSA had to retrain its workers and redeploy them to different airports. This is not a theoretical concern.

Another example was the blizzard that occurred in Denver, where TSA screeners had to be flown in from another city to cover the shifts of TSA employees at that airport. This kind of management flexibility was also used in the wake of the gulf coast hurricanes when there were massive evacuations.

In his letter, Mr. Hawley states that although TSA's recent determination states that security policies and procedures will not be issues subject to collective bargaining, the dividing line between security and nonsecurity practices ''is not a bright one.''

He makes the same point that former Homeland Security Secretary Chertoff made the last time we debated this issue, and that is defining what is and what is not subject to collective bargaining undoubtedly will be subject to subsequent litigation.

He further notes:

The resolution of these issues could rest with an arbitrator with no direct knowledge of security issues, intelligence, and transportation security. [This could] place the performance of TSA's security mission in the hands of someone who neither has the expertise to make these decisions, nor [a person who] is accountable for them.

I ask unanimous consent the entire letter be printed in the RECORD.

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

FEBRUARY 15, 2011.

Hon. SUSAN M. COLLINS,
Ranking Member, Senate Committee on Homeland Security and Governmental Affairs, Washington, DC.

DEAR SENATOR COLLINS, I am writing in support of the Amendment to S. 223 offered by you, Senator Wicker, and others that would exclude Transportation Security Administration employees from collective bargaining.

This issue has a long history and the arguments are well known, so I will focus on two specific elements of the administration's recently released policy on collective bargaining for Transportation Security Officers: (1) inherent ambiguity in the definition of security activities; and (2) the issue of performance management.

TSA's memorandum states that collective bargaining will be ''within a framework unique to TSA that does not adversely impact the resources and agility necessary to protect the security of the traveling public.'' It further states that within this framework, ''security policies and procedures,'' or ''internal security practices'' will not be issues subject to collective bargaining. Given that security practices and procedures frequently change, this dividing line is not a bright one and will likely be the subject to collective bargaining and subsequent litigation. The resolution of these issues could rest with an arbitrator with no direct knowledge of security issues, intelligence, and transportation security. This could result in the very thing that TSA does not want, and that is to place the performance of TSA's security mission in the hands of someone who neither has the expertise to make these decisions, nor is accountable to them.

Secondly, the decision document drives a stake through the heart of what makes risk-based security work: meaningful performance-based incentives. The decision here uses the words ''high performance,'' ''engaged,'' describes an organization that ''truly values and promotes initiative,'' and vows that security will not be compromised. This decision, however, imposes a wall between a TSO's job performance and pay incentives.

Cash incentives are effective motivators to officers who are willing to be accountable and base their personal success on good security results—something air travelers should want very much. ''The performance management process'' is explicitly included among the issues subject to collective bargaining, but at the same time in the next section, ''pay and policies affecting pay'' are specifically excluded. In other words, this decision means that better performance does not mean better pay. The union will bargain to define ''performance,'' probably seniority-based, and TSA agrees not to use cash incentives to motivate employees' performance. For an agency that depends on its security officers to constantly adjust and improve their skills so that they are prepared for ever-changing terrorist tactics, this disconnect between pay and performance could be disastrous.

TSA has a robust pay-for-performance system in place today and those who perform their security duties better get significant bonuses and pay raises. Reversing the logic to de-link pay incentives from job performance can only sap the energy of TSOs who are motivated to be actively engaged, use initiative, and strive to achieve high performance team objectives. That cannot be good for security, or performance of any kind.

There are many other issues worthy of discussion, but these cut across philosophy and politics and gets to the issue of the security of the flying public. Action is needed now to stop the imposition of this flawed decision on TSA's fine workforce and all of us who depend on them.

Respectfully,

KIP HAWLEY,
TSA Administrator, 2005–2009.

The PRESIDING OFFICER. The Senator has used her time.

Ms. COLLINS. I urge our colleagues to support this amendment. I think it is a balanced approach that will give these employees more rights than they currently have without interfering with the essential mission of this law enforcement agency.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, do I understand I have 6 minutes remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 4 seconds.

Mr. WICKER. I was under the impression I had yielded 4 minutes to the Senator from Maine.

The PRESIDING OFFICER. Would the majority object to the Senator from Mississippi taking 6 minutes? Without objection, it is so ordered. The Senator has 6 minutes.

Mr. WICKER. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield myself 5 minutes, if I can.

I listened carefully to the statement of my friend, the Senator from Maine. Frankly, I wonder if we are in parallel worlds and we are talking about the same thing but in a different context. My friend, the Senator from Maine, seems to be ignoring the very careful limitations that TSA has placed on collective bargaining rights. For example, under the provisions of TSA, the transportation security officers cannot bargain over pay.

They cannot bargain over pay. They cannot bargain over deployment procedures—who works where. The Senator mentioned the incident involving Great Britain; they had to train people overnight. Well, they cannot bargain on training either. That is not part of the bargaining rights they would have.

The Senator mentioned about the deployment of people to Denver because of a blizzard. Well, deployment procedures, who works where, is not again subject to collective bargaining. Emergency response measures, that was the one dealing with Great Britain. On emergency response measures, who goes where, how long they have to be there for an emergency response, is not negotiable. It is not part of the collective bargaining agreement.

So I am at a loss to understand what the Senator from Maine was talking about. They cannot bargain over emergency response procedures, deployments or other security issues. So, again, this is not something that is part of the collective bargaining agreement.

Last week, the Transportation Security Administration said—the Administrator, John Pistole, testifying before the House subcommittee, said that the employee morale is a security issue—employee morale. Why did he say that? A recent survey ranked TSA 220 out of 224 Federal employers as the best place to work. In other words, 224 would be the worst place to work in the Federal Government. TSA was rated at 220. They have a high turnover rate, they have a high injury rate, and extremely low morale.

So what we are trying to do is give them that boost in morale. Here is what the TSA Administrator said last week:

The safety of the traveling public is our top priority, and we will not negotiate on security. But morale and employee engagement cannot be separated from achieving superior security.

While some of my colleagues have suggested that providing collective bargaining rights could jeopardize security, nothing could be further from the truth. Unionized security personnel are just as effective, dedicated, and willing to put their lives on the line in an emergency.

I point out, for example, Border Patrol personnel have collective bargaining rights. Immigration and Customs officials have collective bargaining rights. Our Capitol police officers who protect us have collective bargaining rights. Why should TSOs be any different? To suggest that unionized security personnel are somehow less effective, less dedicated, less willing to put their lives on the line in an emergency I believe is an insult to every man and woman in uniform in this country who works under a collective bargaining agreement.

I only need to remind everyone, remember 9/11. Remember that image of all the people in New York running away from those towers as they came down, the thousands of people running away from that calamity, and the picture was of other people running into it—our police, our firefighters, our emergency personnel, who not only risked their lives but gave their lives to help save people in that tragedy.

Every single one of them, every firefighter, every policeman, the emergency personnel, were all union people, belonged to a union with collective bargaining rights. Yet look at what they did during that emergency.

So, again, I think it is important to add that under this agreement, they get limited collective bargaining rights. They cannot bargain over security procedures and policies, deployment, disciplinary standards or ''any action deemed necessary by the administrator or his or her designees to carry out the agency mission during emergencies.''

They cannot negotiate on that. So, again, we just want to help raise the morale there, to give these people bargaining rights so——

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Mr. HARKIN. I yield myself 1 additional minute.

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

Mr. HARKIN. Here is what they can bargain on: grievance procedures—that helps on morale—nonemergency scheduling—that helps on morale—awards and recognitions, uniforms, bidding on shifts and procedures used for how they bid on shifts—who gets the 2 a.m. shift, who gets the 7 a.m. shift—all nonemergency types of situations.

This will help give them better morale and will help in terms of ensuring security. Do not take my word for it. Take the Administrator's word for it, Administrator John Pistole, who said this will help ensure the safety of the traveling public.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, I yield myself 5 minutes.

I rise in support of the Wicker amendment. Senator COLLINS, who spoke earlier, is a cosponsor of this amendment. I might also note that Senator COBURN has joined as a cosponsor also. The Wicker amendment has everything to do with public safety. It has everything to do with preventing excessive litigation when it comes to the definitions of the roles of our TSA workers. It has everything to do with preventing increased deficits here in the United States and in the Federal Government.

For that reason, groups that support the Wicker amendment today and urge an ''aye'' vote include the Heritage Foundation, the Workforce Fairness Institute, and Americans for Tax Reform.

Just a little history for those who have not followed this debate over the last several days. Currently, TSA employees are not allowed to collectively bargain. That has been the policy of the Federal Government since the inception of the Transportation Security Administration. For a decade, TSA employees have not been allowed to collectively bargain.

Their rights and considerations and morale issues have been taken care of in other ways. Since the creation of TSA, its employees have been treated similar to those in the FBI, the CIA, and the Secret Service, for purposes of collective bargaining. In fact, in a 2003 memo, the Under Secretary of Transportation for Security, which is now the TSA Administrator, prohibited TSA security screeners from unionizing with collective bargaining rights.

The Under Secretary at the time made this decision ''in light of their critical national security responsibilities.'' That has been the regime under which we have operated the TSA for the entire existence of the agency.

Now, however, the Obama administration is intent on dolling out rewards to campaign supporters and they are moving to reverse this decades-long decision and to allow TSA workers to collectively bargain. My amendment would prevent that and, as I say, would keep the TSA employees under the same restrictions as the FBI, CIA, and Secret Service.

Senator COLLINS, in her modification to my amendment, provided some very important safeguards. It allows TSA workers to be under the Merit Systems Protection Board. It also provides Whistleblower Protection Act protections for TSA employees.

We are told our concerns about safety have been taken care of because the agreement or the decision by the TSA Administrator says we cannot have collective bargaining over other security issues. It named several, and then it says ''other security issues.'' What does that mean?

Well, that is what the former Administrator was talking about in the letter to Senator COLLINS. This is going to require litigation to determine what ''other security issues'' are. I will tell you what, apparently, is allowed under the Administrator's proposal. It does allow bargaining over the selection process for special assignment. It allows collective bargaining over the policies for transfers. It allows collective bargaining for shift training, as my friend from Iowa just acknowledged. All of these are going to make the TSA less flexible and less efficient in going about their business of protecting America.

I would close by saying this: There is a budget debate also. At the other end of this building, we are having hour after hour of debate about how to keep this deficit from ballooning, how to keep the cost of government from going up.

Does anybody think that allowing collective bargaining for 50,000 additional Federal employees is going to cut the cost of the Federal Government?

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Mr. WICKER. I yield myself 1 additional minute.

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

Mr. WICKER. What is happening out in the States? State after State after State is facing bankruptcy, and a large part of it is the cost of government brought on by employee union contracts. That is just a fact. State after State, Governor after Governor, they are coming to Washington, DC and saying: We are going to have to do something about this. We are going to have break these contracts and save us from financial ruin.

At a time when Governors are moving in that direction and trying to get out from under these public employee collective bargaining agreements, would it not be the height of irresponsibility, would it not be the height of irony for the Federal Government to go in the other direction?

Vote for the Wicker amendment and save the taxpayers the additional money it will take to move to collective bargaining.

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

Ms. MIKULSKI. Mr. President, I rise to speak against the Wicker amendment. This is the Republican's first of what I worry will be a sustained attack in the 112th Congress against Federal employees.

As the Senator from Maryland and for Maryland, I represent more than 130,000 Federal employees. These men and women are dedicated and duty driven. They are on the frontlines protecting America every day securing our borders inspecting our food, and performing critical health research. They deserve a decent wage, safe working conditions and our thanks and respect.

This amendment would deny TSA workers the collective bargaining rights that many other employees at DHS currently have, including the Bureau of Prison Guards, Customs and Border Protection, and the Capitol Police.

TSA currently suffers from low morale, high injury rates, and high staff turnover. Giving these employees a voice at work representing their interests will lead to a more stable, more

experienced, and healthier workforce. That would increase productivity, performance, and safety for the flying public.

Like all Federal employees, the employees at DHS with collective bargaining rights must follow civil service rules that prohibit the right to strike and allows managers to move employees to different areas in the event of an emergency. They bargain in a way that does not compromise the agency's mission and that does not endanger national security.

Congress has been debating allowing collective bargaining for TSA employees for a decade. Republicans have been vocally against it.

In 2001, Congress took up FAA. It gave the administrator the authority to determine whether TSA employee would get collective bargaining rights.

In 2004, the 9/11 Commission recommended granting TSA workers collective bargaining.

In 2006, the Senate passed a bill granting collective bargaining for TSA workers. But we couldn't get it across the finish line because of the threat of a Presidential veto. Every Democratic Senator voted in favor of collective bargaining for TSA.

Finally, this month, the TSA completed its review of the potential impact of collective bargaining rights for TSA workers on the safety and security of American travelers. And the TSA Administrator announced that TSA workers do have collective bargaining rights, and they will soon be able to determine whether or not they wish to exercise those rights. In the coming months, TSA workers will be able to decide whether or not they want to be represented by a union to bargain on their behalf on nonsecurity employment issues.

But the Wicker amendment would bring all of this to a screeching halt.

We should not stand in the way of something that TSA employees want, and the Secretary of Homeland Security and the President support.

Federal employees serve their communities and country every day. They should be empowered to fight for their rights on the job without any fear of retribution.

Whether you are at the IRS or the TSA, you deserve collective bargaining rights. And if anyone wants to block, or take away those rights, you will have to get through me first.

The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Four minutes four seconds.

Mr. ROCKEFELLER. Let me just say that the TSA Administrator has the right to allow collective bargaining for TSA employees through the authority he was provided in the original Aviation and Transportation Security Act passed in 2001.

When Congress passed that, we came to an agreement that left the determination of allowing collective bargaining rights for Transportation Security Officers to the TSA Administrator. I firmly believe this authority should remain with the TSA Administrator.

The current agreement was approved under the Bush administration and approved by a Republican-controlled House of Representatives. I see no reason to alter this compromise at this time. There are valid reasons to keep the authority with the TSA Administrator. He works firsthand with the employees every day. The nature of his work is very hands on. He is better qualified to determine the agency's mission, how it can be improved, with or without collective bargaining—he more than anybody.

On Friday, Administrator Pistole announced his intention to allow collective bargaining over workforce issues, but security and pay will not be subject to negotiation. Most other Federal law enforcement agencies, including others housed within the Department of Homeland Security, such as Customs and Border Patrol, have collective bargaining rights.

I do not believe the sponsors of this amendment would question the dedication of these law enforcement officers, despite their right to collectively bargain. TSA employees must still follow civil service rules that prohibit the right to strike and allow managers to move workers to different areas and roles in the event of an emergency and security as needed.

I cannot support this amendment. I feel it could negatively impact security if TSA permits collective bargaining rights to improve employee retention. Finally, this amendment is a security issue, and one that is better addressed when a TSA reauthorization comes to the floor. This is our problem. We are not talking about security here, we are talking about other matters.

Accordingly, I urge my fellow Senators to oppose the Wicker amendment.

I yield the floor.

Mr. HARKIN. Would the Senator yield? How much time is remaining?

The PRESIDING OFFICER. There is 1 minute 39 seconds.

Mr. HARKIN. Mr. President, listening to my friend from Mississippi talk about deficits—and we have to be concerned about deficits. The first thing on which they cannot bargain is pay. That is not something they can bargain on. Generally, Federal employees do not bargain on pay, I might add.

So I do not know what that means. I mean, he is talking about deficits, but they cannot bargain about pay anyway.

Then he talked about the FBI and the CIA and the Secret Service, that they did not collectively bargain. Those agencies all deal with very highly sensitive national security information. What are we talking about here? We are talking about the people who check your bags. We are talking about the people at screenings and who do the patdowns, but we are also talking about an agency that has one of the highest turnovers of any Federal agency. I do not want a high turnover rate among those people at the airport. I want them to be highly skilled, highly trained, highly motivated. I want a good morale system there. Everyone says it is one of the lowest in terms of morale and has one of the highest turnovers of any Federal agency.

Giving these people the right to organize and to bargain collectively on things that are not of national security measures—not pay, not emergency procedures, but other things that make life a little bit better for them so they know basically: What is the procedure for me being posted here, what is the procedure for me working at 2 a.m. or 7 a.m., so they have a system whereby they know what is expected of them—to me, that is the way to build morale.

Lastly——

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

Mr. HARKIN. I just ask for 30 seconds. I gave him 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. I just gave him 2 minutes. I did not object.

The PRESIDING OFFICER. Objection is heard. The time that was given to the other side was due to an error in the chair.

The question is on agreeing to the Wicker amendment No. 14, as modified.

Mr. WICKER. 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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—47

Alexander	Ensign	McConnell
Ayotte	Enzi	Moran
Barrasso	Graham	Murkowski
Blunt	Grassley	Paul
Boozman	Hatch	Portman
Brown (MA)	Hoeven	Risch
Burr	Hutchison	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	McCain	

NAYS—51

Akaka	Blumenthal	Carper
Baucus	Boxer	Casey
Begich	Brown (OH)	Conrad
Bennet	Cantwell	Coons
Bingaman	Cardin	Durbin

Feinstein	Levin	Rockefeller
Franken	Lieberman	Sanders
Gillibrand	Manchin	Schumer
Hagan	McCaskill	Shaheen
Harkin	Menendez	Stabenow
Inouye	Merkley	Tester
Johnson (SD)	Mikulski	Udall (CO)
Klobuchar	Murray	Udall (NM)
Kohl	Nelson (NE)	Warner
Landrieu	Nelson (FL)	Webb
Lautenberg	Reed	Whitehouse
Leahy	Reid	Wyden

NOT VOTING—2

Kerry Pryor

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 51.

Under the previous order requiring 60 votes for the adoption of this amendment, the amendment, as modified, is withdrawn.

VOTE EXPLANATION

● Mr. KERRY. Mr. President, I was necessarily absent for the vote in relation to Wicker amendment No. 14, as modified, to the FAA reauthorization bill. If I had attended today's session, I would have voted in opposition to that amendment and would have supported any motion to table that amendment.●

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Paul amendment No. 21; that there be 100 minutes of debate equally divided between Senators PAUL and ROCKEFELLER or their designees; that upon the use or yielding back of time, the Senate vote in relation to the Paul amendment; that there be no amendments in order to the amendment prior to the vote; and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

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

Who yields time?

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that if we have quorum calls during this period of time, the time be charged equally.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 21

Mr. ROCKEFELLER. Mr. President, the pending Paul amendment will cut the FAA's authorization levels for fiscal year 2011 to 2008 levels, $14.7 billion for the entire agency, representing a near $3 billion cut from the administration's introduced level of approximately $17.5 billion. That does not sound like a lot of money—of course it does—but let me explain.

Managing FAA at the 2008 levels would result in the immediate retrenchment of core functions to reduce operating costs; to wit, FAA would eliminate services and furlough all air traffic organization employees for at least 20 days. The primary services of the ATO is to move air traffic safely and efficiently, and that for a period of 40 days would cease. FAA would implement a hiring freeze for the ATO—air traffic organization—which would force the ATO to focus on major airports with scheduled service resulting in service reductions at particularly the smaller and rural airports, which affects some of us.

The Aviation Safety Office would eliminate 680 employees through attrition. It would also furlough all 1,015 operational support employees an average of 2 days each week. It is pretty hard to carry on 3 days and then 3 days the next week. That particular agency, Aviation Safety, is responsible for the certification, production approval, and continued airworthiness of aircraft and certification of pilots and certification of mechanics and others in safety-related positions. That is what this amendment would do.

The FAA would have to defer major Next Generation Air Traffic Control System initiatives. That is extraordinarily painful. After all, we go back to our old story that we are behind Mongolia in this modernization effort. Just a thought.

In all of this we would be including next generation network-enabled weather, data communications, systemwide information management, safety security and environmental security, information tool set. This means accurate weather forecasting would go down and pilots would have less relevant information, resulting in increased delays and congestion as aircraft would have a lot more difficulty navigating storms. Weather is the associated cause of 7 percent of delays, much less accidents. It cuts Data Comm. It would impact pilot situational awareness and lead to degraded air safety control, having an effect on safety.

It would cut FAA's research, engineering, and development, and require FAA to cancel or delay the NextGen and environmental research—I repeat, to cancel or delay NextGen.

Specifically, FAA will terminate all related programs that were started since 2008, including the Continuous Low-Energy Emission and Noise Program, which develops cleaner and quieter aircraft technologies and alternative aviation fuels. Safety research would also be impacted, including a 1-year delay for research on continued airworthiness for small aircraft, as well as research on emerging technologies for larger aircraft.

Specific office impacts: Office of Human Resources. FAA would furlough all employees for at least 46 days. Furloughing AHR employees would impose a significant hardship on AHR's ability to provide human resources to FAA. Aviation safety and security hazard materials would be reduced. This means fewer inspectors for airlines, fewer parts certified as safe, and delays in producing new U.S.-manufactured aircraft.

The Office of the Associate Administrator for Airports would also be cut. This would be an increased risk of runway incursions and delays to technology that would minimize such risks which have been widely reported in the press and often not reported in the press but nevertheless happen.

The FAA would implement a hiring freeze which amongst many things would lead to a loss of support staff in air traffic control towers and, consequently, controllers would pick up administrative duties and would have less time on the boards in front of them, the lights going off and on. This could lead to an increased number of severity of operational errors. You cannot make operational errors in the control tower. You cannot hand that off to other people. That is called essential air safety. This means fewer air traffic controllers and ones that are less focused on directing airplanes. On the safety side and on the maneuverability side, both would subside.

Elimination of all Federal contract tower funding will effectively shift the cost of operating these towers to the affected airports or to State and local government. I do not know what good comes of that since State and local governments do not do that stuff.

I could go through State by State what the effects would be, but what it does is a ham-handed approach to make a cut.

There is a very interesting thing about air traffic safety: It is highly sophisticated. It is compartmentalized. You can't just shift people from this to that as quickly as you can in other lines of work. Lives are at stake, homes on the ground are at stake, crashes are at stake, collisions are at stake. So it is all well and good to do something which appears to be cutting the budget, but when you are putting the lives of Americans on the ground and in the air directly at risk, that strikes me as something we should not do.

So I am extraordinarily unenthusiastic about this amendment,

and I hope there are many eloquent speeches that follow me in this manner.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I will take such time as I may consume, and I am sure Senator PAUL will be here shortly.

Mr. President, the Paul amendment does reduce the aggregate authorized spending level to the amount appropriated in fiscal year 2008. So basically it is going back to the 2008 levels. I am going to support the amendment because I think we have to make a start at cutting back on spending in every area of government that is discretionary and where we can make responsible cuts. However, I do want to say that the better approach, in my opinion, would be to have an overall cap on spending at the 2008 levels and then pick the priorities we must fund and take away the lesser priorities for government funding. I believe we need a more measured approach on infrastructure spending.

In the case of the FAA, I would point out that the agency is funded through a mix of aviation trust fund dollars and general fund dollars. Specifically, three of the four main accounts in the FAA budget—airport improvement, facilities and equipment, and research—are paid for entirely by the aviation trust fund. The aviation trust fund is funded by revenue from various users of the U.S. aviation system through taxes and fees on the industry. So all capital investment in aviation infrastructure is paid for by the users of that infrastructure. The fourth account—operations—is then funded partially by the aviation trust fund and partially from the general fund.

So as we move toward conference, I think we need to make sure infrastructure projects that increase airport capacity, improve safety, increase the efficiency of our aviation system, and modernize our air traffic control system are adequately funded. This should be especially true when the revenues used to pay for these projects are paid for by the users of the aviation system.

I am certainly committed to restoring fiscal responsibility. I think we have to choose the strategic places where we must invest to ensure our infrastructure serves the needs of our people. I believe Congress would be much wiser to have an aggregate discretionary spending cap and then allow us to debate the priorities that would be funded under that cap. But that means doing business not as usual. It means we don't take each bill individually, each department and agency individually. It means we set an overall cap for Federal spending and then decide which places in which agencies should be well funded and which ones should take a pass for the present until we get our fiscal house in order.

So I am going to support the Paul amendment, but I do believe we need to have a more systematic approach going forward and fund what needs to be funded. And I do believe FAA, aviation security, aviation infrastructure and efficiency in our air traffic system should be funded. But I think we have to do it in a bigger picture than each individual bill that is going to go through here, and I ask my colleagues to think about a better approach going forward than this type of amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield 5 minutes to the Senator from Alaska.

Mr. BEGICH. Mr. President, I thank the chairman and the ranking member for the work they have done. As I said yesterday, it is fairly exceptional, considering the time it has taken to get to where we are.

I understand the amendment that is being proposed and the goal of it, and I have been one of those who have supported the deficit commission, which brought forward some recommendations on how to manage this budget. I have supported multiple efforts on this floor to reduce and manage the budget in the overall scheme of how we move down to sustainability regarding the finances of this country. But this is one bill where you have to take into account not only what is being proposed but what it does and what it will impact. I will use my State as an example. When you think about Alaska, there is no question that when it comes to air travel, no other State has the kind of rural and extended air travel as we have in Alaska. I talked about the Essential Air Service Program yesterday. Forty-four communities are affected by the funding for this program, which serves people who are not next door to any airport and who are not only not just a few miles from an airport, but in some cases, from their airport to a hub, it might be 1,200 miles. So the work and the resources of the Essential Air Service is critical for us to not only conduct business, to move people back and forth between communities, but for medical services. It is really the lifeblood for our communities. This amendment would literally wipe that out or reduce it to such a point that it would be impossible for us to make it economical for some of these airports to operate and some of these flight services that bring the only service to these communities, allowing them to survive.

When you think about NextGen, if we went to the 2008 levels, NextGen was just in the beginning stages. This is an important investment. And it is not the Federal Government that was anxious to get it done right away. We had to actually push Congress—the chairman may remember this—we had to push the Federal Government to move this forward. Why? Because it was the private sector that came to us. The people in the private sector came to us and said: It is important that the Federal Government move this forward, expedite this resource, help us move this new technology forward to help save fuel, save time, increase capacity at our airports, and make it a better business operation for the private sector airports.

So when I see this amendment, my view is that it is a job- killing amendment. This wasn't a decision where the Commerce Committee said: Well, let's just move this up a few years because we think the government should do this right away. The private sector came to us because they wanted to invest in this new technology. But they are not going to make the investment until there is certainty from the Federal Government on their part of the arrangement. So that is what we are doing. We are doing that in this bill. So this amendment, in my view, is truly a job-killing amendment.

Then I look at the airport improvements, and I was listening to the chairman, who was talking about the contracted services. So I quickly looked at the list affecting Alaska, and I saw Kodiak. Kodiak is where the largest Coast Guard base in this country is. Kodiak is also the contracted services tower. I don't know how that will affect the Coast Guard. I would be very nervous about what it might do.

This type of amendment may be well meaning in the sense of how we all are going to sit here—and I left the Budget Committee meeting to come here. The Budget Committee is where we are now talking about how to plan this budget in a holistic way, not nitpick it like this. The amendment may be well intended to get control of the budget, but it does not understand the impact.

Again, airport improvement is another piece. I would challenge the individual who sponsored the amendment. If he has been to Alaska, great. I would love to take him to a couple of those airports. There is now a great reality show about flying in Alaska. It is so dangerous to fly in Alaska that they had to make a reality show about it. So I would encourage everyone to turn that on and see why NextGen, which was pioneered in Alaska, is so important and why this investment the Federal Government is making is so important for the private sector to have a better tool to utilize in transportation in this country.

Again, airport improvements in my State are critical. It could be anything from refinishing a runway to just having a gravel runway—one that brings food and supplies, medical provisions, and just moving people in and out. It is a critical piece of the equation.

The phrase the Chairman used about the amendment was that he was less than enthusiastic about it. I don't like the amendment as it is written today, specifically around this bill. I am anxious to get to the bigger debate, and I hope, once this bill is cleared off, we will get to the big debate of how we manage the deficit of this country, how we look at it long term. I know I will

hear that this is a start, this is the way we have to start, and that would make sense if this bill was started with that intent in mind. But in 2007, when this authorization expired, NextGen was just an idea. Well, this is a new investment we have to make in order to make our air travel safer, more economical, save fuel, and respond to the private sector that has asked us to get off the dime and create certainty so they can make the investments that will make their business model more effective.

Again, I had no intention to speak today. I was in the Budget Committee, but I wanted to come down and say a few words.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. BEGICH. I again thank the chairman for the time, allowing me to say a few words from Alaska's perspective. And I would again emphasize that this amendment is a job-killing amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. PAUL. Mr. President, everyone agrees that the FAA plays an important role in air safety. I don't think there is any real discussion or debate on either side in that regard. My amendment calls, though, for having spending levels at 2008. This is actually what is going to be produced out of the House. The House has already published their spending proposals, and most of their spending proposals will be at the 2008 level.

This is a small downpayment on the debt. Some say this is the wrong place to start, but you have to start somewhere. Everybody says they are going to be for balancing the budget or tackling the debt or doing this or that, but you don't get there unless you cut spending.

Now, you can't create a situation where you make it an either/or situation—either we have air safety or we don't have air safety—depending on a spending level. Perhaps you can spend money more wisely. Perhaps the job of a legislator is to find out how you spend money, how you find savings, and how you make do with less. If we don't, we are never going to get out of this problem.

The deficit is an enormous burden on all of us—on our kids and grandkids. The last election was about the deficit, about the mounting debt, but the other side doesn't seem to have listened. They also need to understand what the deficit does to jobs. Our national debt now is approaching our gross domestic product. That means our debt is about equal to what we produce as an economy for a year as a whole country. When it does, there are estimates that it kills the rate of growth of our economy by 1 percent and costs 1 million jobs a year. This is from the debt.

They are talking about what $2 billion will do within one agency. We are talking about what $14 trillion worth of debt does to an entire economy. Remember, 1 percent loss of growth and 1 million jobs a year. The national debt is killing us.

So we had an intervening election, and a message was sent. The message was, listen to the American people. They are upset about passing this debt on to our kids and our grandkids. So we got a response. The President laid out his budget this week. Do you know what his budget will do? The President's budget will spend $46 trillion—I am not making that up, $46 trillion over 10 years. That tells me the other side didn't get the message.

Now, $46 trillion over 10 years, what does this mean? When President Obama came into office, the debt was about $7 trillion, maybe $8 trillion. We are now going to triple that debt if he wins a second term. The President will have tripled the national debt in 8 years.

His 10-year proposal will double the debt in just 10 years. The deficit this year alone will be $1.65 trillion.

The President said he is going to freeze spending. He is going to freeze spending in this little, tiny percentage of the budget, about 12 percent of the budget. It is not enough. It doesn't do it.

Republicans want to go back to the 2008 level, which is what I am proposing. It is not enough either because you are only looking at one tiny sliver of the budget. Today we are looking at one small program.

The problem is that people are starting to recognize the problem of the debt, but they are unwilling to do what it takes to look at the entire budget. We are going to have to look at military spending, we are going to have to look at nonmilitary discretionary spending, and ultimately we are going to have to look at entitlements. But you have to say every program has something good about it. Everybody can stand and say we need NextGen. I am for NextGen. But the thing is, if you are a legislator and you have less money, let's figure out where we find the money in the existing budget.

I proposed some other alternatives. I proposed $500 million in savings by saying: When we build airports, let's not make it be the union wage or the prevailing wage, let's have the market wage. That would have saved $500 million. That goes a long way toward funding NextGen. Another $500 million, $400 to 500 million is in the unprofitable airports that we are going to subsidize in this bill. There are savings that can be found, but we never find them.

In Washington, what do we tend to do? If we want something, we just add more money to the bill. There are always arguments for these programs, but we also have to understand what are the consequences of a $14 trillion debt.

President Obama's 10-year plan that he released this week will change $14 trillion into nearly $27 trillion. The numbers are mind-boggling. If we do not do something about it, it is a threat to our country. The President's own Secretary of Defense has said the No. 1 threat to our national security is our debt. It is out of control. I don't think the problem is fully grasped by either side, but I know if we are here today and cannot come to an agreement to save $2 billion—think about it. I am asking to save $2 billion out of a budget of $3.7 trillion. It is such a small number.

They might argue it is such a small number, why even do it? If you don't start somewhere, how will we ever balance the budget? How will we ever get out of this mess if we are not willing to save $2 billion? It is a start. It is a downpayment. It is how we can say to the American people we heard you in November. We realize we cannot pass this debt on to our kids and our grandkids. Something has to be done.

Instead, what we get from the other side is that we make this into: The other side is not for progress. They are not for developing airports. They are not for GPS systems at the airport. It is not that simple. I am for all those things, but I am for saying let's step up as legislators and say: How do we find the savings in the existing budget? Because the alternative is: How are we going to pay for $14 trillion in debt? How are we going to pay for $26 trillion in debt that is going to be added if the President gets his 10-year plan?

You can pay for debt in a variety of ways. You can tax people. But as you can tell by the movement out there, most of us think we are taxed enough already. The average taxpayer is often paying 40 percent and 50 percent of his income. The average taxpayer is paying more in taxes than they do for food and clothing and transportation and all their expenses; they pay more in taxes. I don't think the general public wants to raise taxes.

The other way is, you stick your head in the sand and keep borrowing. That is what we keep doing, borrowing and borrowing, but it threatens our very economy and threatens the country.

How does the country also pay for debt? Are we going to default on our debt? No. Ultimately, we will print money to pay for it, but there is a downside to that too. Countries have ruined their currency. Germany in the 1920s destroyed their currency.

If you look at the curve of what happened to the currency in the 1920s, it happened over a period of about 6 months. You had bread that sold for 100 marks and then 1 million marks and then 100 million marks and then 1 billion marks. The money became so devalued it was of more value to actually burn as a fuel. People went around with wheelbarrows full of money. The workers demanded to be paid two and three times a day.

That is what happens to a country that has a massive debt. You cannot tax people enough.

Greece just went through default recently. As Greece went through default, they tried to raises taxes, but everybody was paying too much already, so everything was forced into the underground economy. You can raise the taxes by 90 percent, you don't get more money. When you increase tax rates, you don't always get more money. The money went underground.

You can print the money, but if you just simply print the money, you destroy people's savings. You steal from those who have saved and take the value of their dollar.

This bill is the beginning of the debate. It is the first bill we have had to come forward with a new Congress that talks about money. It is a very small downpayment. I am asking for a little over $2 billion savings. It is 2008 levels. It is what the House is asking for. You have to realize also what happened between 2008 and 2011. Do you know how much spending went up? Spending went up by 24 percent. Spending is out of control in this city, and we have to realize the consequences. If we stood here and had an argument over whether NextGen is a good thing, there is no argument. It is a good thing. We should have GPS. We have it in our cars. For certain, we should have it in our airports. I am all for modernizing the airports. But what I am saying is, it is irresponsible as legislators to stand here and just say more, more, more. We are going to spend more money.

We cannot do it. The thing is, it is not just the program. We are not talking about whether the program is justified or whether we should spend money. We are talking about what are the consequences of a massive debt. I think that is where we are.

The American people know this. They instinctively know this. I think there is a great danger to not stepping up. I wish the other side would have come back and said: Why don't we split the difference and try to save $1.5 billion. That is what compromise would be in this city. If they don't want to save $2.5 billion, let's save $1.5 billion. But the thing is, we need to save money everywhere and it cannot be that every program you want to cut is somebody else's program and then when it gets to be your program that you are interested in, you can't cut it. Everybody has a self-interest in their program. Every special interest in this country has a special interest. They have an interest in their particular spending.

I would say this is a small downpayment. This is a way to say to the American people: We have heard you in the election. We know there is a problem. We are going to start cutting spending.

I urge my fellow Senators to vote for this amendment. It is something that has nothing to do with quality, has nothing to do with whether you believe in air safety. It has to do with whether you think the debt is a problem, whether you think the debt is a threat to us as a country, and whether we are going to step up and do the responsible thing.

I reserve my time.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, what is pending before the Senate at this moment?

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Kentucky.

Mr. DURBIN. It is my understanding this amendment by the Senator from Kentucky would establish a new authorization level for the Federal Aviation Administration, which would revert to the level of 2008. I think it is worth noting that this may cut spending in some regards, but I do not believe it is a wise decision by the Senate to move in that direction.

Our world has changed dramatically since 2008 and the world of aviation even more so. The aviation industry is not the same today by any means. We debated the FAA bill on the Senate floor in 2008. At that time, oil was $120 a barrel, and the airline industry was in the doldrums.

Eight airlines either completely ceased operations or filed for bankruptcy that year. That cost 11,000 airline-related jobs in America. Airlines that weathered the financial storm lost millions of dollars because fuel costs were going through the roof.

United Airlines, based in Chicago, which I am honored to represent, reported a $538 million loss that year, driven by a $618 million increase in fuel expenses. The airlines reacted to this market reality in 2008 by reducing capacity across the industry by 25 percent. Flights were reduced at airports all around the country.

The point I am trying to make is, if we take a snapshot of the aviation industry in 2008, we would find an industry devastated by high fuel prices, still recovering from some of the episodes that followed after 2001, and dramatically cutting back its services across the United States.

We have a suggestion by the Senator from Kentucky to return to that level of spending by the government, when it comes to our responsibilities related to the airline industry. I do not believe that is a thoughtful suggestion because it does not reflect the reality of where we are today and what we are likely to see in the future.

Today is a different day. The airline industry is seeing a major rebound at this point in America. Airlines have reported a $15 profit in 2010, and the industry is adding jobs. Airline activity is up considerably compared to 3 or 4 years ago. Today the FAA announced that their forecasts for aviation traffic for the next 20 years were too low. The FAA now predicts U.S. airlines will reach 1 billion passengers per year by 2021, 2 years earlier than last year's prediction.

So the obvious question is, if the airlines are now going to move forward into a period of expansion with more flights, can we afford to say to the American public and the flying public from around the world as they come to the United States that we are going to dramatically cut government investment in aviation?

What the Senator from Kentucky would have us cut, unfortunately, is not the fluff and the extras. It goes to the heart of the responsibility of the Federal Aviation Administration. Madam President, you and I and our colleagues get on these airlines every week. We put our fate and future in their hands, trusting that we have a qualified airline crew, a plane that is ready to fly, and air traffic controllers who will move us safely from one spot to another.

Much of that is being done by those who are employees of the airlines. But a lot is being done by the employees of the Federal Aviation Administration. What Senator PAUL is suggesting is that we, at a time of great expansion in this industry, need to cut back on the government role.

It means fewer dollars and, equally important, fewer professionals who would be inspecting these airplanes to make sure they are safe, fewer air traffic controllers, less of a role by our government in making certain the airlines are operating in a safe and efficient manner at a time when the aviation industry is expanding.

Senator PAUL's suggestion moves us in the wrong direction. If there was ever a need for more vigilance, more oversight, and more professionalism at the FAA it is now. Cutting back to 2008 spending levels will take away the professional men and women who make the FAA the fine agency that it is.

We signed the last FAA reauthorization bill into law in December of 2003. That bill expired in 2007, about the same time Congress was considering the fiscal year 2008 spending levels of the FAA. We have now extended this law 17 times, lurching forward each time, waiting for this moment when the bill came to the floor.

Congress used to reauthorize the FAA every 2 years just to keep up with a changing aviation industry and to make sure our government agency, working with the airlines, was on top of its responsibility. Now we have been stuck with the same authorization bill we crafted 9 years ago, and the Senator from Kentucky, with this amendment, would have us go back to spending levels of 2008.

Almost all Senators agree we need to do more to make sure we have the best

men and women working for the Federal Aviation Administration. We need to talk about a new generation of air traffic control. Almost all Senators understand we need to update an air traffic control system that is based on World War II technology, technology from the 1940s—70 years ago. It is good, but it could be dramatically better.

This bill before us makes that investment in a technology known as NextGen. These investments move us from radar-based systems to a GPS-based system. It is incredible to me that I can stand on the floor of the Senate and make this speech while I can carry in my pocket a cell phone which has a GPS device which some people could use to determine where I am at this very moment in time. Yet when I board an airplane to fly to Chicago, this technology is not being used. Instead, they are using radar—not an ancient technology but a very old technology.

If a GPS is good enough for my cell phone, if it is good enough for so many other applications, such as the bus that travels back and forth on the streets in the city of Chicago, why don't we have it in our airplanes? Well, because we have never moved from that old technology to this modern technology of GPS, using satellites to determine exactly, pinpointing, where the planes are at every moment.

The FAA bill before us moves us in this direction. The Paul amendment by the Senator from Kentucky would basically eliminate our development of this new technology. The amendment moves us back to the past and it does not save money. The Paul amendment, in fact, would basically deny us this new technology. The FAA Administrator under President Bush, Marion Blakey, was recently asked what she thought about the movement to roll back funding to the fiscal year 2008 levels—the Paul amendment—when she was Administrator. She said: ''It's false savings because in the long run it'll cost us much more.''

She knows and we know we have to move to GPS from radar to make it safer and more up to date. Senator PAUL of Kentucky says: Let's stop talking about the future. Let's focus on the past.

Can we afford that when it comes to the aviation industry, where every single day we entrust our lives and the lives of the people we love on these airplanes?

Ms. Blakey said that rolling out the NextGen system by 2018—which is the goal of this bill—would save $22 billion, mostly because fewer delays would mean less fuel burned.

But reducing FAA spending to the fiscal year 2008 levels, as Senator PAUL suggests in this amendment, would amount, as Marion Blakey said, to a cut of $1.3 billion—the amount being spent this next year on NextGen. It would roll back and stop NextGen, this new technology, before we can move forward.

This amendment is not about saving money. This amendment is about cutting corners in an area where we should never cut corners. When it comes to the safety of the American public boarding airplanes every day, you do not cut corners. You make sure you have the very best professionals working for the agency and the best technology being used by airports and airliners as well.

I am afraid Senator PAUL's approach may have some appeal to those who would cut blindly, but if you open your eyes and take a look at it, this is a bad move—a move that invites some terrible consequences, which none of us want to envision. We need to keep America investing in modern technology. We need to expand our national airspace safely and efficiently.

I urge my colleagues, this afternoon or early this evening, to vote against the Paul amendment. I know his goal is to save money. This is money that needs to be spent for the safety of the American flying public.

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

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

The bill clerk proceeded to call the roll.

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

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

Ms. CANTWELL. Madam President, we are out here talking about the FAA bill, a bill to improve the transportation system in America dealing with our airways. There are a lot of great things about this legislation, everything from the passengers' bill of rights to improvement in airport infrastructure that many of my colleagues have been out here on the floor talking about. Even the Acting President pro tempore articulated why it is so important to make improvements in our ground-based system.

Practically every elected official in America knows that airports are a cornerstone of economic development. No business is going to locate in a community without knowing what the air transportation system is. If it is falling behind, if it is dilapidated, people are going to go somewhere else for their economic development. So improving the ground transportation system as part of the airport infrastructure is critically important for improving jobs in America.

So I know my colleagues are out here offering amendments, and the pending amendment is the Paul amendment, which is a very concerning amendment from the prospects of what it would do to cut the innovation we are about to implement in this FAA bill—the long-standing improvements to the Federal aviation system that have to do with taking our airways from a 1950s technology to a 21st century technology that improves both the situation for the pilots in the sky and the efficiency of our system and it improves and coordinates the communication system on the ground.

All that also increases jobs in America, high-wage jobs. It puts America back in the driver's seat in the development of key technology. Those are the kinds of jobs in manufacturing we want to be creating in America.

So when my colleague from Kentucky comes out and offers a proposal to basically slow down the implementation by the FAA on key employees in these areas that are part of the technology and infrastructure, what you are going to do is slow down high-wage manufacturing jobs in the United States as well.

With this legislation—with both the improvements to the airport infrastructure and what is, with the NextGen system, going to take place with new technology—we are talking about thousands of new jobs in America. We certainly want those manufacturing jobs to be here in the United States and to get the benefits of this NextGen system.

So I wish to take a moment to talk about that NextGen transportation system and why it is so important to us in creating jobs. Because my colleague from Kentucky may not realize, when you actually cut people and you cut the number of programs that are geared toward this, such as in the NextGen system, you are talking about that the R&D programs could be reduced by as much as $25 million and then funding for areas such as how to do self-separation, weather technology in the cockpit, weight turbulence.

I do not know about the Acting President pro tempore, but I fly a lot, back and forth across the country almost every week. Some of the pilots I have been flying with have said this has been the most turbulent weather this winter that they have seen. So I know personally. I want to know as much about this and the latest technology that can help us. But under this proposal, the estimated loss of jobs and cutbacks in grant programs and targeted areas again could mean the loss of expertise in R&D that is critical for us in our flying transportation system and safety.

So what are we talking about when we are talking about the NextGen system? We are talking about improvements in flight performance and improvements in the passenger experience and improvements in basically even how we use fuel.

What I like about the NextGen system most is that it reduces total flight delays by 21 percent. That is not the day we pass the bill or when the President signs it. But over time, the implementation of this system—which, again, we have a very old 1950s system, so it is basically radar. It is taking a picture in the sky and saying: Here is where planes are and having air traffic controllers talk to those planes and control, even in pass-off movements, where those flights are going.

In fact, I would say to the Acting President pro tempore, I do not know if she or anybody in her family has ever played Flight Simulator. There is probably more certainty and predictability in the movement in a flight simulator than in that radar system we have today. But we are going to change that.

What this does, by allowing for more accurate tracking and interface and information, is give us the ability to have flights fly on a more direct path, to be able to coordinate better with flights in transportation, and to have that system totally integrated on the ground.

So even those kinds of flight delays that happen on the ground at airports, where you are waiting and taxiing at the airport—oh, this flight is here and that flight is there—all that will be more improved. In fact, that improvement, estimates are, will reduce carbon dioxide emissions from the air transportation system by 12 percent. So that is a very positive aspect of moving forward on Next Generation.

Obviously, if you are improving flight delays by 21 percent, I guarantee you, you are going to be improving the passenger experience. When they know we are trying to get them where they need to go on time, in a better coordinated fashion, with savings, it helps us.

But it also is going to improve the ground transportation system. If you think about that, our ground transportation system is always in need of coordination. We have actually had some accidents on runways. People have heard those in the news over the last several years.

So what this does—when you, again, have a GPS system, the GPS system is coordinating that, so you have better coordination of the taxiing of planes and airport vehicles and the entire ground transportation system. That should not be minimized. The fact that we can imagine how a GPS system can give us better data in the sky is important, but there is a lot that is lost on the ground with flights and the coordination of flights.

If you can imagine—just one of my personal pet peeves—you fly all the way across the country and you end up at your destination after 5½ hours, and no one is there to meet the plane or it takes an extra 10 minutes because somehow somebody did not know the plane was actually at the gate.

All that changes with the system. You know exactly where the plane is, and you know when they are going to be at that gate after they have landed. You know exactly how long it is going to take for them to taxi and how long it is going to take to get there. So that is a great improvement in this system and something that should not be underestimated.

But the issue of safety is also of critical importance—the fact that safety, in any kind of improvement to our system, has to be the paramount issue. To me, that is what NextGen delivers. It delivers better air traffic controller information. It means there is no routing pass-offs, as we do now when you are flying in between cities. At some point in time, Seattle is tracking you. When you leave Seattle, at some point in time, it is handed over to another sector and then to another sector and then to another sector. This situation is going to have accurate information all the way across, including no pass-offs or challenges with pass-offs, and it is going to give the pilots themselves better situational awareness. It is giving them more information about how they fly and about the information on the runway. So that is critically important for this system. We want safety. We want advancement.

In a lot of ways my colleague may be well intentioned in trying to reduce our budget, but when we look at these numbers and we look at what the Next Generation system is going to deliver, we don't want to cut that out of the government system. These are things that are going to give us efficiencies, they are going to help our economy, they are going to create jobs, and they are going to improve the safety of air transportation travel. I can tell my colleagues I certainly want to improve the safety and the situational awareness of pilots.

I mentioned fuel efficiency. I wish to talk about fuel efficiency for a second because I know fuel efficiency is an important issue. The flying public may think, Well, why do we want planes to be more efficient? The more the transportation system uses fuel, obviously, the more we have seen gas prices go up. It means our transportation tickets and travel costs are more expensive. With this Next Generation system, if we can start driving more fuel efficiency in our air flights by 5 or 6 percent, then we are going to help keep the efficiency in the transportation system.

A program with something like Next Generation was done by Southwest Airlines in a pilot project in Texas, and it actually demonstrated a 6-percent fuel savings for flights between Dallas and Houston. By that I mean it showed that by giving pilots more information, being allowed because of a satellite system-like approach to transportation instead of radar, they are able to fly a more direct route from takeoff to destination. That efficiency translates into savings in fuel costs. It alone is a very important aspect of the system.

The net-net of this is high-wage jobs for us in this particular sector. When we think about this, it means high-wage jobs in engineering, in software development, and for other high-tech workers who are part of developing this system, as well as jobs for the flight crews and maintenance and basically everybody who benefits from the fact that we have a traveling public and tourism in our economy.

I hope my colleagues will vote down the amendment by the Senator from Kentucky. All of these things are very positive aspects of the Next Generation system and the improvements to our air transportation. This amendment would cut the viability of many of these programs within the NextGen system and the jobs that can be created from this particular legislation. It is definitely long overdue and something the public is expecting from us.

I mentioned there is a passenger bill of rights here which in and of itself is a very positive aspect of the legislation in terms of access. Any time there is a delay on the runway, we have to make sure there is access to food and water and necessary medical treatment. Basically, the Department of Transportation can issue fines for noncompliance of airlines. I know many of the traveling public will love this particular aspect of this important FAA legislation.

I hope we can dispose of this amendment by my colleague from Kentucky and move on to passing this important legislation. It is about jobs. It is about safety. It is about fuel efficiency. It is about ontime arrival. It is about not gutting this legislation when it is needed most to be passed by this body.

I thank the Presiding Officer. I see my colleague from Washington is also here to speak so I will yield the floor for her.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask unanimous consent to take 10 minutes of the Republican time unless a Republican Senator comes to the floor.

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

Mrs. MURRAY. Madam President, we are here on the floor debating an amendment by the Senator from Kentucky. It is very important for the American public to understand. Everyone agrees we have to take some smart steps to cut waste and reduce our debt and deficit, but cutting back doesn't mean cutting blindly. It doesn't mean indiscriminately cutting programs that not only create jobs but, importantly, keep our country and people safe. Make no mistake about it: The Paul amendment we are considering and that we will be voting on shortly directly impacts the safety of air travel in this country.

We all know the FAA has a very specific mission. It is responsible for keeping air travel safe. It oversees the safety of our airline operations. It certifies the equipment they use to meet safety standards. It is responsible for the air traffic controllers who guide our planes, and to make sure the pilots who are responsible for our safety are fit to fly. That is what the FAA does. But under the amendment we are considering this afternoon, the FAA's ability to do that job would be dramatically hampered because under that amendment, the FAA would lose hundreds of its safety inspectors and would have to use furloughs to reduce the work hours of its entire safety inspector workforce.

The FAA controls air traffic every hour of every day. Under the Paul amendment, the FAA would have to furlough its air traffic controllers for significant periods of time because we wouldn't be able to afford to pay for the controller workforce to make sure we have safety in the skies. That doesn't make any sense. It would mean stretching a thinner workforce that bears the burden of keeping millions of air travelers safe every day.

The Paul amendment would force the FAA to continue controlling air traffic with outdated equipment. That is not what we should be doing today. We all know the FAA is currently in the midst of a long-term initiative called NextGen to modernize our air traffic control system which the Senator from Washington just spoke about—a system that will increase the capacity of our aviation system. It will reduce delays and cancellations that everybody knows are hampering our air traffic right now. It saves fuel, and it lowers emissions. It is a modernization effort that is long overdue.

Right now, our air transportation system still relies on radar technology that was developed during World War II. That is right. If you are flying today, you are relying on radar technology that was developed during World War II. The cell phones in everybody's pockets make use of satellite positioning, but we still haven't moved the FAA to a satellite-based system that could guide our planes with increased efficiency. Every one of us uses computer networks every day in our lives, but we are still making the investments to move the FAA to network-enabled operations that will help the agency coordinate more effectively with Homeland Security and the Defense Department.

We all rely on our BlackBerries to communicate with each other through e-mail and text messages, but we are still making the investments necessary to help the FAA rely less heavily on voice communication between pilots and air traffic controllers. If you are on a flight and if you listen on your headphones when the pilot is talking to the air traffic controllers, and you know they step on each other, we know the system is not efficient. Under the Paul amendment being offered today, that entire modernization effort would face significant delays. With goals for reduced delays and fuel savings in sight, we would be stepping on the brakes. Ironically, that would increase the cost of these NextGen investments over the long term, forcing all of us as taxpayers to put in more money to reach those necessary goals.

This amendment would not only impact the safety of our travelers in this country, it would create a major impact on our efforts to create jobs and boost the economy. I told my colleagues this amendment would furlough or eliminate the jobs of workers across the country, and they are not nameless, faceless bureaucrats. These are people who are air traffic controllers who are right now controlling the planes in the sky as we speak. These are the safety workers who are responsible for keeping watch over our airlines and certifying our pilots to make sure that plane they are flying and any repair that is made is done correctly. They are the researchers who are working to find cleaner and quieter aircraft technology and alternative aviation fuels.

But this amendment wouldn't just impact those workers we all rely on, and that is because when we are forced to continue flying with fewer air traffic controllers in the tower under older technology, we are going to face huge delays and inefficiencies that will lead to billions of dollars in lost revenue. Ask anybody in the hotel business or restaurant business or tourist business what happened after 9/11 when our air traffic was shut down. The impact on our economy is huge.

We need to make sure when we make cuts to our budget, we do it wisely. The Paul amendment that is before us affects our economy, affects jobs, and critically affects the safety of the American public. That is not wise or responsible.

The most recent statistics show that civil aviation accounts for about $1.3 trillion in economic activity in this country. Even more importantly, aviation provides jobs for hard-working Americans. A few years ago, 11 million Americans were employed in an aviation-related field. They earned about $400 billion. This is not the time to put this vital job sector at risk by cutting back on our effort to modernize and innovate, and we should never be willing to put the safety of our skies and our airports and Americans at risk.

This amendment is a misguided attempt at providing savings that comes at too high a cost. We all know and we all agree we need to be prudent about our spending, but we can't undermine the FAA as our first attempt out here and put the American public at risk. That is not wise; that is not prudent; it is not what we should be doing.

I urge the Senate to consider the very real danger this amendment poses to our safety and our economy and oppose this amendment.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. NELSON of Florida. Madam President, I ask unanimous consent to take 1 minute of the time remaining allocated to the other side of the aisle.

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

Mr. NELSON of Florida. Madam President, I can say it in 1 minute. Why do we not want to savage the FAA budget, cutting millions and millions, to go back to the 2008 level? Simply this: It is the safety of the flying public.

The airways are getting more crowded. The delays on the ground, in the airports, are getting longer. That is the whole idea of creating a new system of air traffic control—in order to handle more traffic safely by having instruments in the cockpit that operate off our constellation of satellites that can keep the separation between airliners, can fly more efficient direct routes, and it all be coordinated instead of through radar from the ground. That is the whole purpose of the updating of the FAA air traffic control, called the Next Generation of air traffic control.

If this amendment is adopted, all of that is savaged. That is not where America should be going.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Madam President, I commend Senator PAUL for his diligent work to try to bring spending in line with our Nation's fiscal realities.

His amendment reduces the overall authorization level for the Federal Aviation Administration to $14.719 billion. That is the authorized level for fiscal year 2008. That is down from $17.526 billion, which is proposed under the 2011 bill. To put this in perspective, it is a 19-percent increase in just 3 years. If we continue to have those kinds of increases, it is not going to be sustainable given our large and growing debt.

Holding spending to 2008 levels is not so outrageous or unworkable as has been portrayed. By reducing the top line amount, the amendment provides the Secretary of Transportation with the necessary discretion to make the appropriate reductions to the related FAA accounts. Not all of them, for example, are safety accounts. So priority could be given to those matters.

There is an argument that could be made that since this is an authorizing bill rather than an appropriations bill, the overall funding levels do not matter. But authorization bills do establish guideposts for the Appropriations Committee. In this case, the spending reductions reflect limits on how much will be appropriated out of the airport and airway trust fund.

Additionally, a portion of FAA's funding comes from the general fund of the U.S. Treasury. Imposing spending cuts to this authorization bill also provides a tiny but still necessary signal to other Members of the body, the administration, and the financial markets that the United States is prepared to begin dealing with our pending budgetary catastrophe.

The simple fact is that the United States is $14 trillion in debt and running an annual deficit of $1.6 trillion. Our record level of debt is equal to

$45,500 per American citizen and $127,500 if we just count the taxpayers in America. Each day the United States pays another $1.273 billion in interest alone on this debt.

To be clear, the amendment could result in a reduction of some FAA services. This is a reality that setting the tough spending priorities will cause some services potentially to be trimmed and certainly unnecessary functions to be eliminated.

But I do not think the debate over this amendment can occur outside the context of the difficult spending decisions that we are going to need to consider in the next several weeks. We literally have to start somewhere, and almost everywhere is going to require some sacrifice.

The House of Representatives will consider cuts to the FAA funding levels this week and, likewise, this body will be required to do the same.

I appreciate the work that Senator PAUL has done and hope that my colleagues will strongly consider supporting his amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that when the disposition of the Paul amendment occurs, the Senate proceed to the consideration of H.R. 514, which was received from the House and is at the desk; that the Reid-McConnell substitute amendment, which is at the desk, be agreed to; that there be up to 30 minutes of debate equally divided between the two leaders or their designees prior to the vote on passage of the bill, as amended; that there be no further amendments or motions in order to the bill prior to the vote, and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I express my appreciation to everyone involved. It has been a difficult issue, but I will put on the record what I have told a number of Senators personally, and that is that we will, prior to this expiration occurring, bring up the PATRIOT Act and have an opportunity for an extended period of time—a week at least—to offer amendments and do whatever people feel is appropriate on this bill.

I have talked to a couple of Senators who have told me specifically that they want to offer amendments. Although I didn't agree I would support their amendments—one was a Democrat and one was a Republican—I said that is what we should be able to do, to set this up so they can offer their amendments. And I will do whatever I can to make sure we move forward on this legislation in ample time so that we can pass this PATRIOT Act for a more extended period of time, which is so important to the security of this country. I know people have problems with it, and that is why we are going to have the amendment process.

The PRESIDING OFFICER. All time is expired on the amendment.

Mr. REID. Mr. President, I move to table amendment No. 21 offered by the Senator from Kentucky, and I ask for the yeas and nays.

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

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—51

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

NAYS—47

Alexander	Ensign	McConnell
Ayotte	Enzi	Moran
Barrasso	Graham	Murkowski
Blunt	Grassley	Paul
Boozman	Hatch	Portman
Brown (MA)	Hoeven	Risch
Burr	Hutchison	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Snowe
Collins	Kirk	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker
DeMint	McCain	

NOT VOTING—2

Kerry	Pryor

The motion was agreed to.

VOTE EXPLANATION

● Mr. KERRY. Mr. President, I was necessarily absent for the vote in relation to Paul amendment No. 21 to the FAA reauthorization bill. If I had attended today's session, I would have voted in opposition to that amendment and would have supported any motion to table that amendment.●

FISA SUNSETS EXTENSION ACT OF 2011

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the following measure, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 514) to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 relating to access to business records, individual terrorists as agents of foreign powers, and roving wiretaps until December 8, 2011.

The PRESIDING OFFICER. Under the previous order, the substitute amendment is agreed to, and there will be 30 minutes equally divided for debate prior to a vote.

The amendment (No. 90) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''FISA Sunsets Extension Act of 2011''.

SEC. 2. EXTENSION OF SUNSETS OF PROVISIONS RELATING TO ACCESS TO BUSINESS RECORDS, INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS, AND ROVING WIRETAPS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''February 28, 2011'' and inserting ''May 27, 2011''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3742; 50 U.S.C. 1801 note) is amended by striking ''February 28, 2011'' and inserting ''May 27, 2011''.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in a few minutes we are going to vote on a 3-month extension of the expiring provisions of the PATRIOT Act. I will support this extension because it gives the Senate time to properly consider this critically important legislation. But before I support any additional extensions of the PATRIOT Act, I believe we should have an honest discussion about changes and reforms that are necessary to protect the constitutional rights of innocent Americans. It is worth taking a moment to reflect on the history of the PATRIOT Act.

The PATRIOT Act was passed almost 10 years ago after the 9/11 terrorist attack. Ground Zero was still burning when President Bush asked Congress to give him new authority to fight terrorism. Congress responded, passing the PATRIOT Act by an overwhelming bipartisan vote, including my own. It was a unique moment in our history.

But even then, many were concerned that the PATRIOT Act might go too far when it came to our constitutional rights and freedoms. As a result, we

put an insurance policy in the law, a sunset clause on the PATRIOT Act's most controversial provisions. I believe that was a thoughtful move on the part of the Senate and the House. We knew that we were in a very emotional state because of the dramatic loss of life and fear that followed after the attacks on 9/11. We wanted to reflect on some of the changes and authority given to the government at a later time.

I voted for the PATRIOT Act, but I soon realized it gave too much power to the government in some areas, without judicial and Congressional oversight. So 2 years after the PATRIOT Act became law, I led a bipartisan group of Senators to introduce the SAFE Act, legislation to reform the PATRIOT Act. The SAFE Act was supported not only by the American Civil Liberties Union but also by the American Conservative Union and Gun Owners of America. It was an extraordinary coalition. Progressive Democrats and conservative Republicans came together across the partisan divide, with the understanding that Americans believed we can be both safe and free. We wanted to retain the expanded powers of the PATRIOT Act but place some reasonable limits on those powers within the bounds of the Constitution.

In 2005, the first time Congress reauthorized the PATRIOT Act, some reforms of the SAFE Act were included in the bill. Many were not. So there are still significant provisions in the PATRIOT Act which cause concern to this Senator. The FBI is still permitted to obtain a John Doe roving wiretap that does not identify the person or the phone that will be wiretapped.

In other words, the FBI can obtain a wiretap without telling a court who they want to wiretap or where they want the place the wiretap itself. In garden-variety criminal cases, the FBI is still permitted to conduct what is known as sneak-and-peek searches of a home without notifying the homeowner about the search until some later time.

We now know the vast majority of sneak-and-peek searches take place in cases that do not involve terrorism in any way. A national security letter, or NSL, is a form of administrative subpoena issued by the FBI. We often hear NSLs compared to grand jury subpoenas. But unlike a grand jury subpoena, a national security letter is issued without the approval of a grand jury or even a prosecutor. And unlike the grand jury subpoena, the recipient of a national security letter is subject to a gag order at the FBI's discretion.

The PATRIOT Act greatly expanded the FBI's authority to NSLs. An NSL now allows the FBI to obtain sensitive personal information about innocent Americans, including library records, medical records, gun records, and phone records, even when there is no connection whatsoever to a suspected terrorist or spy.

The Justice Department's inspector general concluded that this standard ''can be easily satisfied.'' This could lead to government fishing expeditions that target, unfortunately, innocent Americans.

For years we have been told there is no reason to be concerned about this broad grant of power to the FBI. In 2003, Attorney General Ashcroft testified to the Judiciary Committee that librarians who raised concern about the PATRIOT Act were ''hysterics,'' in the Attorney General's words, and ''the Department of Justice has neither the staffing, the time, nor the inclination to monitor the reading habits of Americans.''

But we now know, many years later, the FBI has, in fact, issued national security letters for the library records of innocent Americans. For years we were told the FBI was not abusing this broad grant of power. But in 2007, the Justice Department's own inspector general concluded the FBI was guilty of ''widespread and serious misuse'' of the national security letter authority, and failed to report those abuses to Congress and a White House oversight board.

The inspector general reported that the number of NSL requests had increased exponentially from about 8,500 the year before the enactment of the PATRIOT Act to an average of more than 47,000 per year, and that even these numbers were significantly understated due to flaws in the FBI database.

I believe America can be both safe and free. We can retain the expanded powers of the PATRIOT Act but place some reasonable limit on them within our Constitution. I will support this extension so we have time to produce legislation of which we can all be proud. I know the chairman of the Judiciary Committee is on the floor to speak. I want to close by saluting him. I think he has taken a very professional approach. He has been completely open to this discussion of the provisions of this bill, and the offering of amendments. I plan to work with him and other members of the committee in good faith. I think this 3-month extension will give us time to expand the debate on this important constitutional issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Illinois for his comments.

In less than 2 weeks, the current short-term extension of three authorities authorized by the USA PATRIOT Act will expire. I thank the two leaders for working to ensure that everyone has the opportunity to consider the expiring provisions of the USA PATRIOT Act, and to do so in a way that ensures that these authorities do not lapse while the Republican majority in the House and new Senators consider these measures.

The bill I introduced on January 26, and that the Judiciary Committee is scheduled to consider this week, is based on the bill the Judiciary Committee considered and passed with a bipartisan majority last Congress.

It includes additional adjustments made at Senator KYL's suggestion after the committee reported the bill in 2009. I will urge the Judiciary Committee to report that legislation again, and I will urge the Senate to consider and pass the improvements to the USA PATRIOT Act that we have proposed, during this short, additional 90-day extension.

The original USA PATRIOT Act included important sunsets that were supported by both Republicans and Democrats. I believe that the sunsets suggested by Dick Armey back in 2001 have been a good thing. I have tried to conduct aggressive oversight of USA PATRIOT Act surveillance authorities since the bill was originally enacted in 2001. The sunsets have been helpful in that process. Accordingly, I do not support permanent extension of these surveillance authorities.

Nor do I support undercutting important oversight and government accountability with respect to these intelligence gathering tools. Instead, I support strengthening oversight while providing the intelligence community the certainty it needs to protect national security.

The bill I hope we will consider before May 27 would give the intelligence community the certainty it needs by extending these expiring authorities while also strengthening congressional and judicial oversight. This legislation is the result of bipartisan negotiations 2 years ago. It had the strong support of the administration.

The House bill we are amending was not the product of bipartisan agreement, or even an open debate in the House. It would extend the PATRIOT Act without improvement for the rest of the year. That is too little for too long.

I do not begrudge our friends in the House time to do their work, and for the new Republican majority to seek additional time to consider the expiring provisions of the PATRIOT Act. But it should not take a year to pass improvements to these provisions. Importantly, we should not extend this debate into an election year and risk that some will play politics with our national security.

With the 90-day extension that the leaders have proposed, we will be able to consider the USA PATRIOT Act Sunset Extension Act of 2011 and improve authorities that are otherwise set to expire.

Our bill can promote transparency and expand privacy and civil liberties safeguards in the law. It will increase judicial oversight of government surveillance powers that capture information on Americans.

I hope that ours is a package of reforms that all Americans can support. A bipartisan group of Senators on the Judiciary Committee voted in favor of

it in the last Congress, including Senator KYL and Senator CORNYN. Subsequent negotiations produced a package that was endorsed by the Attorney General and the Director of National Intelligence.

When Congress did not act on that negotiated package of reforms, but instead passed an extension of the expiring authorities until February 28, 2011, I took steps to see that key portions of the package were implemented administratively by the Department of Justice.

It is my hope that during this short extension Congress will pass the USA PATRIOT Act Sunset Extension Act of 2011 to codify the steps forward that the Attorney General has taken to implement parts of our legislative proposal administratively.

We can ensure that the progress in accountability and transparency that we achieved last year is not lost simply because it was never written into the statute.

In addition, we will have the opportunity to enact the parts of the bill that the Attorney General did not or could not adopt because they require a change in the statute. Chief among these is adding a new sunset on National Security Letters.

Second is repealing the presumption in favor of the government that a judge must honor when he or she reviews an application for a section 215 order for business records. The government does not need this presumption. In fact, the Attorney General endorsed the repeal of the presumption when he expressed his support for the bill in the prior Congress.

We can preserve the authorities that give law enforcement the tools it needs to protect national security. And we can ensure that inspectors general, Congress, and the public maintain vigilant oversight of the government, making sure these authorities are used properly and within constitutional bounds.

I urge all Senators to support the Senate amendment to H.R. 514 and then to support the USA PATRIOT Act Sunset Extension Act of 2011.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. I want to thank the majority leader for agreeing to allow a debate on this important legislation. We will have time to amend it in the next 3 months, discuss it fully.

When the PATRIOT Act was passed in the first place, it was passed in a hurry, without committee hearings, and in a climate of fear and anger after 9/11. Congress was sensitive to the fact that the fourth amendment was being abridged. That is why these legislative proposals were sunset. It was not just so we could pass them by unanimous consent without voting. It was done so we could review how well we are doing with these, and whether we are abridging the freedoms guaranteed under the fourth amendment.

There are a couple of things that bother me about the PATRIOT Act. No. 1, the national security letters. These have been mentioned previously, and I think the points are well taken. Some try to argue, oh, these are simply subpoenas so you can do anything you want. I think they are searches of private records and should be reviewed by a judge. But even if you argue that they were subpoenas, if you have a subpoena, your lawyer is allowed to make a motion to quash your subpoena, your lawyer is allowed to represent you.

In the craziness after 9/11, when the PATRIOT Act was passed, it was actually illegal to consult an attorney. If you were given a national security letter saying you were being investigated, you could go to jail for 5 years by telling your attorney. It is still in the law that you can go to jail for 5 years if you tell others. This is being done against U.S. citizens.

Many people argue for this saying: Oh, it is just foreign terrorists. National security letters have been written on 200,000 individuals and over 50 percent of them from the United States in the last 10 years.

In addition to the national security letters, this act expanded the use of what are called suspicious activity reports, where they snoop in your bank records. Not only does the government snoop in your bank records, they force the banks to do snooping for you. Two million records have been gone through, and we say: Well, are we getting terrorists? Yes; we are probably getting terrorists. But were we capturing terrorists under FISA when we had a judge's review? Yes. It was very rare that FISA ever turned down a warrant. But we just gave up. We blankly gave up the idea of judicial review.

This was a big deal. John Adams said this was the spark that got the Revolution going. When James Otis was talking about writs of assistance in the 1760s, the King was granting writs of assistance through his soldiers. Now we have essentially government agents, akin to soldiers, writing warrants.

It is ripe for abuse. Even the FBI, when they did their own internal investigation of the national security letters—they reviewed 1,000 of these national security letters, and they found that 10 percent of them were in error.

The other thing, for those who say: Oh, this is just a subpoena. It is just your bank records. No big deal, they should be weary of this: People have gone through the FISA Court and been turned down under section 215 and not gotten a warrant and they have done an end-around and gotten national security letters.

I think it is something so basic to our constitutional Republic. I tell people on and on, I am a big defender of the second amendment. But you cannot have the second amendment unless you defend the first amendment. You cannot have the second amendment unless you defend the fourth amendment.

We need to defend the right to be free of search and seizure. People need to look back and say: Did the FISA Court work? The FISA Court rarely turned anything down as far as getting warrants. But at the very least, there was independent judicial review, which is a very important part of our historical jurisprudence and I think should be guarded and protected.

I think, in the fear after 9/11, we did not debate these things fully. We should have a debate. There is a wide range of people on both the left and the right who do believe in civil liberties. I think it is time we do review these. I will stand in the next several months and try to promote this discussion. I think it is a good time to review and revisit the PATRIOT Act.

I will vote against the extension of the PATRIOT Act because I do not think it is doing full justice to the fourth amendment, and I think it is very important we have judicial review before we allow government to investigate and search our private lives.

Mr. President, I yield back.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for 10 minutes.

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

Mrs. FEINSTEIN. Mr. President, I come to the floor as the chair of the Intelligence Committee of the Senate and also as a member of the Judiciary Committee, so I have been part of the PATRIOT Act and the FISA Act discussions.

Let me clear up one thing for the distinguished Senator from Kentucky: Nothing in what is before us today affects national security letter sections of the act. Let me repeat that because I have heard this presented on the floor, I have seen it in editorials in the newspapers, and nothing in what is on the floor today affects the NSL sections—of which there are several in various statutes—of the PATRIOT Act.

There are three specific sections that are affected, and I will get to them in a moment.

Let me begin by saying I support the Reid-McConnell amendment to H.R. 514. Let me point out that last Wednesday the Secretary of Homeland Security, Janet Napolitano, testified before the House Homeland Security Committee, and here is what she said:

> In some ways, the threat today may be at its most heightened state since the attacks nearly 10 years ago.

In testimony to the House Intelligence Committee last week, the Director of National Intelligence, James Clapper, wrote that:

> . . . it is impossible to rank—in terms of long-term importance—the numerous, potential threats to the U.S. national security. The United States no longer faces—as in the Cold War—one dominant threat. Rather, it is the multiplicity and interconnectedness of potential threats—and the actors behind them—that constitute our biggest challenge.

So it is clear the threat against the United States from terrorism, cyber attack, the proliferation of weapons of

mass destruction, and others is at a very high level. Intelligence is our best tool in keeping America secure.

I see this intelligence day after day after day. The Intelligence Committee hears testimony week after week after week. I believe all members of the Intelligence Committee are behind the Reid-McConnell bill.

So that is the framework in which these three expiring provisions come before us. Without them, our law enforcement and intelligence agencies would lack important tools to protect this Nation. These are tools that have been used to great advantage over the past several years.

I cannot speak here of the specific uses of the expiring authorities for reasons of classification. The Director of National Intelligence, the Director of the FBI, and the Director of the NSA described to Members last night how they have been used. Here is what they have told us:

We have seen recent successful disruptions of terrorist plots directed against the United States. Our intelligence and law enforcement personnel were able to disrupt al Qaeda's Najibullah Zazi terrorist plot to attack the New York City subway system. These PATRIOT Act authorities, along with other critical intelligence tools, are essential to our ability to detect and disrupt such plots.

Let me talk about the three provisions, starting with the business records section that is expiring. This authority allows the government to go to the Foreign Intelligence Surveillance Act Court—a special court with judges appointed by the Chief Justice that deals only with these matters and meets 24/7. The provision allows the government to obtain business records if it gets a warrant from this court.

The second expiring provision, so-called roving wiretap authority, provides the government with needed flexibility in conducting electronic surveillance. We all know there are now throwaway cell phones. We have found that terrorists have attempted to evade surveillance by using these throwaway cell phones and rapidly switching cell phones. This tool allows for surveillance on a particular target, not the telephone. Again, you need to have that authority given to you, much as you would in a criminal wiretap by a court, but in this case by the Foreign Intelligence Surveillance Act Court. Again, the surveillance is for foreign intelligence.

According to FBI Director Bob Mueller, this provision has been used more than 190 times since it was authorized in 2001.

The third section—the final one—is the ''lone wolf'' authority that allows for court-ordered collection against non-U.S. persons who engage in international terrorism but for whom an association with a specific international terrorist group has not yet been determined.

This provision was enacted in light of the Zacarias Moussaoui case, in which the FBI suspected Moussaoui of engaging in terrorist activity and believed at the time it could not obtain a FISA order—in other words, a FISA warrant—for lack of definitive connection to a known foreign terrorist organization.

I see Senator KYL on the floor. He well knows this issue. So this is a specific addition that was put in because of the Moussaoui case to get at someone who is a ''lone wolf'' who has no known association with a terrorist operation.

These tools have been authorized for several years and have been subject to strict scrutiny by the Foreign Intelligence Surveillance Act Court, the Department of Justice, and the Congressional Intelligence and Judiciary Committees.

Members have raised concerns that provisions authorized by the PATRIOT Act have been misused. The Judiciary and the Intelligence Committees have held numerous hearings on this topic. I believe past problems have been addressed, and we will continue to monitor the use of these provisions carefully.

Members have also noted past problems with the use of national security letters, and that is what all the discussion so far that I have heard on the floor has been. As I have said, the national security sections are not at issue at this time. So it is, in a sense, a shibboleth to raise them here.

It is business records, it is lone wolf, and it is roving wiretaps. Those are the three sections that expire on the 28th of February.

So let me be clear: This legislation does not address national security letter authorities, as those provisions are not set to expire at the end of the month.

By extending these three provisions until May 27, the Congress can appropriately study and I hope enact long-term reauthorizations that the intelligence community and law enforcement need to continue to keep us safe.

Let me just say, I see—and cannot go into here—but day after day uses of these expiring authorities and have come to believe that being able to have good intelligence is what prevents an attack against a New York subway or air cargo plane. It is what keeps this homeland safe, and it is what allows us to get ahead of a terrorist attack. Without them—without them—we put our Nation in jeopardy. I, for one, took an oath of office to protect and defend, and I do not intend to be party to that. Everything I know indicates that there is jeopardy facing this Nation, and these intelligence provisions are necessary to protect our homeland.

I urge acceptance of the Reid-McConnell legislation.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to agree with the comments made by our colleague from California, the chairman of the Intelligence Committee, and urge all our colleagues, in the time that will exist between now and the time we are able to take up this matter again, to accept her invitation to be briefed and to appreciate some of the things that our intelligence community goes through in order to try to protect the American citizens.

The points she made are all valid from my service on the Intelligence Committee. I am aware of what she has been talking about. I would just like to repeat three things. I will not bother to go into all the detail because she made the points very well.

Roving wiretaps—the name does not sound very good—are simply the recognition that today you have a lot of throwaway cell phones. It used to be you had one telephone hanging up in the kitchen or someplace, so when the police got a warrant to tap your telephone, that was the only phone you had.

Now these guys take phones, use them once, throw them away, and then get another one or they have access to lots of different phones. It is simply a recognition that today people use lots of different phones rather than one, and, therefore, the warrant applies to any of the phones of a particular individual.

The ''lone wolf'' terrorist exception Senator FEINSTEIN explained very well. I wrote that provision. It applies to people who do not have a card in their wallet that says: I belong to al-Qaida or I belong to some other terrorist group.

We understood that in some cases there will be people such as Moussaoui who you are not sure are actually affiliated with any particular group, but they are still planning a terrorist activity and, therefore, you want the ability to check them out.

Third is the business records. This is the only one there has been any controversy about. It allows the government to get a court order to obtain business records that are either held or generated by third parties. You want to find out, for example, if Mohamed Atta stayed at the such and such motel the night before he went to the airport to conduct the terrorist attacks of 9/11. That will help to prove the chain of evidence to prosecute other people or for us to be able to know exactly how that attack occurred. So you go to the motel and say: Could we see who checked in last night. That is not a big deal.

For most agencies of the Federal Government, you do not even have to go to court to ask the question. But out of an abundance of caution, before the government can actually go to the motel and say: Can we see your record, they have to go to court to get approval to do that. So the PATRIOT Act actually sets a higher hurdle in trying to get these business records in terrorism investigations. In addition to that, there are only three top officials at the FBI who are authorized to request court orders for the information.

So the point is this: These are the only three provisions that are sunsetted and that we have to reauthorize. If people have objections to other parts of the act, such as has been expressed here, then their argument is not with the reauthorization of these three provisions but with the underlying law. In any event, I suppose they will have plenty of time to raise those questions when we debate this further in the next couple of months.

I urge my colleagues to support this short-term extension. In the meantime, prior to the rest of the debate we will have to check with the folks at the Intelligence Committee who can answer any questions colleagues may have about how this act is intended to operate and then check with the FBI and other law enforcement officials to see how it works in its operation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I ask unanimous consent to speak for 3 minutes.

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

Mr. TESTER. Mr. President, Montanans sent me to the U.S. Senate to bring accountability to this body, to make responsible decisions, and to protect America and the freedoms we all enjoy. I took the oath of office to defend the Constitution.

That is why I am going to vote against the PATRIOT Act. I encourage others to follow suit. I have never liked the PATRIOT Act. I still don't.

Like REAL ID, the PATRIOT Act invades the privacy of law-abiding citizens. And it tramples on our Constitutional rights.

We need to find a balance—making our country more secure and giving our troops, law enforcement and intelligence agents the tools necessary to get the job done. But we have to do it without invading the privacy of law-abiding Americans.

This extension doesn't address any of those concerns. It simply puts off the debate we need to have for another day.

There are some really troubling aspects that are not addressed by the extension of this law: Roving wiretaps which allow surveillance of a ''type of person,'' instead of a particular person, over multiple phone lines. That is a slippery slope to eroding our constitutional protection against government searches; Using the reasonable grounds of suspicion standard to require libraries and businesses to report to the government about what American citizens buy or borrow.

We don't have to sacrifice our privacy and lose control of our personal information in order to be secure. And we should never give up our constitutional rights.

Voting for the PATRIOT Act is the wrong way to go. We have got a lot of smart people in this body. We can develop the policies we need to fight terrorists without compromising our constitutional civil liberties. I ask my colleagues to join me in voting against extending this law today and in the future.

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

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Michigan.

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

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

Mr. LEVIN. Mr. President, I think all time has either been yielded back or all time is up, so I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

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

The bill was read the third time.

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

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?

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The result was announced—yeas 86, nays 12, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS — 86

Akaka	Enzi	Menendez
Alexander	Feinstein	Mikulski
Ayotte	Franken	Moran
Barrasso	Gillibrand	Murkowski
Bennet	Graham	Nelson (NE)
Bingaman	Grassley	Nelson (FL)
Blumenthal	Hagan	Portman
Blunt	Hatch	Reed
Boozman	Hoeven	Reid
Boxer	Hutchison	Risch
Brown (MA)	Inhofe	Roberts
Burr	Inouye	Rockefeller
Cantwell	Isakson	Rubio
Cardin	Johanns	Schumer
Carper	Johnson (SD)	Sessions
Casey	Johnson (WI)	Shaheen
Chambliss	Kirk	Shelby
Coats	Klobuchar	Snowe
Coburn	Kohl	Stabenow
Cochran	Kyl	Thune
Collins	Landrieu	Toomey
Conrad	Leahy	Udall (CO)
Coons	Levin	Vitter
Corker	Lieberman	Warner
Cornyn	Lugar	Webb
Crapo	Manchin	Whitehouse
DeMint	McCain	Wicker
Durbin	McCaskill	Wyden
Ensign	McConnell	

NAYS—12

Baucus	Brown (OH)	Lautenberg
Begich	Harkin	Lee
Merkley	Paul	Tester
Murray	Sanders	Udall (NM)

NOT VOTING—2

Kerry	Pryor

The bill (H.R. 514), as amended, was passed.

VOTE EXPLANATION

● Mr. KERRY. Mr. President, I am necessarily absent for the vote today on legislation to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004, H.R. 514. If I were able to attend these vote sessions, I would have supported the bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004, H.R. 514.●

The PRESIDING OFFICER. The Senator from Illinois.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

AMENDMENTS NOS. 49 AND 51, AS MODIFIED

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that my pending amendments, Nos. 49 and 51, be modified with the changes that I have at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments are so modified.

The amendments, as modified, are as follows:

AMENDMENT NO. 49, AS MODIFIED

On page 48, between lines 22 and 23, insert the following:

(c) ADDITIONAL RELEASE FROM RESTRICTIONS.—

(1) IN GENERAL.—In addition to any release granted under subsection (a), the Secretary of Transportation may, subject to paragraph (2), grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance numbered 30–82–0048 and dated August 4, 1982, under which the United States conveyed certain land to Doña Ana County, New Mexico, for airport purposes.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) shall be subject to the following conditions:

(A) The County shall agree that in conveying any interest in the land that the United States conveyed to the County by the deed described in paragraph (1), the County shall receive an amount for the interest that is equal to the fair market value.

(B) Any amount received by the County for the conveyance shall be used by the County for the development, improvement, operation, or maintenance of the airport.

AMENDMENT NO. 51, AS MODIFIED

On page 311, between lines 11 and 12, insert the following:

SEC. 733. PRIVACY PROTECTIONS FOR AIRCRAFT PASSENGER SCREENING WITH ADVANCED IMAGING TECHNOLOGY.

Section 44901 is amended by adding at the end the following:

''(l) LIMITATIONS ON USE OF ADVANCED IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

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

''(A) ADVANCED IMAGING TECHNOLOGY.—The term 'advanced imaging technology'—

''(i) means a device that creates a visual image of an individual's body and reveals other objects on the body as applicable, including narcotics, explosives, and other weapons components; and

''(ii) includes devices using backscatter x-rays or millimeter waves and devices referred to as 'whole-body imaging technology' or 'body scanning'.

''(B) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—The term 'appropriate congressional committees' means—

''(i) the Committee on Commerce, Science, and Transportation and Committee on Homeland Security and Governmental Affairs of the Senate; and

''(ii) the Committee on Homeland Security of the House of Representatives.

''(C) AUTOMATIC TARGET RECOGNITION SOFTWARE.—The term 'automatic target recognition software' means software installed on an advanced imaging technology machine that produces a generic image of the individual being screened that is the same as the images produced for all other screened individuals.

''(2) USE OF ADVANCED IMAGING TECHNOLOGY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that advanced imaging technology is used for the screening of passengers under this section only in accordance with this subsection.

''(3) IMPLEMENTATION OF AUTOMATED TARGET RECOGNITION SOFTWARE.—Except as provided in paragraph (4), beginning January 1, 2012, all advanced imaging technology used as a screening method for passengers shall be equipped with automatic target recognition software.

''(4) EXTENSION.—The Assistant Secretary may extend the date described in paragraph (3) by 1 or more periods as the Assistant Secretary considers appropriate but each period may not be for a duration of more than by 1 year, if the Assistant Secretary determines that—

''(A) advanced imaging technology equipped with automatic target recognition software is not substantially as effective at screening passengers as advanced imaging technology without such software; or

''(B) additional testing of such software is necessary.

''(5) REPORTS.—

''(A) IN GENERAL.—Not later than 60 days after the date described in paragraph (3) and, if the Assistant Secretary extends the date pursuant to paragraph (4) by 1 or more periods, not later than 60 days after each period, the Assistant Secretary shall submit to the appropriate congressional committees a report on the implementation of this subsection.

''(B) ELEMENTS.—Each report required by subparagraph (A) shall include the following:

''(i) A description of all matters the Assistant Secretary considers relevant to the implementation of this subsection.

''(ii) The status of the compliance of the Transportation Security Administration with the provisions of this subsection.

''(iii) If the Administration is not in full compliance with such provisions—

''(I) the reasons for such non-compliance; and

''(II) a timeline depicting when the Assistant Secretary expects the Administration to achieve full compliance.

''(C) SECURITY CLASSIFICATION.—The report required by subparagraph (A) shall be submitted, to the greatest extent practicable, in an unclassified format, with a classified annex, if necessary.''.

Mr. UDALL of New Mexico. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 7, AS MODIFIED

Mr. INHOFE. Mr. President, I have the same request. I call for regular order with respect to my amendment No. 7, and I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the bill insert the following:

SEC. ___. RONALD REAGAN WASHINGTON NATIONAL AIRPORT SLOTS.

(a) INCREASE IN NUMBER OF SLOT EXEMPTIONS.—Section 41718 is amended by adding at the end thereof the following:

''(g) ADDITIONAL SLOTS.—

''(1) INITIAL INCREASE IN EXEMPTIONS.—Within 90 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall grant, by order, 24 slot exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and airports located beyond the perimeter described in section 49109 or, as provided in paragraph (2)(C), airports located within that perimeter, and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

''(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

''(B) increase competition in multiple markets;

''(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

''(D) not result in meaningfully increased travel delays;

''(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

''(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; and

''(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

''(2) NEW ENTRANTS AND LIMITED INCUMBENTS.—

''(A) DISTRIBUTION.—Of the exemptions made available under paragraph (1), the Secretary shall make 10 available to limited incumbent air carriers or new entrant air carriers and 14 available to other incumbent air carriers.

''(B) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under this paragraph, the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(C) USE.—Only a limited incumbent air carrier or new entrant air carrier may use an additional exemption granted under this subsection to provide service between Ronald Reagan Washington National Airport and an airport located within the perimeter described in section 49109.

''(3) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under this subsection, it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

''(4) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

''(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

''(B) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

''(5) OPERATIONS DEADLINE.—An air carrier granted a slot exemption under this subsection shall commence operations using that slot within 60 days after the date on which the exemption was granted.

''(6) IMPACT STUDY.—Within 17 months after granting the additional exemptions authorized by paragraph (1) the Secretary shall complete a study of the direct effects of the additional exemptions, including the extent to which the additional exemptions have—

''(A) caused congestion problems at the airport;

''(B) had a negative effect on the financial condition of the Metropolitan Washington Airports Authority;

''(C) affected the environment in the area surrounding the airport; and

''(D) resulted in meaningful loss of service to small and medium markets within the perimeter described in section 49109.

''(7) ADDITIONAL EXEMPTIONS.—

''(A) DETERMINATION.—The Secretary shall determine, on the basis of the study required by paragraph (6), whether—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on Ronald Reagan Washington National Airport, Washington Dulles International Airport, or Baltimore/Washington Thurgood Marshall International Airport; and

''(ii) the granting of additional exemptions under this paragraph may, or may not, reasonably be expected to have a substantial negative effect on any of those airports.

''(B) AUTHORITY TO GRANT ADDITIONAL EXEMPTIONS.—Beginning 6 months after the date on which the impact study is concluded, the Secretary may grant up to 8 slot exemptions to incumbent air carriers, in addition to those granted under paragraph (1) of this subsection, if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have not had a substantial negative effect on any of those airports; and

''(ii) the granting of additional exemptions under this subparagraph may not reasonably be expected to have a negative effect on any of those airports.

''(C) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under

subparagraph (B), the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(D) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under subparagraph (B), it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

''(E) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under subparagraph (B) shall be subject to the following conditions:

''(i) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

''(ii) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

''(F) ADDITIONAL EXEMPTIONS NOT PERMITTED.—The Secretary may not grant exemptions in addition to those authorized by paragraph (1) if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on any of those airports; or

''(ii) the granting of additional exemptions under subparagraph (B) of this paragraph may reasonably be expected to have a substantial negative effect on 1 or more of those airports.

''(h) SCHEDULING PRIORITY.—In administering this section, the Secretary shall afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109.''.

(b) HOURLY LIMITATION.—Section 41718(c)(2) is amended—

(1) by striking ''3 operations'' and inserting ''4 operations''; and

(2) by striking ''subsections (a) and (b)'' and inserting ''under this section''.

(c) LIMITED INCUMBENT DEFINITION.—Section 41714(h)(5) is amended—

(1) by inserting ''not'' after ''shall'' in subparagraph (B);

(2) by striking ''and'' after the semicolon in subparagraph (B);

(3) by striking ''Administration.'' in subparagraph (C) and inserting ''Administration; and''; and

(4) by adding at the end the following:

''(D) for purposes of section 41718, an air carrier that holds only slot exemptions''.

(d) REVENUES AND FEES AT THE METROPOLITAN WASHINGTON AIRPORTS.—Section 49104(a) is amended by striking paragraph (9) and inserting the following:

''(9) Notwithstanding any other provision of law, revenues derived at either of the Metropolitan Washington Airports, regardless of source, may be used for operating and capital expenses (including debt service, depreciation and amortization) at the other airport.''.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 93 TO AMENDMENT NO. 7, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I have a second-degree amendment to the Inhofe amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 93 to Inhofe amendment No. 7, as modified.

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

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

The amendment is as follows:

(Purpose: To provide for an increase in the number of slots available at Ronald Reagan Washington National Airport, and for other purposes)

Strike all after the word ''sec'' and add the following:

___. RONALD REAGAN WASHINGTON NATIONAL AIRPORT SLOTS.

(a) INCREASE IN NUMBER OF SLOT EXEMPTIONS.—Section 41718 is amended by adding at the end thereof the following:

''(g) ADDITIONAL SLOTS.—

''(1) INITIAL INCREASE IN EXEMPTIONS.—Within 5 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall grant, by order, 24 slot exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and airports located beyond the perimeter described in section 49109 or, as provided in paragraph (2)(C), airports located within that perimeter, and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

''(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

''(B) increase competition in multiple markets;

''(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

''(D) not result in meaningfully increased travel delays;

''(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

''(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; and

''(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

''(2) NEW ENTRANTS AND LIMITED INCUMBENTS.—

''(A) DISTRIBUTION.—Of the exemptions made available under paragraph (1), the Secretary shall make 10 available to limited incumbent air carriers or new entrant air carriers and 14 available to other incumbent air carriers.

''(B) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under this paragraph, the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(C) USE.—Only a limited incumbent air carrier or new entrant air carrier may use an additional exemption granted under this subsection to provide service between Ronald Reagan Washington National Airport and an airport located within the perimeter described in section 49109.

''(3) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under this subsection, it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

''(4) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

''(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

''(B) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

''(5) OPERATIONS DEADLINE.—An air carrier granted a slot exemption under this subsection shall commence operations using that slot within 60 days after the date on which the exemption was granted.

''(6) IMPACT STUDY.—Within 17 months after granting the additional exemptions authorized by paragraph (1) the Secretary shall complete a study of the direct effects of the additional exemptions, including the extent to which the additional exemptions have—

''(A) caused congestion problems at the airport;

''(B) had a negative effect on the financial condition of the Metropolitan Washington Airports Authority;

''(C) affected the environment in the area surrounding the airport; and

''(D) resulted in meaningful loss of service to small and medium markets within the perimeter described in section 49109.

''(7) ADDITIONAL EXEMPTIONS.—

''(A) DETERMINATION.—The Secretary shall determine, on the basis of the study required by paragraph (6), whether—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on Ronald Reagan Washington National Airport, Washington Dulles International Airport, or Baltimore/Washington Thurgood Marshall International Airport; and

''(ii) the granting of additional exemptions under this paragraph may, or may not, reasonably be expected to have a substantial negative effect on any of those airports.

''(B) AUTHORITY TO GRANT ADDITIONAL EXEMPTIONS.—Beginning 6 months after the date on which the impact study is concluded, the Secretary may grant up to 8 slot exemptions to incumbent air carriers, in addition to those granted under paragraph (1) of this subsection, if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have not had a substantial negative effect on any of those airports; and

''(ii) the granting of additional exemptions under this subparagraph may not reasonably be expected to have a negative effect on any of those airports.

''(C) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under

subparagraph (B), the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(D) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under subparagraph (B), it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

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''(i) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

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''(F) ADDITIONAL EXEMPTIONS NOT PERMITTED.—The Secretary may not grant exemptions in addition to those authorized by paragraph (1) if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on any of those airports; or

''(ii) the granting of additional exemptions under subparagraph (B) of this paragraph may reasonably be expected to have a substantial negative effect on 1 or more of those airports.

''(h) SCHEDULING PRIORITY.—In administering this section, the Secretary shall afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109.''.

(b) HOURLY LIMITATION.—Section 41718(c)(2) is amended—

(1) by striking ''3 operations'' and inserting ''4 operations''; and

(2) by striking ''subsections (a) and (b)'' and inserting ''under this section''.

(c) LIMITED INCUMBENT DEFINITION.—Section 41714(h)(5) is amended—

(1) by inserting ''not'' after ''shall'' in subparagraph (B);

(2) by striking ''and'' after the semicolon in subparagraph (B);

(3) by striking ''Administration.'' in subparagraph (C) and inserting ''Administration; and''; and

(4) by adding at the end the following:

''(D) for purposes of section 41718, an air carrier that holds only slot exemptions''.

(d) REVENUES AND FEES AT THE METROPOLITAN WASHINGTON AIRPORTS.—Section 49104(a) is amended by striking paragraph (9) and inserting the following:

''(9) Notwithstanding any other provision of law, revenues derived at either of the Metropolitan Washington Airports, regardless of source, may be used for operating and capital expenses (including debt service, depreciation and amortization) at the other airport.''.

This section shall become effective 1 day after enactment.

CLOTURE MOTION

Mrs. HUTCHISON. Mr. President, I send a cloture motion to 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, do hereby move to bring to a close debate on the pending amendment No. 7, as modified, to S. 223, the FAA authorization bill.

Kay Bailey Hutchison, Jon Kyl, John Ensign, John Cornyn, Kelly Ayotte, John Thune, Saxby Chambliss, Richard Burr, Johnny Isakson, Jerry Moran, James E. Risch, Richard C. Shelby, Rand Paul, John Hoeven, John McCain, Lindsey Graham, Mike Lee.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 93, AS MODIFIED, TO AMENDMENT NO. 7, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I send a modification to my second-degree amendment to the desk and ask that the amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the word ''**SEC**'' and add the following:

___. RONALD REAGAN WASHINGTON NATIONAL AIRPORT SLOTS.

(a) INCREASE IN NUMBER OF SLOT EXEMPTIONS.—Section 41718 is amended by adding at the end thereof the following:

''(g) ADDITIONAL SLOTS.—

''(1) INITIAL INCREASE IN EXEMPTIONS.—Within 95 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall grant, by order, 24 slot exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and airports located beyond the perimeter described in section 49109 or, as provided in paragraph (2)(C), airports located within that perimeter, and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

''(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

''(B) increase competition in multiple markets;

''(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

''(D) not result in meaningfully increased travel delays;

''(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

''(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; and

''(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

''(2) NEW ENTRANTS AND LIMITED INCUMBENTS.—

''(A) DISTRIBUTION.—Of the exemptions made available under paragraph (1), the Secretary shall make 10 available to limited incumbent air carriers or new entrant air carriers and 14 available to other incumbent air carriers.

''(B) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under this paragraph, the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(C) USE.—Only a limited incumbent air carrier or new entrant air carrier may use an additional exemption granted under this subsection to provide service between Ronald Reagan Washington National Airport and an airport located within the perimeter described in section 49109.

''(3) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under this subsection, it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

''(4) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

''(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

''(B) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

''(5) OPERATIONS DEADLINE.—An air carrier granted a slot exemption under this subsection shall commence operations using that slot within 60 days after the date on which the exemption was granted.

''(6) IMPACT STUDY.—Within 17 months after granting the additional exemptions authorized by paragraph (1) the Secretary shall complete a study of the direct effects of the additional exemptions, including the extent to which the additional exemptions have—

''(A) caused congestion problems at the airport;

''(B) had a negative effect on the financial condition of the Metropolitan Washington Airports Authority;

''(C) affected the environment in the area surrounding the airport; and

''(D) resulted in meaningful loss of service to small and medium markets within the perimeter described in section 49109.

''(7) ADDITIONAL EXEMPTIONS.—

''(A) DETERMINATION.—The Secretary shall determine, on the basis of the study required by paragraph (6), whether—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on Ronald Reagan Washington National Airport, Washington Dulles International Airport, or Baltimore/Washington Thurgood Marshall International Airport; and

''(ii) the granting of additional exemptions under this paragraph may, or may not, reasonably be expected to have a substantial negative effect on any of those airports.

''(B) AUTHORITY TO GRANT ADDITIONAL EXEMPTIONS.—Beginning 6 months after the date on which the impact study is concluded, the Secretary may grant up to 8 slot exemptions to incumbent air carriers, in addition

to those granted under paragraph (1) of this subsection, if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have not had a substantial negative effect on any of those airports; and

''(ii) the granting of additional exemptions under this subparagraph may not reasonably be expected to have a negative effect on any of those airports.

''(C) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under subparagraph (B), the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(D) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under subparagraph (B), it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

''(E) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under subparagraph (B) shall be subject to the following conditions:

''(i) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

''(ii) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

''(F) ADDITIONAL EXEMPTIONS NOT PERMITTED.—The Secretary may not grant exemptions in addition to those authorized by paragraph (1) if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on any of those airports; or

''(ii) the granting of additional exemptions under subparagraph (B) of this paragraph may reasonably be expected to have a substantial negative effect on 1 or more of those airports.

''(h) SCHEDULING PRIORITY.—In administering this section, the Secretary shall afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109.''.

(b) HOURLY LIMITATION.—Section 41718(c)(2) is amended—

(1) by striking ''3 operations'' and inserting ''4 operations''; and

(2) by striking ''subsections (a) and (b)'' and inserting ''under this section''.

(c) LIMITED INCUMBENT DEFINITION.—Section 41714(h)(5) is amended—

(1) by inserting ''not'' after ''shall'' in subparagraph (B);

(2) by striking ''and'' after the semicolon in subparagraph (B);

(3) by striking ''Administration.'' in subparagraph (C) and inserting ''Administration; and''; and

(4) by adding at the end the following:

''(D) for purposes of section 41718, an air carrier that holds only slot exemptions''.

(d) REVENUES AND FEES AT THE METROPOLITAN WASHINGTON AIRPORTS.—Section 49104(a) is amended by striking paragraph (9) and inserting the following:

''(9) Notwithstanding any other provision of law, revenues and debt service costs at either of the Metropolitan Washington Airports, regardless of source, may be shared at the other airport.''

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, the amendment that is now pending, for which we have a cloture motion, is what we are going to try to continue to work on and hope that we can come to a consensus on the issue of the perimeter rule that has caused so much of this bill to be held up. This is a good bill. This is a bill that is going to give America the opportunity to start the next generation of air traffic control systems. It is a bill that we must begin now if we are going to go to a satellite-based system which will free airspace and make our air system work more efficiently for aircraft in the air.

It has safety provisions. It has consumer protection provisions. It is so important that we also accommodate the needs of all of our country, the constituents we have, to have an airport system that works—especially in the Washington area.

We will be able to debate this amendment as we go through the next few days. We are waiting for other amendments to also be debated on the floor. But I have stood very firm in saying we need a bipartisan solution to access to the Nation's airport in Washington, DC. It is located in Virginia, but it is the Washington, DC-near airport, and all of the airports in this area now have a robust business. It is time for us to deal with this in a rational, bipartisan, and responsible way. That is what Senator ROCKEFELLER and I have attempted to do, and we will continue to do so.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

HEALTH REFORM

Mr. FRANKEN. Mr. President, I rise today to talk about health reform. I would like to start by telling you the story of a little boy named Isaac. From the day his parents brought him home as a newborn to Isanti, MN, he was sick all the time. He had everything from the flu to bronchitis to ear infections. But unlike most little boys, Isaac never seemed to get better. His parents, as any parents would, did everything they could to help him. They brought him to every medical specialist they could think of but no one could figure out what was wrong.

Finally, Isaac was diagnosed with a rare disease called common variable immunodeficiency. This means every 2 weeks a nurse has to visit his home to give him the medicine that lets his body fight off germs. Without this medicine, Isaac's body cannot fight off even a common cold. The home visits and IV medications Isaac needs are expensive. But Isaac's parents had health insurance, so Isaac was able to have a normal childhood.

Today, Isaac is a 19-year-old college student in Minnesota with dreams of becoming an English teacher. Here is a picture of him. He is the one on the right. That is Isaac.

Because of the toll his illness takes, his family decided that Isaac should go to school part-time. Unfortunately, before the health reform law was passed, young adults over 18 years of age generally had to be in school full time to stay on their parents' health insurance. If Isaac had not been able to stay on his parents' health plan, he would have been in a tremendous bind. His disease is the definition of a preexisting condition, and it would have been nearly impossible for him to find affordable individual coverage. But because of the health reform law that we passed last year, Isaac can now stay on his parents' health insurance, regardless of his school status, through his 26th birthday. He and his family were able to make the choices that made sense for their family without having to worry about Isaac's health insurance. In fact, in a few years, when he turns 26, a key provision of health reform will have kicked in and insurers will no longer be able to discriminate against him or any American because of a preexisting condition.

Isaac's parents may not be doctors, but they are experts when it comes to the needs of their family. They know the truth about what the health reform law has already done for their family. Just like Isaac's family, Minnesotans may not know every word of the health reform law, but they are experts on what they need for their own families.

Let me tell you about another Minnesota family who learned about the benefits of the new law. Maya, whom you can see right here, is one of 3 million Americans with epilepsy. She had her first seizure when she was just 3 years old. Modern medicine has not yet been able to find a way to stop her seizures, but by taking five medications per day she can control them.

Recently, Maya's father was laid off and the family lost his health insurance. Maya's family suddenly had to confront the possibility that they would no longer be able to give Maya the medication she needs to fight her daily seizures. Without insurance, Maya's medications cost more than $1,500 a month, which would quickly bankrupt her family. Losing a job is stressful enough, but before the health reform law Maya's parents would have

had to worry about buying health insurance on the individual market. Because of Maya's preexisting condition that would have been almost impossible.

Fortunately, the health reform law has banned insurance companies from discriminating against children with preexisting conditions. So her family was able to get on to another insurance plan without being denied.

The diagnosis of a chronic illness can happen to anyone at any time. Often, like Maya, it doesn't happen because of a lifestyle choice or genetic predisposition. It just happens. Maya was 3 years old when she was diagnosed. Paying for essential medications and health care services that can help control chronic conditions like Maya's can easily put a hard-working family into bankruptcy.

Medical costs are the cause, wholly or in part, of 62 percent of all bankruptcies in this country. That will change dramatically because of this law. Americans will no longer be discriminated against because of preexisting conditions, and insurance companies can no longer impose lifetime limits on the dollar amount of care they will provide. This is an enormous, almost incalculable, benefit to Americans and their peace of mind.

The truth is, Congress listened to people across this country, people such as Isaac and Maya and their families. By allowing kids to stay on their parents' insurance longer, we listened by ending insurance companies' discrimination against women and people with preexisting conditions, and we listened when the American people said lifetime caps on insurance benefits were forcing millions of chronically ill Americans into bankruptcy.

The people of Minnesota believe, as I do, that a family who works hard should not be financially ruined if their kid gets sick. When I was campaigning I heard this again and again from families across Minnesota—and I was listening. The people asked this Congress to find a way to make health care affordable for everyone, and we did.

Now the insurance companies and their political allies want you to believe the only way to keep your premiums low is to cap the amount of benefits you can receive in your lifetime. But this is just not true. In the health reform law, we worked hard to slow the growth of health care costs without abandoning the over one-third of American adults who struggle with chronic disease.

The truth is, last year we passed a bill that will save the lives of countless Americans and will save billions of taxpayer dollars. That is right. According to the Congressional Budget Office, the referee that everyone here in Congress agrees to abide by whether we like their decisions or not—according to CBO the law saves us money, lots of money; in fact, hundreds of billions of dollars.

Now, let me say a word about CBO to my colleagues. You cannot use CBO's numbers when you like them and then totally dismiss them when you do not. CBO is directed to provide unbiased and independent analysis and estimates. Their analysts use the best research available for their scores and projections. In fact, they established an independent review panel of expert health care economists to advise them in their analysis of the health reform bill. Not only are the experts' names published on CBO's Web site, but their analysis of the law is public as well. CBO is nothing if not transparent and independent.

Of late, we have heard Members of this body frankly mischaracterize the process by which CBO does its job. They have said that CBO must rely solely on information and data fed to them by the majority—''garbage in, garbage out.'' ''Garbage in, garbage out'' is how they describe it here on the floor. This could not be further from the truth. Frankly, I find some of my colleagues' new refrain about CBO disturbing and not a little disingenuous.

One of the things we tried to do in health reform was to take steps that would lower the costs of health care in this country. Take for example our efforts to reduce administrative costs by streamlining the way health care providers bill for their services. This is something I pushed for because we recently did it in Minnesota, and it saved $56 million in the first year alone. Nationwide, that should translate to around $25 to $30 billion over 10 years. Actually, the health reform law went well beyond what Minnesota did. So it is not surprising that outside experts such as those at the Commonwealth Fund, Rand, and others estimate much greater savings from administrative simplification, in the range of $162 to $187 billion over 10 years. So when CBO made their analysis and estimated savings of less than $20 billion in the same period, I admit I was a little miffed. But I did not attack CBO. I accepted their results. And we are all duty bound to do the same, even when CBO projects that the law as a whole will save over $100 billion in the first 10 years and over $1 trillion in the following decade.

We accomplished the savings with a number of commonsense solutions, such as stopping insurance companies from padding their bank accounts with profits from sky-high premiums. As part of health reform, we require insurance companies to spend at least 80 to 85 percent of the money they receive in premiums on actual health care, actual health care services—85 percent for large group plans, 80 percent for small group or individual plans. This is a provision I championed. The other 15 or 20 percent can be spent on administrative costs or marketing, on CEO bonuses, and on profits. This provision kicked in this year, and it will hold insurance companies accountable for costs and help contain health care costs in this country.

We also changed the way health care is paid for in this country by starting to reward quality of care, not quantity—value not volume in Medicare. I was proud to fight alongside Senator CANTWELL and Senator KLOBUCHAR for the inclusion of the value-based payment modifier in the Medicare reimbursement formulas.

Perhaps the most commonsense thing we did to control costs was making sure everyone has access to preventive care. In Minnesota alone, the law will give millions of people access to free preventive care. Women will be able to get mammograms without any out-of-pocket costs. Starting this year, seniors now have access to free preventive checkups each year without cost. This is completely contrary to claims I have heard on this floor.

A large part of the cuts in Medicare spending—not cuts in benefits, a large part of the cuts in Medicare spending—is cuts to wasteful subsidies for insurance companies.

One of my colleagues has taken to the floor and said this law will ''cut the funding, so people on Medicare Advantage who like it, who like the preventive medicine activities of it, are going to lose those opportunities.'' He goes on to say about the seniors in his State that ''once they lose this, they are going to lose preventive services.'' This is simply not the case. Thanks to this law, everyone on Medicare will enjoy preventive services, so their doctors will catch problems early. Seniors know that an ounce of prevention is worth a pound of cure. That is why preventive services under this law will be covered for everyone without copays, contrary to what my friend on the other side says.

This is what has bothered me about this debate—the constant stream of misinformation.

This same colleague said this on the floor about the law: ''It doesn't solve America's doctor shortage. It does not even address it.'' It does not even address it. Now, no one is claiming this bill solves the doctor shortages we have in this country, but does not even address it? There is a whole title in the law that lays out a number of programs—over 96 pages—that make significant investments in the health care workforce, especially in primary care physicians. Most notably, it created a public health workforce loan repayment program that helps recruit and place more doctors, nurses, and other health care providers in medically underserved areas. That is important for States such as Minnesota. And this was an integral and vital part of health reform. Anyone who states that this law did nothing to address the shortfall of health care providers just has not read the law.

We have seen misrepresentations from opponents right from the beginning with the so-called death panels, and it continues to this day: Medicare recipients are going to be denied preventive care; the law doesn't even address the doctor shortage; CBO is just

fed garbage by the majority and is not allowed to look at anything else.

In November, one of my colleagues cited an oft-discredited assertion originally made by some Republicans on the House Ways and Means Committee. According to one analysis, my colleague said here on the floor, the Internal Revenue Service will need to hire 16,000 new IRS employees to enforce the individual mandate. Well, that is just not true. Some new IRS employees will be needed but nowhere near that number, and overwhelmingly they will be there to administer the tax breaks to small businesses for insuring their employees.

What my colleagues said on the floor is simply not true. No matter how many times it is repeated, it will not become true.

There was a colloquy from June of last year between two of my colleagues. The first Senator said that doctors are leaving Medicare. And that is true. Some are.

He said: The president of the State of New York Medical Society is not taking new Medicare patients.

Then the second Senator said: As well as the Mayo Clinic.

The first Senator answered by responding: Mayo Clinic said, we cannot afford to keep our doors open if we are taking Medicare patients.

Then he moved on.

So is it true that the Mayo Clinic really is not taking new Medicare patients? Well, I called up Mayo, which happens to be in my State, to find out, and they gave me the facts. Do you know what. Of course it is not true. The Mayo Clinic has 3,700 staff physicians and scientists and treats 526,000 patients a year. There is one Mayo Clinic, Arizona Family Practice—one—that isn't accepting Medicare payment for primary care services. Yet this is just part of a time-limited trial for this one clinic with just five physicians on staff. That is it. But this becomes, to quote my colleague: Mayo Clinic said, we cannot afford to keep our doors open if we are taking Medicare patients. Well, the Mayo Clinic is the largest private employer in Minnesota and, believe me, their doors are still open to new Medicare patients.

Medicare reimbursements are low, and Mayo has actually lost hundreds of millions of dollars in the last year alone because of this. Mayo, like the rest of Minnesota, delivers higher value care at a lower cost than clinics and hospitals in other States. That is because Mayo provides coordinated integrated care. Mayo's outstanding doctors are on salaries, so they are not incentivized to order and perform unnecessary and expensive tests and procedures. And Mayo's outcomes are second to none. Yet Mayo is punished for all of this by receiving lower reimbursements for Medicare. That is why I pushed, with other colleagues, for the value index. That is why we need to pass the so-called doc fix that cancels scheduled cuts to reimbursement rates every year.

By the way, the doc fix is something we would have to do whether or not we pass health reform.

Yet, despite all of this, the Mayo Clinic is keeping its doors open to new Medicare patients and should be commended for that. It should not be accused of closing its doors to Medicare patients when it is not. Mayo should not be used as a political football.

Look, I could go on and on with these, but the fact is, if we want to have a debate about the health care law, we really should make an effort to present a case based on what is really in the law and what is really happening on the ground. This is what the American people want from us. Health care is far too important to the lives of our constituents for us to indulge in gross distortion, obvious omission, and absurd extrapolations. The American people do not want that, not for something this important, not for something that affects their lives and the lives of people they love. The American people have given us all tremendous responsibilities.

Minnesotans worry that the floor could drop from under them at any time and that no one will be there to catch them when it does. They worry about their families. They worry about their friends and their community. We owe it to them to be honest with them and with each other, to be responsible, to be real. So let's get real.

As I mentioned in my story about Maya, the little girl with epilepsy, thanks to the new law, she can get health care because insurance companies now cannot discriminate against children with preexisting conditions. In 2014, insurance companies will not be able to discriminate against any American child or adult with a preexisting condition. And in 2014, that is when the mandate kicks in.

Here is what one of my colleagues says about the provision in the law that now allows little 3-year-old Maya to be treated for her epilepsy:

> The health care law allows parents to wait until their child is sick before buying a policy. When only sick people buy health insurance, premiums have to go up. As the rate increases, more people drop their coverage.

That is why we have the mandate. The mandate is crucial if you want to do things such as getting rid of denials for preexisting conditions. And, by the way, the mandate has been a Republican idea. The mandate was a Republican idea in their 1993 health reform bill. Let me tell you why. The health care law is like a three-legged stool. The first leg is accessibility. Everyone needs to be able to buy insurance so that when they get sick or hurt, they can access the care they need.

So we banned insurance companies from discriminating against people with preexisting conditions. Banning discrimination against people with preexisting conditions is something that both parties say they like. In fact, in its Pledge to America, the document that Republicans ran on in 2010, in the health care section there is the heading ''Ensure Access for Patients with Preexisting Conditions.''

It goes on to say that they will ban insurance companies from discriminating against patients with preexisting conditions. That is their pledge.

That makes sense. Over one-third of all Americans have a preexisting condition. Actually, at the Minnesota State fair, a woman in her early 70s came up to me and said: You know, at my age, everything is preexisting. She was enrolled in Medicare, but Maya was not. And Maya's family should not have to choose between going without the care they need and going into bankruptcy.

But as my colleague indicated, there is a risk that this provision would incentivize people to buy health insurance only after they get sick or hurt which would drive everyone's costs up. So because of this, this second leg of the stool is personal responsibility. We have an individual mandate to make sure that people don't wait until they get sick to go get insurance and to create a pool of insured people that is large enough to support all the folks who had previously been unable to get insurance. If everyone has health insurance, everyone will be able to access care when they need it.

By the way, the rest of us who have insurance will benefit because today we are paying almost $1,000 a year per family in premiums to cover the emergency room visits of people who don't have insurance.

But for some people, buying health insurance is too expensive. So the third leg of the stool is affordability. We provide assistance to those families who need to buy health coverage on a sliding scale, all the way up to 400 percent of the Federal poverty level.

So that is our three-legged stool: accessibility, accountability, and affordability. We don't discriminate against people with preexisting conditions, and so we have a mandate so people don't wait until they get sick or hurt to get insurance. Because you are mandated to get health insurance, we make sure everyone can afford it. A three-legged stool. If you take any leg out, the stool collapses.

When I have explained it this way to Minnesotans, I find they are no longer confused about the law. They know how important it is to have access to health insurance regardless of preexisting conditions, to take responsibility for themselves and their families, and to have health care they can afford. But some of my colleagues have been advocating that we cut off a leg or even two legs of the stool. But a two-legged stool collapses. And a one-legged stool? Maybe at best it is a spinning plate.

The arguments for repealing this law remind me of an old Shalom Aleichem story I heard from my dad when I was growing up. You don't hear much about Shalom Aleichem on the Senate floor. I will tell you a little bit about it.

Shalom Aleichem was a beloved 20th century writer who wrote stories, novels, and plays in Yiddish. The Broadway hit ''Fiddler on the Roof'' was based on his writings. In the story my dad told me, a man borrows a plate from his neighbor. The man takes the plate home and drops it accidentally and breaks it. He sneaks back into his neighbor's house and replaces the broken plate. The neighbor comes home, finds the broken plate, and goes over to the guy's house. He basically says: What is the deal with the broken plate?

The guy says: Well, in the first place, I didn't borrow it. In the second place, when I borrowed it, it was already broken. And in the third place, when I returned it, it was in one piece.

That is what I am hearing from the opponents of this bill who want to repeal it. In the first place, we are for banning discrimination against people with preexisting conditions. In the second place, we are against banning discrimination against people with preexisting conditions because then no one would buy health insurance until they get sick or hurt. That would drive up the cost of health insurance. And in the third place, we want to repeal the law because it makes healthy people buy health insurance or pay a fine in order to keep the cost of health insurance down. This is what I hear every day from the opponents of the health care bill.

Opponents of the bill, my colleagues on the other side, pledge that they won't discriminate against people with preexisting conditions but then they say they don't want to ban discrimination because they don't want to encourage people to wait until they are sick to buy insurance. But they don't want to mandate that people take personal responsibility by buying health insurance. Then they stand up and say the American people are, to quote a colleague, ''sick of spin.''

I would like my colleagues to stand and admit that they broke the plate. We owe it to the people who elected us to this body to tell the truth about the health reform law. We owe it to the millions of Americans whose lives will be changed by the provisions in this law, such as Isaac, such as Maya.

Already we have seen the positive changes that such reform can bring. Look no further than the State of Massachusetts which, in 2006, passed its own set of health reforms. Its reforms were similar to what the Affordable Care Act is doing at the national level, including an individual mandate, subsidies, and even an exchange. The result has been a huge increase in the number of people with health insurance, including an increase in the number of people who get insurance through their jobs. Let me put that another way: Because of the State's health care reform, more people have health insurance from their employer.

At the same time Massachusetts has seen a decrease in the rate at which premiums are going up when compared to the rest of the country. As the rest of the country saw insurance premiums go up by 6.1 percent from 2007 to 2008, premiums in Massachusetts only went up by 5.0 percent. That is more than 20 percent less than the rest of the country just a year after its health care reform was passed. That is not a silver bullet, but it is certainly a step in the right direction for small business owners and for families. More than 98 percent of Massachusetts residents have health insurance, as compared to less than 84 percent nationally.

The effects of health reform in that State are pretty clear. More people are insured. Premiums are not going up as quickly as around the country. More people are getting their insurance through their employer.

The health reform law is not a silver bullet but hopefully a series of steps in the right direction. You have to question the claims of my colleagues who say that health reform will cause the sky to fall, because there is good evidence to believe they are crying wolf. Yes, you heard me right, Chicken Little is crying wolf.

Ask the people of Massachusetts. In a recent poll, nearly 80 percent of Massachusetts residents said they wanted to keep the health reform law they passed in 2006; nearly 80 percent.

Here is another one. I have heard a colleague urging repeal of this law say:

> We need to allow small businesses to join together, to pool together, in order to offer affordable health insurance to their workers, get better deals with insurance costs.

He said this as if it weren't in the law. In fact, he has said these exact words repeatedly here on the floor, each time creating the clear implication that the health reform law does not allow small businesses to pool together to get better deals on health insurance. But in fact this is exactly why we passed a health reform law that includes health insurance exchanges.

We owe it to the American people to tell the truth about this. The truth is that health reform created State insurance exchanges so that health care will be available to the 43 million workers employed by the 5.9 million small businesses around the country. The exchanges will also make affordable health insurance available to 22 million self-employed Americans. Within these exchanges, insurance companies will compete and offer multiple plans so that everyone can choose a plan that works best for their family. And in all cases, they will be negotiated on behalf of the combined pools of all participating businesses with fewer than 100 employees in the State. This will give unprecedented negotiating power and competition that will directly benefit workers at small businesses. And not just the workers but especially the owners of those businesses who, by the way, are already receiving tax credits to help them pay for their employees' insurance.

The fact is, the majority of Americans are supportive of what this law is trying to do, and they don't want to go back to the broken system we had before it passed. They know it is crucial that American families have health care when they need it. They know this law will give millions more American families access to this care while creating jobs and saving money.

The truth is, the people have spoken on health care. Unfortunately, some of my colleagues have not been listening.

When you are talking about legislation, it is easy to fall into the trap of either promising the world or warning that it will cause the sky to fall. Neither is right, and the reality is far more complex. The truth is, the Affordable Care Act will change millions of lives but will not fix a very broken health care system overnight. It was the result of a lot of negotiation and compromise.

The truth is, the American people want us to move forward and implement this law. They know some parts of it will work better than other parts. They want us to change what does not work and build on what does. They know provisions like the ban on discrimination against children with preexisting conditions are already helping families across this country, including Isaac, including Maya.

I challenge my colleagues to talk to families with children like Isaac and Maya. Americans are experts on the health care needs of their own families. I have talked to families all over Minnesota, and they tell me they need accessible health care, they need affordable health care, and they want to take personal responsibility to insure their families. But the truth is, they need our help. They need us to make sure the stool keeps standing.

Thank you, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk, and I ask 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 assistant bill 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 Calendar No. 5, S. 223, FAA Air Transportation Modernization and Safety Improvement Act:

Harry Reid, Jay D. Rockefeller IV, Kent Conrad, Bernard Sanders, Benjamin L. Cardin, Sheldon Whitehouse, Patrick J. Leahy, John F. Kerry, Amy Klobuchar, Jeff Bingaman, Jack Reed, Tom Harkin, Carl Levin, Kirsten E. Gillibrand,

Christopher A. Coons, Claire McCaskill, Richard J. Durbin.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorums with respect to the cloture motions be waived.

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

Mr. REID. Mr. President, I am told the managers of this bill have some business they still need to transact on this matter tonight.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 5, AS MODIFIED, AND 55, EN BLOC

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Blunt amendment No. 5 be modified with the changes that are at the desk; further, that the Blunt amendment No. 5, as modified, and the Reid amendment No. 55 be considered and agreed to en bloc and the motions to reconsider be laid upon the table, with no intervening action or debate.

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

The amendment (No. 5), as modified, was agreed to, as follows:

On page 311, between lines 11 and 12, insert the following:

SEC. 733. APPROVAL OF APPLICATIONS FOR THE SECURITY SCREENING OPT-OUT PROGRAM.

Section 44920(b) of title 49, United States Code, is amended to read as follows:

''(b) APPROVAL OF APPLICATIONS.—

''(1) IN GENERAL.—Not later than 30 days after receiving an application submitted under subsection (a), the Under Secretary may approve the application.

''(2) RECONSIDERATION OF REJECTED APPLICATIONS.—Not later than 30 days after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Under Secretary shall reconsider and approve any application to have the screening of passengers and property at an airport carried out by the screening personnel of a qualified private screening company that was submitted under subsection (a) and was pending on any day between January 1, 2011, and February 3, 2011, if Under Secretary determines that the application demonstrates that having the screening of passengers and property carried out by such screening personnel will provide security that is equal to or greater than the level that would be provided by Federal Government personnel.

''(3) REPORT.—If the Under Secretary denies an application submitted under subsection (a), the Under Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reason for the denial of the application.''.

The amendment (No. 55) was agreed to.

MORNING BUSINESS

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

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

REMEMBERING RONALD REAGAN

Mr. KYL. Mr. President, last week we were all celebrating what would have been the 100th anniversary of Ronald Reagan. There was a piece in the Wall Street Journal by one of the economists who advised Ronald Reagan, Arthur Laffer, which I think recounts and discusses probably as good as any other summary I have ever seen the contribution Reagan and his administration made to the economy of the United States.

Therefore, I ask unanimous consent to have printed in the RECORD the article from the Wall Street Journal dated February 10, 2011.

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

[From the Wall Street Journal, Feb. 10, 2011]

REAGANOMICS: WHAT WE LEARNED

(By Arthur B. Laffer)

For 16 years prior to Ronald Reagan's presidency, the U.S. economy was in a tailspin—a result of bipartisan ignorance that resulted in tax increases, dollar devaluations, wage and price controls, minimum-wage hikes, misguided spending, pandering to unions, protectionist measures and other policy mistakes.

In the late 1970s and early '80s, 10-year bond yields and inflation both were in the low double digits. The ''misery index''—the sum of consumer price inflation plus the unemployment rate—peaked at well over 20%. The real value of the S&P 500 stock price index had declined at an average annual rate of 6% from early 1966 to August 1982.

For anyone old enough today, memories of the Arab oil embargo and price shocks—followed by price controls and rationing and long lines at gas stations—are traumatic. The U.S. share of world output was on a steady course downward.

Then Reagan entered center stage. His first tax bill was enacted in August 1981. It included a sweeping cut in marginal income tax rates, reducing the top rate to 50% from 70% and the lowest rate to 11% from 14%. The House vote was 238 to 195, with 48 Democrats on the winning side and only one Republican with the losers. The Senate vote was 89 to 11, with 37 Democrats voting aye and only one Republican voting nay. Reaganomics had officially begun.

President Reagan was not alone in changing America's domestic economic agenda. Federal Reserve Chairman Paul Volcker, first appointed by Jimmy Carter, deserves enormous credit for bringing inflation down to 3.2% in 1983 from 13.5% in 1981 with a tight-money policy. There were other heroes of the tax-cutting movement, such as Wisconsin Republican Rep. Bill Steiger and Wyoming Republican Sen. Clifford Hansen, the two main sponsors of an important capital gains tax cut in 1978.

What the Reagan Revolution did was to move America toward lower, flatter tax rates, sound money, freer trade and less regulation. The key to Reaganomics was to change people's behavior with respect to working, investing and producing. To do this, personal income tax rates not only decreased significantly, but they were also indexed for inflation in 1985. The highest tax rate on ''unearned'' (i.e., non-wage) income dropped to 28% from 70%. The corporate tax rate also fell to 34% from 46%. And tax brackets were pushed out, so that taxpayers wouldn't cross the threshold until their incomes were far higher.

Changing tax rates changed behavior, and changed behavior affected tax revenues. Reagan understood that lowering tax rates led to static revenue losses. But he also understood that lowering tax rates also increased taxable income, whether by increasing output or by causing less use of tax shelters and less tax cheating.

Moreover, Reagan knew from personal experience in making movies that once he was in the highest tax bracket, he'd stop making movies for the rest of the year. In other words, a lower tax rate could increase revenues. And so it was with his tax cuts. The highest 1% of income earners paid more in taxes as a share of GDP in 1988 at lower tax rates than they had in 1980 at higher tax rates. To Reagan, what's been called the ''Laffer Curve'' (a concept that originated centuries ago and which I had been using without the name in my classes at the University of Chicago) was pure common sense.

There was also, in Reagan's first year, his response to an illegal strike by federal air traffic controllers. The president fired and replaced them with military personnel until permanent replacements could be found. Given union power in the economy, this was a dramatic act—especially considering the well-known fact that the air traffic controllers union, Patco, had' backed Reagan in the 1980 presidential election.

On the regulatory front, the number of pages in the Federal Register dropped to less than 48,000 in 1986 from over 80,000 in 1980. With no increase in the minimum wage over his full eight years in office, the negative impact of this price floor on employment was lessened.

And, of course, there was the decontrol of oil markets. Price controls at gas stations were lifted in January 1981, as were wellhead price controls for domestic oil producers. Domestic output increased and prices fell. President Carter's excess profits tax on oil companies was repealed in 1988.

The results of the Reagan era? From December 1982 to June 1990, Reaganomics created over 21 million jobs—more jobs than have been added since. Union membership and man-hours lost due to strikes tumbled. The stock market went through the roof. From July 1982 through August 2000, the S&P 500 stock price index grew at an average annual real rate of over 12%. The unfunded liabilities of the Social Security system declined as a share of GDP, and the ''misery index'' fell to under 10%.

Even Reagan's first Democratic successor, Bill Clinton, followed in his footsteps. The negotiations for what would become the North American Free Trade Agreement began in Reagan's second term, but it was President Clinton who pushed the agreement through Congress in 1993 over the objections of the unions and many in his own party.

President Clinton also signed into law the biggest capital gains tax cut in our nation's history in 1997. It effectively eliminated any capital gains tax on owner-occupied homes. Mr. Clinton reduced government spending as a share of GDP by 3.5 percentage points, more than the next four best presidents combined. Where Presidents George H.W. Bush and Bill Clinton slipped up was on personal income tax rates—allowing the highest personal income tax rate to eventually rise to 39.6% from 28%.

The true lesson to be learned from the Reagan presidency is that good economics isn't Republican or Democrat, right-wing or left-wing, liberal or conservative. It's simply good economics. President Barack Obama should take heed and not limit his vision while seeking a workable solution to America's tragically high unemployment rate.

SPECIAL COMMITTEE ON AGING RULES OF PROCEDURE

Mr. KOHL. Mr. President, I ask unanimous consent that the Special Committee on Aging rules for the 112th Congress be printed in the RECORD.

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

SPECIAL COMMITTEE ON AGING

JURISDICTION AND AUTHORITY

S. Res. 4, §104, 95th Congress, 1st Session (1977)[1]

(a)(1) There is established a Special Committee on Aging (hereafter in this section referred to as the ''special committee'') which shall consist of nineteen Members. The Members and chairman of the special committee shall be appointed in the same manner and at the same time as the Members and chairman of a standing committee of the Senate. After the date on which the majority and minority Members of the special committee are initially appointed on or affect the effective date of title I of the Committee System Reorganization Amendments of 1977, each time a vacancy occurs in the Membership of the special committee, the number of Members of the special committee shall be reduced by one until the number of Members of the special committee consists of nine Senators.

(2) For the purposes of paragraph 1 of rule XXV; paragraphs 1, 7(a)(1)–(2), 9, and 10(a) of rule XXVI; and paragraphs 1(a)–(d), and 2(a) and (d) of rule XXVII of the Standing Rules of the Senate; and the purposes of section 202(I) and (j) of the Legislative Reorganization Act of 1946, the special committee shall be treated as a standing committee of the Senate.

(b)(1) It shall be the duty of the special committee to conduct a continuing study of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(2) The special committee shall, from time to time (but not less than once year), report to the Senate the results of the study conducted pursuant to paragraph (1), together with such recommendation as it considers appropriate.

(c)(1) For the purposes of this section, the special committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the serve of individual consultants or organizations thereof (as authorized by section 202(I) of the Legislative Reorganization Act of 1946, as amended) and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the special committee or any Member thereof may administer oaths to witnesses.

(3) Subpoenas authorized by the special committee may be issued over the signature of the chairman, or any Member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the Member signing the subpoena.

(d) All records and papers of the temporary Special Committee on Aging established by Senate Resolution 33, Eighty-seventh Congress, are transferred to the special committee.

RULES OF PROCEDURE

I. CONVENING OF MEETINGS

1. MEETINGS. The Committee shall meet to conduct Committee business at the call of the Chairman. The Members of the Committee may call additional meetings as provided in Senate Rule XXVI (3).

2. NOTICE AND AGENDA:

(a) WRITTEN NOTICE. The Chairman shall give the Members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(b) SHORTENED NOTICE. A meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the meeting on shortened notice. An agenda will be furnished prior to such a meeting.

3. PRESIDING OFFICER. The Chairman shall preside when present. If the Chairman is not present at any meeting, the Ranking Majority Member present shall preside.

II. CONVENING OF HEARINGS

1. NOTICE. The Committee shall make public announcement of the date, place and subject matter of any hearing at least one week before its commencement. A hearing may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the hearing on shortened notice.

2. PRESIDING OFFICER. The Chairman shall preside over the conduct of a hearing when present, or, whether present or not, may delegate authority to preside to any Member of the Committee.

3. WITNESSES. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours notice, and all witnesses called shall be furnished with a copy of these rules upon request.

4. OATH. All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any Member, may request and administer the oath.

5. TESTIMONY. At least 72 hours in advance of a hearing, each witness who is to appear before the Committee shall submit his or her testimony by way of electronic mail, in a format determined by the Committee and sent to an electronic mail address specified by the Committee, unless the Chairman and Ranking Minority Member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his or her prepared statement. Officials of the federal government shall file 100 copies of such statement with the clerk of the Committee 72 hours in advance of their appearance, unless the Chairman and the Ranking Minority Member determine there is good cause for noncompliance.

6. COUNSEL. A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or depositions or staff interview to advise such witness of his or her rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association.

7. TRANSCRIPT. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in closed sessions and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his or her transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact. The Chairman or a staff officer designated by him shall rule on such request.

8. IMPUGNED PERSONS. Any person who believes that evidence presented, or comment made by a Member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his or her character or adversely affect his or her reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record; and

(b) request the opportunity to appear personally before the Committee to testify in his or her own behalf.

9. MINORITY WITNESSES. Whenever any hearing is conducted by the Committee, the Ranking Member shall be entitled to call at least one witness to testify or produce documents with respect to the measure or matter under consideration at the hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the hearing.

10. CONDUCT OF WITNESSES, COUNSEL AND MEMBERS OF THE AUDIENCE. If, during public or executive sessions, a witness, his or her counsel, or any spectator conducts him or herself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

III. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. PROCEDURE. All meetings and hearings shall be open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern Committee investigations or matters enumerated in Senate Rule XXVI(5)(b). Immediately after such discussion, the meeting or hearing or portion thereof may be closed by a vote in open session of a majority of the Members of the Committee present.

2. WITNESS REQUEST. Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four

hours in advance for his or her examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. CONFIDENTIAL MATTER. No record made of a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and Ranking Minority Member.

IV. BROADCASTING

1. CONTROL. Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

2. REQUEST. A witness may request of the Chairman, on grounds of distraction, harassment, personal safety, or physical discomfort, that during his or her testimony cameras, media microphones, and lights shall not be directed at him or her.

V. QUORUMS AND VOTING

1. REPORTING. A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

2. COMMITTEE BUSINESS. A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority Member is present.

3. HEARINGS. One Member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

4. POLLING:

(a) SUBJECTS. The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) other Committee business which has been designated for polling at a meeting.

(b) PROCEDURE. The Chairman shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls. If the Chairman determines that the polled matter is one of the areas enumerated in Rule III(1), the record of the poll shall be confidential. Any Member may request a Committee meeting following a poll for a vote on the polled decision.

VI. INVESTIGATIONS

1. AUTHORIZATION FOR INVESTIGATIONS. All investigations shall be conducted on a bipartisan basis by Committee staff. Investigations may be initiated by the Committee staff upon the approval of the Chairman and the Ranking Minority Member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the Ranking Minority Member agree that there exists temporary cause for more limited knowledge.

2. SUBPOENAS. Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other materials shall be issued by the Chairman, or by any other Member of the Committee designated by him. Prior to the issuance of each subpoena, the Ranking Minority Member, and any other Member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

3. INVESTIGATIVE REPORTS. All reports containing findings or recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the Members of the Committee.

VII. DEPOSITIONS AND COMMISSIONS

1. NOTICE. Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. COUNSEL. Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule II(6).

3. PROCEDURE. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a Member of the Committee. If the Member overrules the objection, he or she may refer the matter to the Committee or the Member may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness refuses to testify after he or she has been ordered and directed to answer by a Member of the Committee.

4. FILING. The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with Rule II(7). If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

5. COMMISSIONS. The Committee may authorize the staff, by issuance of commissions, to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, or systems of records, or otherwise act on behalf of the Committee. Commissions shall be accompanied by instructions from the Committee regulating their use.

VIII. SUBCOMMITTEES

1. ESTABLISHMENT. The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the Ranking Minority Member shall be ex officio Members of all subcommittees.

2. JURISDICTION. Within its jurisdiction as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

3. RULES. A subcommittee shall be governed by the Committee rules, except that its quorum for all business shall be one-third of the subcommittee Membership, and for hearings shall be one Member.

IX. REPORTS

Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of a majority of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: ''Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee.''

X. AMENDMENT OF RULES

The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceded by at least 3 days notice of the amendments or revisions proposed.

ENDNOTE

[1] As amended by S. Res. 78. 95th Cong., 1st Sess. (1977), S. Res. 376, 95th Cong., 2d Sess. (1978), S. Res. 274, 96th Cong., 1st Sess. (1979), S. Res. 389, 96th Cong., 2d Sess. (1980).

IDAHO SMALL BUSINESS DEVELOPMENT CENTER

Mr. RISCH. Mr. President, I rise today to recognize the Idaho Small Business Development Center for its 25 years of supporting small business in Idaho. The Idaho Small Business Development Center has a rich tradition of service to small business all over Idaho.

The mission of the Idaho Small Business Development Center is to enhance the success of small businesses in Idaho by providing high-quality consulting and training. The staff has delivered up-to-date consulting, training, technical assistance and environmental regulatory assistance in all aspects of small business management since 1986. Their primary goal is to help small business owners and entrepreneurs make sound decisions for the successful operation of their business.

Each year, Idaho Small Business Development Center consultants meet with clients to provide guidance in developing and growing a successful business. Statistics show that on average, Idaho Small Business Development Center clients achieve greater than 10 times the sales and employment growth of the typical Idaho small business.

At the Idaho Small Business Development Center, client satisfaction and success are the ultimate measures of the work they do. They strive to deliver high quality, innovative programs and services in a consistent and timely manner and take great pride in the success of those served.

Under the long-time leadership of Jim Hogge, the Idaho Small Business

Development Center has become the go-to shop for the Idaho entrepreneur. Their hands-on approach has meant the difference between closing their doors or turning a profit for hundreds of Idaho businesses.

Through the ups and downs of the economy, the Idaho Small Business Development Center has always been there with an open door and a helping hand. Today, they partner with Idaho's colleges and universities to teach the principles of business and cultivate the next generation of Idaho entrepreneurs.

It is my privilege to recognize the 25th anniversary of what is truly one of Idaho's bedrock institutions, the Idaho Small Business Development Center.

ADDITIONAL STATEMENTS

REMEMBERING ALICE A. PETERS

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the memory of Alice A. Peters, a philanthropist who, along with her late husband Leon S. Peters, generously supported many educational, cultural, and community causes in Fresno, CA. Mrs. Peters passed away on January 24. She was 97 years old.

Born Alice Apregan, Mrs. Peters was the daughter of Armenian immigrants who immigrated to Lynn, MA, in 1907 to escape the persecution of Ottoman Turks. In search of a better place to call home, the family moved in 1911 to the San Joaquin Valley of California where many people from their native Bitlis province of Armenia had settled. The Apregan family made their home in the farming community of Del Rey, and Alice attended high school in nearby Selma.

She met her future husband during a visit to Del Rey Packing. Their friendship blossomed into marriage in 1943. Leon Peters learned mechanical engineering on the job while working for Valley Foundry, became sales manager before purchasing the company in 1937. He and his brothers turned Valley Foundry into one of the region's most successful businesses. This success allowed the Peters to become stalwart supporters of community causes that have greatly benefited the people of Fresno and the Central Valley. Over the years, Leon and Alice Peters would become synonymous with philanthropy and charity in the Greater Fresno Area.

Since its establishment in 1959, the Leon S. Peters Foundation has given to many worthy causes and projects that continue to positively impact the lives of Fresno residents. Mrs. Peters and her late husband donated millions of dollars to local institutions such as the Community Regional Center, the Fresno Chafee Zoo, and the Fresno Art Museum and California State University, Fresno.

Mrs. Peters made sure that the vision of the Leon S. Peters Foundation endured after her husband's passing in 1983. In 2002, she donated $300,000 to the Community Medical Foundation, which made possible an Extern Work Study Program for nursing students at community medical centers. She summed up her commitment to philanthropy by saying ''charity work is part of life, we all have to do some of it . . . this is our legacy.''

A woman of great conviction and vision, Mrs. Peters leaves behind a legacy of philanthropy and community service and the admiration of those whose lives she touched over the years. She has made indelible contributions to make Fresno a better place. She will be missed.●

CITY OF HOPE MILESTONE

● Mrs. BOXER. Mr. President, I want to recognize the important work and accomplishments of City of Hope as it reaches its 10,000th bone marrow transplant, becoming one of the first institutions in the world to reach this milestone.

Founded in 1913, City of Hope has helped to improve the quality of life for thousands of men, women, and children by leading research to develop new treatments and cures for cancer, diabetes, and other life-threatening diseases.

Nearly 35 years ago, City of Hope helped pioneer the development of bone marrow transplantation as a treatment for diseases such as leukemia, lymphoma, and myeloma; this January, City of Hope performed its 10,000th transplant.

City of Hope performed its first successful bone marrow transplant in 1976 on a college student from Indiana who was diagnosed with acute myeloid leukemia. Thanks to City of Hope's pioneering bone marrow transfer program, the college student's cancer has remained in remission for more than 35 years, allowing him to live a full life. More than three decades later, City of Hope performed its 10,000th bone marrow transplant on January 13, 2011 on a patient battling leukemia.

About 500 bone marrow transplants procedures are now performed each year, and each year thousands of cancer survivors and their families attend a bone marrow transplant reunion coordinated by City of Hope. This reunion serves as a celebration of life and the positive changes that City of Hope's Bone Marrow Transplant program have created in the lives of so many cancer patients and their families, who truly found their hope again when they turned to City of Hope.

I invite all of my colleagues to join me in commending City of Hope for reaching its 10,000th bone marrow transplant and for its dedication to the advancement of health care services.●

REMEMBERING SAADALLA MOHAMED ALY

● Mr. KERRY. Mr. President, I want to take a moment today to mark the quiet passage of a Washington institution a gentle and elegant man named Saadalla Mohamed Aly, but who was known to most of us simply as ''Mr. Aly.''

Few Americans outside of Washington have heard of ''Mr. Aly,'' and Mr. Aly was just fine with that—but for 35 years he was a very welcomed sight to everyone and anyone who appeared on ''Meet the Press'' and spent time in what was very much ''his'' Green Room.

From 1976 until his death last month at age 79, Mr. Aly was a proud fixture off-camera at America's longest-running news program. He was the tuxedoed figure who greeted the guests, and implored them and their staffs to dig into coffee or orange juice before the show—and to stay for the post-show meal afterwards. He was the quiet, supportive presence who always put you at ease before the grilling interviews and roundtable discussions began. And he was a kind man who—in gestures large and small—harkened back to a time when Washington was more civil, back to an era when people here in Washington really took the time to know each other.

In the 22 years that I knew him, from my very first appearance on the show as a very junior Senator in 1988, to the cold winter morning in December of 2002 when I went on with Tim Russert to announce for President, I never once asked Mr. Aly his political affiliation. He was just a gentle soul in a tuxedo who was unfailingly kind to all the guests, Democrat or Republican.

But I will never forget how he greeted me when I came back to the show in January of 2005 after I lost. When I arrived at the studio, with the snow falling, Mr. Aly was waiting at the front door, and the first thing he did was give me a great big hug. He asked my staff how I was doing. I still don't know whether he cast a vote in that election, but I do know that I was lucky to have a friend like Mr. Aly, who in his quiet, considerate way voted with his actions, not his words.

Like many of us, I learned in the Washington Post that Mr. Aly passed away in December after contracting pneumonia on a trip to his native Egypt. It is fitting that his daughter Dalia arranged for his burial in Washington, because Washington is the place he loved. And Washington is the city that came to love him.

These are years which have seen us lose some special friends at ''Meet the Press,'' starting of course with Tim Russert. But if Tim was the soul of ''Meet the Press,'' Mr. Aly was its heart. Through all these years, as Tim said, if it was Sunday, it was ''Meet the Press.'' And if it was ''Meet the Press,'' it was a warm and friendly greeting from a true gentlemen, ''Mr. Aly.'' Mr. President, I will miss him.●

TRIBUTE TO RAY FLYNN

● Mr. KERRY. Mr. President, Ray Flynn has been a towering figure in the

city of Boston and in our politics, honored for more than four decades of public service and activism.

But on Saturday, he will be honored in a different city where he left another legacy deserving of celebration. At last, this weekend Ray's beloved Providence College will retire the No. 14 Ray wore as one of the greatest backcourt players in the history of Friars basketball. And, as any Friars fan can attest, this is a well-deserved honor for one of the school's greatest athletes.

Before he turned to politics, Ray Flynn was an All American at Providence College, leading the Friars to the National Invitation Tournament championship in 1963, his senior year. And what a tournament it was for Ray. He scored 38 points in the opener against tournament favorite Miami. He followed that with 25 points against Marquette. And in the final against Canisius, he scored 20 points. He was named the tournament's Most Valuable Player. And when the announcer introduced him as Ray Flynn from Boston, he corrected him by saying, ''I'm from South Boston, sir.''

Indeed, he was—and has always been— a proud son of South Boston. As a three-sport star athlete at South Boston High School, he achieved a level of success rarely seen at any school. In 1956, as a sophomore, he led South Boston's basketball team to its first ever Tech Tournament Championship. In 1958, he pitched South Boston to a State championship in baseball and quarterbacked the football team to an undefeated season. Oh, and by the way, he was named All Scholastic in all three sports that year.

Similarly, at Providence College, Ray Flynn earned All American honors and was voted an Academic All American. He was drafted in 1963 by the Syracuse Nationals of the old American Basketball Association, now the Philadelphia 76ers. But upon graduation, Ray joined the Army National Guard, serving at the Aberdeen Proving Ground in Maryland and Fort Dix in New Jersey.

By the time Ray returned home to Boston, the Celtics had bought his contract. And during the 1965 exhibition season, he showed that he had not lost his touch as a shooter. In the final exhibition game, he scored 28 points, more evidence of why his coach at Providence College, Joe Mullaney, considered the best outside pure shooter he had ever coached. But the Celtics needed more defense than offense, so Coach Red Auerbach made Ray the final cut in order to keep K.C. Jones on the roster.

Red Auerbach didn't know it then, but in that difficult decision he was launching one of the most distinguished political careers. From 1971 to 1979, Ray Flynn represented his South Boston neighborhood in the Massachusetts House of Representatives. From 1978 to 1984, he served on the Boston City Council. He then was elected mayor of Boston three times, in 1983, 1987 and 1991. And in 1993, he was appointed by President Clinton to serve as U.S. Ambassador to the Holy See.

But Red Auerbach eventually realized the role he had played in Ray Flynn's life. In 1984, as mayor, Ray hosted a rally at city hall for the Celtics, who had just won another championship, this time under K.C. Jones. In his remarks to the crowd, Red Auerbach said, ''If I had cut K.C. Jones instead of Ray Flynn in 1965, K.C. might be mayor of Boston and Ray Flynn might be coach of the Celtics.''

Even if Ray Flynn had been on the Celtics, he couldn't have won the No. 14 he wore at Providence College. The Celtics No. 14 had belonged to Bob Cousy and would soon be retired. But it is a fitting honor that Providence College is also retiring No. 14 because in Friars basketball, No. 14 was Ray Flynn, All American, Academic All American, NIT MVP and recipient of the NCAA's prestigious Silver Anniversary Award honoring former student-athletes for their career accomplishments.

I join Providence College in saluting Ray Flynn's outstanding accomplishments as a member of the Friars basketball team. And we all congratulate him for his dedication as a public servant. His life—in all its facets—reflects the ideals of basketball founder James Naismith—to ''be strong in body, clean in mind, lofty in ideals.''●

TRIBUTE TO DR. JOE McDONALD

● Mr. TESTER. Mr. President, today I wish to praise a great Montanan, Dr. Joe McDonald. Dr. McDonald's life achievements, work history and professional honors are large and impressive. He is a father, husband and friend who will always be remembered as a community leader, tribal council member and college president. What I appreciate most about Joe, though, is his remarkable ability to bring people together to work toward a common goal. Whether it is to create an institution of higher education, lead his tribal council or raise a healthy family, Joe has been patient, respectful and productive. I look up to Joe and consider him a friend.

Dr. McDonald recently retired as president of the Salish and Kootenai College after a remarkable career and a lifetime of public service. Joe's career, indeed his entire life, is an inspiration not just to people living on the Flathead Indian Reservation in western Montana, but also to thousands of students and others he touched over the years. As the local newspaper reported in a downbeat tone, ''Dr. McDonald retires. They say all good things must come to an end.''

Dr. McDonald, a member of the Confederated Salish and Kootenai Tribes, was born in St. Ignatius, MT. His good family gave him self-confidence and other tools to become a role model in an increasingly divided world. Western Montana College recognized Joe's potential early. They gave the gifted student athlete a scholarship to play football and baseball, and the platform to fly. Joe turned the opportunity into an associate degree in education in 1953, a bachelor's degree in education from the University of Montana in 1958, an M.S. degree from UM in 1965, and an Ed.D. in 1981. Higher education gave him the foundation to make history.

After college, Dr. McDonald mentored many reservation youths as coach, principal and superintendent at Ronan High School from 1968 through 1976. While there, Joe began to bridge a divide he saw between Indian and non-Indian students. Wanting to do more than just complain, he created the first Native American Studies program in Montana Public Schools. Today, all Montana public schools include a curriculum entitled ''Indian Education for All.'' Although many good people had a hand in it, we can thank Joe McDonald for leading the way.

Success as a teacher, coach and administrator gave him dreams of higher education on the Flathead Indian Reservation. In the 1970s, he began to lay the foundation for SKC. And in 1977, Congress passed the Tribal College Act. The new law opened the door for Dr. McDonald to create SKC, but didn't include any money to make it happen.

With no money, no classrooms, no teachers and no students, Joe became president of SKC and served for over three decades. Beginning with literally nothing, he built the institution from the ground up. Educators around the Nation now credit him for building SKC into one of the, if not the flagship tribal college in the United States. When he retired last year, the college had a 130-acre campus with modern infrastructure. Administrators can now thank him for growing the school's endowment from just $5 in 1978 to more than $8 million today. They can also thank him for the $26 million operational budget, 58 faculty members and more than 180 operational employees who educate 1,100 students. Remember, none of it existed before Dr. Joe McDonald took the initiative to create it.

And believe it or not, he did even more for his community. In addition to growing perhaps the most dynamic tribal college in the Nation, Dr. McDonald also served as an elected representative on the CSKT Tribal Council from 1974 to 1982. In terms of coaching, Joe is among the best. He has coached track, football and basketball—mentoring high school and college students, at-risk kids and groomed college athletes. Not only did his athletes succeed in sports, but because of his lessons, they succeed in life, too.

Joe married Sherri, the love of his life, when he was 19 years old. During their remarkable time together, Joe and Sherri raised four children, nine grandkids and six great-grandkids. As an example of his keen perception about people, he recognized how valuable she was. Throughout the years, he

selflessly gave her credit for everything he accomplished.

Some of his career and personal highlights include: 1951, Montana Class C, All State Basketball Team; 1959, Montana Class C Basketball Coach of the Year; 1989, National Indian Educator of the Year, National Indian Education Association; 1996, Montana Governor's Humanity Award Recipient; 2000, Michael P. Malone, Educator of the Year Award of 2000; 2005, U of Montana's Highest Recognition, Honorary Doctorate of Humane Letters; 2005, University of Montana Foundation, Selected as one of the 50 greatest Grizzlies; 2008, American Indian College Fund President of the Year; and 2008, Inducted into the Montana Indian Athletic Hall of Fame.

He holds honorary doctorate degrees from Gonzaga University in Washington State and Montana State University and was named distinguished alum of the University of Montana and Western Montana College.

Joe served on the Board of the American Indian College Fund, the American Indian Higher Education Consortium Board of Directors, and the Board of the American Indian Business Leaders.

In 2009, CSKT created the ''Dr. Joseph F. McDonald Educational Excellence Award'' so others may aspire to the greatness embodied by its namesake.

In 2010, in conjunction with his retirement event, CSKT designated the day officially as Joe McDonald Day.

I hope my colleagues will join me in acknowledging this fine man and wishing him the best of luck in a well-deserved retirement. Knowing his love of family, I am sure those great-grandkids will keep him happy for years to come. But knowing Joe, I bet we haven't seen the last of him. My bet is that his dedication to public service is just too strong for him to fade into the sunset.

We look forward to whatever challenges Dr. Joe McDonald decides to take on next. The world will be a better place because of it. It is already a better place because of him.●

REMEMBERING MR. URSULO ORTIZ

● Mr. UDALL of New Mexico. Mr. President, my home State of New Mexico lost a great man this month with the passing of Mr. Ursulo Ortiz. Mr. Ortiz was 92 when he died on February 5, surrounded as he was throughout his life by his loving family. I would like to take a few moments to honor him today.

The word ''dedicated'' comes to mind when recalling Mr. Ortiz dedicated to his family, his country, and his faith. Mr. Ortiz was part of a generation that witnessed some of our country's most historic and all too often difficult moments firsthand. And he took away from that experience an appreciation for all the small joys life has to offer.

Mr. Ortiz was an entrepreneur with a strong work ethic, but he will be remembered most as a loving husband and proud father, grandfather, and great-grandfather.

Mr. Ortiz's dedication to our country is self-evident. He enlisted in the Army within weeks of the attack on Pearl Harbor. Coming from a land-locked State, he did not even know how to swim when he put aside regard for his own life to rush up the beaches and soaring cliffs of Normandy on D-Day.

Mr. Ortiz and his unit went on to liberate Paris and, later, concentration camps in the former Czechoslovakia. He was a hero and bringer of freedom, and served with honor.

For those closest to Mr. Ortiz, it is his dedication to his family and his love of life that will be missed most. He left a legacy for future generations through the family's weaving business, which he supported from the time he graduated high school until the day he passed it onto his daughter.

But more than that, his legacy is in the lasting memories held by those dearest to him memories of lighter moments spent listening to music and dancing. It is in those simple, everyday moments that Ortiz's spirit will live on.●

MESSAGE FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 514. An act to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 relating to access to business records, individual terrorists as agents of foreign powers, and roving wiretaps until December 8, 2011.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 359. An act to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions.

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–511. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates'' (Rev. Proc. 2011–13) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–512. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Time and Manner Rules for Electing Capital Asset Treatment for Certain Self-Created Musical Works'' (RIN1545–BG34) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–513. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice: Determination of Housing Cost Amounts Eligible for Exclusion or Deduction for 2011'' (Notice 2011–8) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–514. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Withholding on Wages of Nonresident Alien Employees Performing Services Within the United States'' (Notice 2011–12) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–515. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republication of Rev. Proc. 2010–4'' (Rev. Proc. 2011–4) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–516. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republication of Rev. Proc. 2010–5'' (Rev. Proc. 2011–5) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–517. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republication of Rev. Proc. 2010–6'' (Rev. Proc. 2011–6) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–518. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republication of Rev. Proc. 2010–8'' (Rev. Proc. 2011–8) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–519. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Correction to Revenue Procedure 2011–8—User Fee Schedule'' (Announcement 2011–8) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–520. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Technical Corrections to the TTB Regulations'' (RIN1513–AB69) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Finance.

EC–521. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Robinson Knife Manufacturing Company and Subsidiaries v. Commissioner 600 F.3d 121(2d Cir. 2010), rev'g

T.C. Memo 2009–9'' (AOD. 2011–9) received during adjournment of the Senate in the Office of the President of the Senate on February 11, 2011; to the Committee on Finance.

EC–522. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Disclosure of Return Information to the Department of Agriculture'' (RIN1545–BE15) received during adjournment of the Senate in the Office of the President of the Senate on February 11, 2011; to the Committee on Finance.

EC–523. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Industry Directive to Withdraw Prior IDD on FSC IRC Section 921–927 Bundle of Rights in Software Issue'' (LBandI–4–1110–032) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Finance.

EC–524. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—February 2011'' (Rev. Rul. 2011–4) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Finance.

EC–525. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''District of Columbia Agencies' Compliance with Small Business Enterprise Expenditure Goals for the 3rd Quarter of Fiscal Year 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–526. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–703 ''Food, Environmental, and Economic Development in the District of Columbia Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–527. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–704 ''H Street, N.E., Retail Priority Area Incentive Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–528. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–705 ''2M Street, N.E., Real Property Tax Abatement Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–529. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–706 ''Washington Convention and Sports Authority Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–530. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–707 ''Alternative Equity Payment Allocation Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–531. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–708 ''District Property Security Assessment and Implementation Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–532. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–709 ''Southwest Waterfront Redevelopment Clarification Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–533. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–710 ''Reasonable Health Insurance Ratemaking and Health Care Reform Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–534. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–711 ''Comprehensive Plan Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–535. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–712 ''Attorney General Subpoena Authority Authorization Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–536. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–713 ''Interstate Compact for Juveniles Temporary Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–537. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–714 ''Real Property Tax Appeals Commission Establishment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–538. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–715 ''Payment of Full Hotel Taxes by Online Vendors Clarification Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–539. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–716 ''Bicycle Commuter and Parking Expansion Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–540. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–717 ''TANF Educational Opportunities and Accountability Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–541. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–718 ''Homeless Services Reform Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–542. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–719 ''West End Parcels Development Omnibus Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–543. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–720 ''Brownfield Revitalization Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–544. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–721 ''Fiscal Year 2011 Supplemental Budget Support Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–545. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–722 ''Criminal Code Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–546. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–723 ''Procurement Practices Reform Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–547. A communication from the Chief of the Permits and Regulations Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Permits; Removal of Rusty Blackbird and Tamaulipas (Mexican) Crow From the Depredation Order for Blackbirds, Cowbirds, Grackles, Crows, and Magpies, and Other Changes to the Order'' (RIN1018–AV66) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Environment and Public Works.

EC–548. A communication from the Chief of the Listing Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Revised Critical Habitat for Brodiaea filifolia (Thread-Leaved Brodiaea)'' (RIN1018–AW54) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Environment and Public Works.

EC–549. A communication from the Chief of the Listing Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Endangered Whooping Cranes in Southwestern Louisiana'' (RIN1018–AX23) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Environment and Public Works.

EC–550. A communication from the Chief of the Listing Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Preble's Meadow Jumping Mouse in Colorado'' (RIN1018–AW45) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Environment and Public Works.

EC–551. 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 State Implementation Plan Revisions for the Particulate Matter, PM–10, Maricopa County (Phoenix) PM–10 Nonattainment Area, Arizona'' (FRL No. 9264–1) received during adjournment of the Senate in the Office of the President of the Senate on February 11, 2011; to the Committee on Environment and Public Works.

EC–552. 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; Virginia; Revision to the Definition of Volatile Organic Compound'' (FRL No. 9265–6) received during adjournment of the Senate in the Office of the President of the Senate on February 11, 2011; to the Committee on Environment and Public Works.

EC–553. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''FY2011—2015 EPA Strategic Plan''; to the Committee on Environment and Public Works.

EC–554. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2011–0007—2011–0017); to the Committee on Foreign Relations.

EC–555. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the International Traffic in Arms Regulations: Electronic Payment of Registration Fees; 60-Day Notice of the Proposed Statement of Registration Information Collection'' ((22 CFR Parts 120, 122, 123 and 129)(RIN1400–AC74)) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Foreign Relations.

EC–556. A communication from the Associate General Counsel, Office of the General Counsel, Department of Agriculture, transmitting, pursuant to law, (6) six reports relative to vacancies in the Department of Agriculture received in the Office of the President of the Senate on February 14, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–557. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Polymerized Fatty Acid Esters with Aminoalcohol Alkoxylates; Exemption for the Requirement of a Tolerance'' (FRL No. 8860–8) received during adjournment of the Senate in the Office of the President of the Senate on February 11, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–558. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clothianidin; Time-Limited Pesticide Tolerances'' (FRL No. 8858–3) received during adjournment of the Senate in the Office of the President of the Senate on February 11, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–559. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''1,4-Benzenedicarboxylic Acid, Dimethyl Ester, Polymer with, 1,4-Butanediol, Adipic Acid, and Hexamethylene Diisocyanate; Exemption from the Requirement of a Tolerance'' (FRL No. 8863–9) received during adjournment of the Senate in the Office of the President of the Senate on February 11, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–560. A communication from the Assistant General Counsel, General Law, Ethics, and Regulation, Department of the Treasury, transmitting, pursuant to law, (47) forty-seven reports relative to vacancy announcements within the Department, received on February 10, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–561. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–7933)) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–562. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–7921)) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–563. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–7913)) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–564. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–7915)) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–565. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–D–7581)) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–566. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65)(Docket No. FEMA–P–7650)) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–567. 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 ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 17B'' (RIN0648–AY11) received during adjournment of the Senate in the Office of the President of the Senate on January 7, 2011; to the Committee on Commerce, Science, and Transportation.

EC–568. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs: State Laws Requiring Drug and Alcohol Rule Violation Information'' (RIN2105–AD67) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Commerce, Science, and Transportation.

EC–569. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs'' (RIN2105–AD76) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Commerce, Science, and Transportation.

EC–570. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Display of Joint Operations in Carrier-Owned Computer Reservations Systems Regulations'' (RIN2105–AD44) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Commerce, Science, and Transportation.

EC–571. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''List of Nonconforming Vehicles Decided to be Eligible for Importation'' (Docket No. NHTSA–2007–29271) received in the Office of the President of the Senate on February 14, 2011; to the Committee on Commerce, Science, and Transportation.

EC–572. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's Annual Report of the Maritime Administration (MARAD) for Fiscal Year 2009; to the Committee on Commerce, Science, and Transportation.

EC–573. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Prescription Drug User Fee Act (PDUFA) for fiscal year 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–574. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revision of American Viticultural Area Regulations'' (RIN1513–AB39) received in the Office of the President of the Senate on February 7, 2011; to the Committee on the Judiciary.

EC–575. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Time for Payment of Certain Excise Taxes, and Quarterly Excise Tax Payments for Small Alcohol Excise Taxpayers'' (RIN1513–AB43) received in the Office of the President of the Senate on February 7, 2011; to the Committee on the Judiciary.

EC–576. A communication from the Secretary, Judicial Conference of the United States, transmitting, a report relative to filling judicial vacancies in federal courts; to the Committee on the Judiciary.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*Stephanie O'Sullivan, of Virginia, to be Principal Deputy Director of National Intelligence.

*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.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BURR (for himself, Mr. THUNE, Mr. COBURN, Mr. ISAKSON, Mr. ENSIGN, Mr. GRASSLEY, and Mr. KYL):

S. 347. A bill to amend the Internal Revenue Code of 1986 to provide for reporting and disclosure by State and local public employee retirement pension plans; to the Committee on Finance.

By Mr. GRASSLEY:

S. 348. A bill to amend title 28, United States Code, to provide an Inspector General for the judicial branch, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself and Mr. PORTMAN):

S. 349. A bill to designate the facility of the United States Postal Service located at 4865 Tallmadge Road in Rootstown, Ohio, as the ''Marine Sgt. Jeremy E. Murray Post Office''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY (for himself, Mrs. FEINSTEIN, Mr. MENENDEZ, Mr. SANDERS, Mr. REED, Mr. WHITEHOUSE, and Mr. FRANKEN):

S. 350. A bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes; to the Committee on the Judiciary.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. 351. A bill to authorize the exploration, leasing, development, and production of oil and gas in and from the western portion of the Coastal Plain of the State of Alaska without surface occupancy, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:

S. 352. A bill to authorize the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain in Alaska; to the Committee on Energy and Natural Resources.

By Ms. COLLINS:

S. 353. A bill to provide for improvements to the United States Postal Service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CARDIN:

S. 354. A bill to amend the Classified Information Procedures Act to improve the protection of classified information and for other purposes; to the Committee on the Judiciary.

By Mr. CARDIN:

S. 355. A bill to improve, modernize, and clarify the espionage statutes contained in chapter 37 of title 18, United States Code, to promote Federal whistleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

By Mr. MERKLEY (for himself and Mr. WYDEN):

S. 356. A bill to amend the Grand Ronde Reservation Act to make technical corrections, and for other purposes; to the Committee on Indian Affairs.

By Mr. LAUTENBERG (for himself, Mr. LEAHY, Mr. SANDERS, and Mr. BINGAMAN):

S. 357. A bill to authorize the Secretary of the Interior to identify and declare wildlife disease emergencies and to coordinate rapid response to those emergencies, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROBERTS (for himself, Mr. BARRASSO, and Mr. COATS):

S. 358. A bill to codify and modify regulatory requirements of Federal agencies; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Environment and Public Works; from the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. MENENDEZ (for himself and Ms. SNOWE):

S. Res. 51. A resolution recognizing the 190th anniversary of the independence of Greece and celebrating Greek and American democracy; to the Committee on Foreign Relations.

By Mr. KOHL:

S. Res. 52. An original resolution authorizing expenditures by the Special Committee on Aging; from the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. LIEBERMAN:

S. Res. 53. An original resolution authorizing expenditures by the Committee on Homeland Security and Governmental Affairs; from the Committee on Homeland Security and Governmental Affairs; to the Committee on Rules and Administration.

By Mrs. FEINSTEIN:

S. Res. 54. An original resolution authorizing expenditures by the Select Committee on Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 23

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

S. 28

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 28, a bill to amend the Communications Act of 1934 to provide public safety providers an additional 10 megahertz of spectrum to support a national, interoperable wireless broadband network and authorize the Federal Communications Commission to hold incentive auctions to provide funding to support such a network, and for other purposes.

S. 91

At the request of Mr. WICKER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 91, a bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and unborn human person.

S. 102

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 102, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 104

At the request of Mr. JOHANNS, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 104, a bill to require the Administrator of the Environmental Protection Agency to finalize a proposed rule to amend the spill prevention, control, and countermeasure rule to tailor and streamline the requirements for the dairy industry, and for other purposes.

S. 194

At the request of Mr. MCCONNELL, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 194, a bill to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions.

S. 197

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 197, a bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

S. 198

At the request of Mr. CASEY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 198, a bill to require the return and redistribution among State transportation departments of certain unexpended highway funding.

S. 207

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 207, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes.

S. 210

At the request of Mr. COBURN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 210, a bill to amend title 44, United States Code, to eliminate the mandatory printing of bills and resolutions for the use of offices of Members of Congress.

S. 219

At the request of Mr. TESTER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 219, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 228

At the request of Mr. BARRASSO, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 228, a bill to preempt regulation of, action relating to, or consideration of greenhouse gases under Federal and common law on enactment of a Federal policy to mitigate climate change.

S. 249

At the request of Mr. HATCH, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 249, a bill to amend the Endangered Species Act of 1973 to provide that Act

shall not apply to any gray wolf (Canis lupus).

S. 253

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 253, a bill to establish a commission to ensure a suitable observance of the centennial of World War I, and to designate memorials to the service of men and women of the United States in World War I.

S. 258

At the request of Mr. MENENDEZ, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to eliminate oil and gas company preferences.

S. 262

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 262, a bill to repeal the excise tax on medical device manufacturers.

S. 306

At the request of Mr. WEBB, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 306, a bill to establish the National Criminal Justice Commission.

S. 316

At the request of Mr. CORNYN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 316, a bill to ensure that the victims and victims' families of the November 5, 2009, attack at Fort Hood, Texas, receive the same treatment, benefits, and honors as those Americans who have been killed or wounded in a combat zone overseas and their families.

S. 328

At the request of Mr. BROWN of Ohio, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 328, a bill to amend title VII of the Tariff Act of 1930 to clarify that countervailing duties may be imposed to address subsidies relating to fundamentally undervalued currency of any foreign country.

S. RES. 20

At the request of Mr. JOHANNS, the name of the Senator from North Dakota (Mr. HOEVEN) was added as a cosponsor of S. Res. 20, a resolution expressing the sense of the Senate that the United States should immediately approve the United States-Korea Free Trade Agreement, the United States-Colombia Trade Promotion Agreement, and the United States-Panama Trade Promotion Agreement.

AMENDMENT NO. 33

At the request of Mr. COCHRAN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 33 intended to be proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 58

At the request of Mr. NELSON of Nebraska, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 58 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mrs. FEINSTEIN, Mr. MENENDEZ, Mr. SANDERS, Mr. REED, Mr. WHITEHOUSE, and Mr. FRANKEN):

S. 350. A bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I reintroduce the Environmental Crimes Enforcement Act, ECEA, to help ensure that those who destroy the lives and livelihoods of Americans through environmental crime are held accountable for their actions. This common sense legislation was reported by the Judiciary Committee with overwhelming support last year. I hope the Senate will act on it in this Congress.

The tragic explosion of British Petroleum's Deepwater Horizon Oil Rig last year is just one example of why this legislation is needed. Eleven men died in that explosion, and oil flowed into the Gulf of Mexico for months, with deadly contaminants washing up on the shores and wetlands of the Gulf Coast. The catastrophe threatened the livelihood of many thousands of people throughout the Gulf region, as well as precious natural resources and habitats. The people responsible for this and other catastrophes should be held accountable, and wrongdoers—not taxpayers—should pay for the damage they have done. This bill will help to deter environmental crime, protect and compensate victims of environmental crime, and encourage accountability among corporate actors.

First, the ECEA is drafted to deter schemes by big oil and others that damage our environment and hurt hardworking Americans by increasing sentences for environmental crimes. All too often corporations treat fines and monetary penalties as a mere cost of doing business to be factored against profits. To deter criminal behavior by corporations, it is important to have laws that result in prison time. In that light, this bill directs the United States Sentencing Commission to amend the sentencing guidelines for environmental crimes to reflect the seriousness of these crimes.

Criminal penalties for Clean Water Act violations are not as severe as for other white-collar crimes, despite the widespread harm the crimes can cause. As last year's crisis in the Gulf of Mexico makes clear, Clean Water Act offenses can have serious consequences in people's lives and on their livelihoods. These consequences should be reflected in the sentences given to the criminals who commit them. This bill takes a reasonable approach, asking the Sentencing Commission to study the issue and raise sentencing guidelines appropriately, and it will have a real deterrent effect.

This bill also aims to help victims of environmental crime—the people who lose their livelihoods, their communities, and even their loved ones—reclaim their natural and economic resources. To do that, ECEA makes restitution mandatory for criminal Clean Water Act violations.

Currently, restitution in environmental crimes—even crimes that result in death—is discretionary, and only available under limited circumstances. Under this bill, those who commit Clean Water Act offenses would have to compensate the victims of those offenses for their losses. That restitution could help the people of the Gulf Coast rebuild their coastline and wetlands, their fisheries, and their livelihoods should criminal liability be found.

Importantly, this bill will allow the families of those killed to be compensated for criminal wrongdoing. The explosion on the Deepwater Horizon oil rig brought to light the arbitrary laws that prevent those killed in such tragedies from bringing civil lawsuits for compensation. This bill would ensure that, when a crime is committed, the criminal justice system can provide for restitution to victims, allowing the families of those killed to be given the means to carry on.

This bill takes two common sense steps—well-reasoned increases in sentences and mandatory restitution for environmental crime. These measures are tough but fair. They are important steps toward deterring criminal conduct that can cause environmental and economic disaster and toward helping those who have suffered so much from the wrongdoing of big oil and other large corporations. I hope all Senators will join me in supporting this bill and these important reforms.

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. 350

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 ''Environmental Crimes Enforcement Act of 2011''.

SEC. 2. ENVIRONMENTAL CRIMES.

(a) SENTENCING GUIDELINES.—

(1) DIRECTIVE.—Pursuant to its authority under section 994 of title 28, United States

Code, and in accordance with this subsection, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines and policy statements applicable to persons convicted of offenses under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), in order to reflect the intent of Congress that penalties for the offenses be increased in comparison to those provided on the date of enactment of this Act under the guidelines and policy statements, and appropriately account for the actual harm to the public and the environment from the offenses.

(2) REQUIREMENTS.—In amending the Federal Sentencing Guidelines and policy statements under paragraph (1), the United States Sentencing Commission shall—

(A) ensure that the guidelines and policy statements, including section 2Q1.2 of the Federal Sentencing Guidelines (and any successor thereto), reflect—

(i) the serious nature of the offenses described in paragraph (1);

(ii) the need for an effective deterrent and appropriate punishment to prevent the offenses; and

(iii) the effectiveness of incarceration in furthering the objectives described in clauses (i) and (ii);

(B) consider the extent to which the guidelines appropriately account for the actual harm to public and the environment resulting from the offenses;

(C) ensure reasonable consistency with other relevant directives and guidelines and Federal statutes;

(D) make any necessary conforming changes to guidelines; and

(E) ensure that the guidelines relating to offenses under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) adequately meet the purposes of sentencing, as set forth in section 3553(a)(2) of title 18, United States Code.

(b) RESTITUTION.—Section 3663A(c)(1) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''or'' at the end;

(2) in clause (iii), by striking ''and'' at the end and inserting ''or''; and

(3) by adding at the end the following:

''(iv) an offense under section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319(c)); and''.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. 351. A bill to authorize the exploration, leasing, development, and production of oil and gas in and from the western portion of the Coastal Plain of the State of Alaska without surface occupancy, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise today to introduce two separate bills, S. 351 and S. 352, to open a small portion of the Arctic coastal plain, in my home State of Alaska, to oil and gas development. I am introducing these bills because new production in northern Alaska is vital not only to my State's future, but also to our Nation's energy and economic security.

It has been known for more than 3 decades that the 1.5 million acres of the Arctic coastal plain that lie inside the Arctic National Wildlife Refuge present the best prospect in North America for a major oil and gas discovery. The U.S. Geological Survey continues to estimate that this part of the coastal plain—which represents just 3 percent of the coastal plain in all of northern Alaska—has a mean likelihood of containing 10.4 billion barrels of oil and 8.6 trillion cubic feet of natural gas, as well as a reasonable chance of economically producing 16 billion barrels of oil. Even the relatively recent major finds in North Dakota's Bakken field pale in comparison, as ANWR is likely to hold over four times more oil than any other on-shore energy deposit in North America.

In the 1990s, opponents dismissed ANWR's potential and argued that the nearby National Petroleum Reserve-Alaska was forecast to contain almost as much oil. Just last fall, however, the U.S. Geological Survey significantly reduced its oil estimates in the 23-million-acre reserve. Instead of containing somewhere between the 6.7 to 15 billion barrels forecast in 2002, the USGS now forecasts a mean of 896 million barrels—a dramatic downward revision.

I still believe oil production must be allowed to proceed in NPRA and that development of satellite fields west of Nusqiut must be allowed to occur, since I suspect its forecast is now too conservative. My office is working to hold this Administration to its word on NPRA by allowing leaseholders to access the CD5 development which the EPA and Corps of Engineers has now stalled. But the reduced forecast for northwest Alaska also means that opening a small area due east, along the coastal plain, is now more vital than ever for America's economic and national security interests.

America today receives over 10 percent of its daily domestic oil production from fields in Arctic Alaska. You heard correctly, production already occurs in Arctic Alaska, and for more than 30 years, we have successfully balanced resource development with environmental protection. Alaskans have proven, over and over again, that those endeavors are not mutually exclusive.

Today, however, we face a tipping point. Alaska's North Slope production has declined for years and, with new development blocked at every turn, it is now forecast to decline to levels that are threatening the continued operation of the Trans-Alaska Pipeline System. A closure of TAPS would shut down all northern Alaska oil production. This would devastate Alaska's economy, drag global oil prices even higher, and deepen our energy dependence on unstable petrostates throughout the world.

Anyone who takes the long view on energy policy recognizes that no matter what energy policy our Nation pursues, we will use substantial amounts of oil well into the future. The more of that oil we produce here, at home, the better off our economy, our trade deficit, our employment levels, and the world's environment will be. Even the President's handpicked oil spill commission advocates that the U.S. take the lead on environmental and safety standards for oil development in areas like the Arctic and Gulf of Mexico, but we cannot honestly expect to take a leadership role if we are viewed as foolishly leaving our resources in the ground. We are still more than 50 percent dependent on foreign nations for our supply of oil, and no combination of alternative technologies and conservation can appreciably diminish that number in the near future.

The Energy Information Administration, in its recent preliminary 2011 Energy Forecast, predicts that U.S. crude production may increase by roughly 10 percent by 2019 because of enhanced oil recovery, increased shale oil production, and higher oil prices, which make marginal production more attractive. That will hardly be enough to break our import dependence, but even more alarming is the forecast that U.S. domestic production will decline less than a decade from now unless these new areas are opened for development. To help meet future demand both here in America and throughout the rest of the world—and to help avoid a tremendous price spike in the event of a supply disruption—we need to take steps today to ensure new production is brought online as soon as possible.

In fact, we already face a supply disruption—a shortage of our own making. Not one permit for deepwater exploration has been granted since the Deepwater Horizon disaster last April, even though the moratorium was officially ended in October. Depending on how long this de facto moratorium lasts, our Nation could ultimately be deprived of millions of barrels of oil each day. Make no mistake: we are facing a serious downturn in offshore oil production from the Outer Continental Shelf, and that has made production in ANWR even more important for consumers.

ANWR development will also provide huge benefits for the U.S. Treasury. Let us examine this with some simple math. ANWR's mean estimate of over 10 billion barrels, at approximately $100 per barrel, means that there is a trillion dollars worth of oil locked up beneath this small area in northern Alaska. That is a trillion taxable dollars and it is difficult to calculate or even fathom the corporate and payroll taxes that this would generate for our treasury. But we do know that there is hundreds of billions of dollars in pure federal royalties since my bill devotes 50 percent of the value to a Federal share, rather than the 10 percent which current law allows. This is because deficit reduction has to be a priority.

As our Nation grapples with a $1 trillion budget deficit, $14 trillion in national debt, and a lack of capital to incentivize renewable and alternative energy, it is folly for America to further delay new onshore oil development from Alaska. Production in ANWR will lower our unsustainable debt; improve our national security; reduce our trade deficit; create well-paying American jobs; and provide a long-lasting source of funds that can help us

develop the next generation of energy technologies. The question is no longer, ''should we drill in ANWR?'' Today, it has become, ''can we afford not to?''

I understand that no matter what happens, some will remain opposed to development in this region. There are Senators who wish to not only prohibit oil and gas development onshore in the coastal plain—who wish to forever lock the area up into formal wilderness—but who also wish to impede oil and even natural gas development from vast portions of NPRA and from the offshore waters of the Beaufort and Chukchi Seas. This mindset ignores Alaska's economic realities, it ignores the nation's looming energy challenges, and it ignores the fact that Arctic oil production can proceed without significant environmental harm. Our development has coexisted productively with polar bears, and will not harm the Porcupine caribou herd or any other form of wildlife on the Arctic coast. The groups who oppose my legislation seem totally oblivious to strides made in directional, extended reach drilling, three- and four-D seismic testing, and new pipeline leak detection technology, all of which permit Alaskan energy development to proceed safely without harm to wildlife or the environment.

Yes, this Nation needs to improve its inspection and regulation of the oil and gas industry to make sure that America's high environmental standards are followed on every well, every day. I offer a means to advance that. Because without domestic oil and gas production, America will import more oil and gas from troubled global regions. In exchange we will export our jobs and economic future, as well as simply exporting environmental risk and ultimately damage, since foreign oil and gas development regularly fails to meet the standards that American operators are held to and held accountable for.

For all these reasons, I am reintroducing legislation to open the coastal plain of ANWR to full development. At the same time, I am focusing and narrowing and limiting that development so that just 2,000 acres of the 1.5 million acre coastal plain can be physically disturbed by roads, pipelines, wells, buildings or other support facilities. At most, just one-tenth of one percent of the refuge's coastal plain would be physically disturbed. For comparison's sake, 2,000 acres is much smaller than our local Dulles Airport—compared to an area roughly three times the size of the State of Maryland. It is hardly a blip on the map.

Limiting development to such a small area is important, however. It will help guarantee—beyond any shadow of doubt—the preservation in a natural state of more than sufficient habitat for caribou, muskoxen, polar bear, and Arctic bird life. My legislation also includes stringent environmental standards that will allow the designation of specific areas for full protection.

The full opening bill, named the American Energy Independence and Security Act, AEIS, also includes guaranteed funding to mitigate any impacts in the region, and guarantees that the federal government will receive half of all revenues generated, with nearly half going for the first time in the history of ANWR legislation to directly reduce the Federal deficit. The bill allots other money to fund renewable and alternative energy development, wildlife programs and fishery habitat programs, energy conservation efforts, and money to subsidize the rising cost of energy for lower-income residents through funding of the Low Income Home Energy Assistance Program, also called LIHEAP. Think about this—by producing more of our own oil, we can conserve more of our most spectacular lands, improve the standard of living for thousands of Americans, and, in one fell swoop, reduce our overall dependence on oil by creating new, cleaner alternatives.

Despite these remarkable benefits, I understand that many of my colleagues will forever oppose all development in ANWR., That is why, in 2009, I worked with my fellow Senator from Alaska to introduce a new approach that would allow the coastal plain's resources to be accessed in an even more sensitive manner. Our legislation precludes any possibility of any disturbance to any creature on the coastal plain by requiring that all oil and gas in the refuge's coastal plain be siphoned from underneath the land, with no surface roads, wells, or pipelines to assist. Not a single structure would be erected on the surface of the refuge under our bill. There would be literally no chance of marring the beauty of the coastal plain—it would look and feel and be just as it is today both during and after full production.

Today, and again in the spirit of bipartisan compromise, I am reintroducing, with Senator BEGICH, that legislation. The title is self-explanatory—we call it the No Surface Occupancy Western Arctic Coastal Plain Domestic Energy Security Act—because it would allow oil and gas production only through extended reach directional drilling from outside of the refuge. The bill would also permit oil and gas to be tapped using subsurface technology that may someday allow for full development of the refuge with no sign of such activities visible to anyone or anything in the refuge.

While I was deeply disappointed that many in the environmental community did not embrace or even for a moment consider this proposal as a genuine attempt to end the quarter century fight over Alaskan energy development, I continue to believe that it is an acceptable, deeply sensitive way to pursue development in the Arctic. Given the new extended reach drilling technology being developed for use all over the world, including Alaska, it could be possible to start producing oil and gas from ANWR even faster under the subsurface bill than might be the case under the full leasing bill.

Admittedly, while current technology will only permit wells to reach 8 miles into refuge's boundary, that should still allow us to reach up to 1.2 billion barrels of oil and 7 trillion cubic feet of natural gas. As technology improves in the years ahead, so too will the volume of resources that we can safely recover.

My no-surface occupancy bill will require that 3- or 4–dimensional seismic and other tests be conducted by mobile units on ice pads when no wildlife will be in the area. But the bill prevents any disturbance that can even be seen by migrating caribou. There is precedent for this proposal. Congress in 2007 approved a Wyoming wilderness lands bill S. 2229, the Wyoming Range Legacy Act, which permits subsurface resource extraction, provided no surface occupancy occurs. There is also clear language in the original statute, the Alaska National Interest Lands Conservation Act, which calls for seismic studies of the coastal plain.

My ANWR subsurface legislation will guarantee that royalties from any oil and gas produced are split equally between the Federal and State treasuries, and provides for full environmental protections and project labor agreements for any development that results. The bill includes the same provisions for local adaptation aid as does my bill to fully open ANWR. Both guarantee that any Alaskan community impacted by development, especially residents of the North Slope Borough and the nearby Village of Kaktovik, will be fully protected.

My subsurface proposal offers a way for America to gain the oil and natural gas that will be crucial until a new era of renewable energy can power our lights and propel our vehicles. It also ensures that none of the Arctic Porcupine caribou herd that migrates across the coastal plain between June and August will ever see, hear, or feel oil development. Combined with the environmental safeguards the Secretary of the Interior is allowed to establish, there is no danger that any of the few species that overwinter on the coastal plain will ever be impacted by seismic or other activities. Out of an abundance of caution, my legislation further protects subsistence resources and activities for Alaska Natives.

I truly do not believe that limited surface coastal plain development will harm Alaska's environment or hurt its wildlife. But my subsurface bill offers us another way to develop ANWR—and even those who oppose surface development cannot honestly disagree with its approach. My subsurface bill would lower the odds of environmental harm from incredibly miniscule to zero. It would set a precedent for development that should be welcomed by the environmental community. And if it is not actively supported, it will be clear that some oppose ANWR solely on political and philosophical, rather than substantive, environmental grounds. Such

opposition would undermine the case against the full opening of the coastal plain for energy development, because it will show that the opposition to ANWR is based on the sands of old fears, ignoring new technology and ignoring reality.

For decades, Alaskans, whom polls show overwhelmingly support ANWR development, have been asking permission to explore and develop oil in the coastal plain. Finally, technology has advanced so that it is possible to develop oil and gas from the refuge with little or no impact on the area and its wildlife. We must seriously consider this option. Without this level of seriousness about our energy policy, there will be no chance for us to stabilize global energy markets and avoid paying extremely high prices for fuel in the future. Our lack of domestic production endangers our energy security and our strategic security, especially given that ANWR development could supply more than enough oil to fully meet our military oil needs on a daily basis.

Last year, shortly after the Deepwater Horizon oil spill, the President stated that ''part of the reason oil companies are drilling a mile beneath the surface of the ocean'' is ''because we're running out of places to drill on land and in shallow water.'' A better explanation, however, was offered by the columnist Charles Krauthammer, who said that ''We haven't run out of safer and more easily accessible sources of oil. We've been run off them . . .'' The truth is that we haven't run out of oil—onshore or offshore. We've simply tied our own hands by locking up our own lands.

At this time of high unemployment and unsustainable debt, we need to pursue development opportunities more than ever. My ANWR bills offer us a chance to produce more of our own energy, for the good of the American people, in an environmentally-friendly way. With oil hovering near $100 a barrel, with so many of our fellow citizens out of work, and with our Nation still more than 50 percent dependent on foreign oil—we would be foolish to once again ignore our most promising prospect for new development.

I hope this Congress will have the common sense to allow America to help itself by developing ANWR's substantial resources. This is critical to my state and the nation as a whole. And with this in mind, I will work to educate the members of this chamber about ANWR. I will show why such development should occur—why it must occur—and how it can benefit our Nation at a time when we so desperately need good economic news.

By Ms. COLLINS:

S. 353. A bill to provide for improvements to the United States Postal Service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce The U.S. Postal Service Improvements Act of 2011. This legislation would help the U.S. Postal Service regain its financial footing as it adapts to the era of increasingly digital communications.

The storied history of the Postal Service pre-dates our Constitution. In 1775, the Second Continental Congress appointed Benjamin Franklin as the first Postmaster General and directed the creation of ''a line of posts . . . from Falmouth in New England to Savannah in Georgia.'' The Constitution also gives Congress the power to establish post offices and post roads.

Today, the Postal Service is the linchpin of a $1 trillion mailing industry that employs approximately 7.5 million Americans in fields as diverse as direct mail, printing, catalog companies, paper manufacturing, and financial services.

Postal Service employees deliver mail six days a week to hundreds of millions of households and businesses. From our largest cities to our smallest towns, from the Hawaiian Islands to Alaskan reservations, the Postal Service is a vital part of our national communications network and an icon of American culture.

But the financial state of the Postal Service is abysmal. The numbers are grim: the Postal Service lost $8.5 billion in fiscal year 2010 and recently announced that it posted a net loss of $329 million in the first quarter of fiscal year 2011 alone. The ''Great Recession,'' high operating costs, and the continuing diversion of mail to electronic alternatives have undermined the Postal Service's ability to remain solvent.

Faced with this much red ink, the Postal Service must reinvent itself. It must increase revenues by increasing its value to its customers and by becoming more cost effective.

Unfortunately, many of the solutions the Postal Service has proposed would only aggravate its problems. Filing for enormous rate increases, pursuing significant service reductions—including elimination of Saturday mail delivery—and seeking relief from funding its huge liabilities are not viable long-term solutions to the challenges confronting the Postal Service. These changes will drive more customers to less expensive, digital alternatives. That downturn in customers will further erode mail volume and lead to a death spiral for the Postal Service.

The Postal Service must chart a new course in this digital age. It must adopt a more customer-focused culture. It must see the changing communications landscape as an opportunity.

The Postal Accountability and Enhancement Act of 2006, which I authored with Senator CARPER, provided the foundation for these long-term changes, but the Postal Service has been slow to take advantage of some of the flexibilities afforded by that law. And, to be fair, the Postal Service has encountered problems not of its making, such as a severe recession.

The legislation that I introduce today would help the Postal Service achieve financial stability and light the way to future cost savings without undermining customer service.

The legislation would help remedy an enormous overpayment by the Postal Service into retirement funds used by both Federal and postal employees alike. Based on an independent actuarial analysis, the Postal Regulatory Commission estimates the Postal Service has overpaid in excess of $50 billion into the Civil Service Retirement System, CSRS, and nearly $3 billion into the Federal Employees Retirement System pension fund. Another independent actuarial firm, commissioned by the Postal Service Inspector General, estimates that the overpayment into the CSRS pension fund is even greater, perhaps topping $75 billion. It is simply unfair—both to the Postal Service and its customers—not to refund these overpayments.

To address these inequities, the bill would allow the Postal Service access to the amounts that it has overpaid into these pension funds. It is essential that the Postal Service be permitted to use these funds to address other financial obligations, such as its payments for future retiree health benefits and unfunded workers' compensation liabilities and for repaying its existing debt.

I have pressed the Office of Personnel Management, OPM, to change its calculation method for Postal Service payments into the CSRS fund consistent with the 2006 Postal Reform law. OPM officials, however, have stubbornly refused to change this methodology or even to admit that the 2006 postal law permits them to do so. This has created a bureaucratic standoff that is unfair to the Postal Service. The OPM holds the life preserver—it could help rescue the Postal Service, but it simply refuses to throw it.

This legislation directs the OPM to exercise its existing authority under the 2006 postal reform law and to revise its methodology for calculating the Postal Service's obligations to the CSRS pension fund. Once OPM exercises this authority, my legislation would allow the Postal Service to use any resulting overpayments to cover its annual payments into the Retiree Health Benefits Fund, rather than having to wait until after September 30, 2015, to access the CSRS overpayment.

Additionally, the legislation would allow the Postal Service to access the nearly $3 billion it has overpaid into the Federal Employees Retirement System, FERS, pension fund. The legislation would grant OPM this authority by adopting language, similar to Section 802(c) of the 2006 postal reform law, that allows OPM to recalculate the methodology governing Postal Service payments into the FERS pension fund to determine a more accurate contribution.

As with the CSRS overpayment, the Postal Service would be permitted to use the FERS overpayment to meet its

statutory obligations to the Retiree Health Benefits Fund. These fund transfers would greatly improve the Postal Service's financial condition.

While I was pleased to see that the proposed budget the President released yesterday addresses the FERS overpayment, I was disappointed that it did not direct OPM to update its methodology to allow the Postal Service to access the significant CSRS overpayment. Moreover, I am concerned that the 30-year repayment period proposed by the President to refund any FERS overpayments is too long given the immediate financial needs of the Postal Service.

If the CSRS and FERS overpayment amounts are sufficient to fully fund the Postal Service's obligations to the Retiree Health Benefits Fund, this legislation would allow the Postal Service to pay its workers' compensation liabilities, which top $1 billion annually. The Postal Service may also choose to use these funds to pay down its existing debt, which currently is $12 billion.

Second, the legislation would improve the Postal Service's contracting practices and help prevent the kind of ethical violations recently uncovered by the Postal Service Inspector General.

Several months ago, I asked the Postal Service Inspector General to review the Postal Service's contracting policies. The IG found stunning evidence of costly contract mismanagement, ethical lapses, and financial waste.

In its review of the Postal Service's contracting policies, the IG discovered no-bid contracts and examples of apparent cronyism. The Postal Service's contract management did not protect against waste, fraud, and abuse. Indeed, it left the door wide open.

In fact, the Postal Service could not even identify how many contracts were awarded without competition. Of the no-bid contracts the IG reviewed, 35 percent lacked justification.

In one of the more egregious examples of waste and abuse, the IG discovered that more than 2,700 contracts had been awarded to former employees since 1991. At least 17 of those contracts were no-bid contracts given to career executives within one year of their separation from the Postal Service.

Some of these former executives were brought back at nearly twice their former pay to advise newly hired executives—an outrageous practice that the IG said raised serious ethical questions, hurt employee morale, and tarnished the Postal Service's public image. In one example, an executive received a $260,000 no-bid contract in July 2009, just two months after retiring. The purpose? To train his successor.

My legislation would help remedy many of the contracting issues the IG identified. Specifically, the bill would direct the Postmaster General to establish a Competition Advocate, responsible for reviewing and approving justifications for noncompetitive purchases and for tracking the level of competition.

Earlier this month, the Postmaster General recognized this as an essential position by naming a Competition Advocate. My bill would help clarify and codify the Competition Advocate's role to ensure that the position continues. Under my legislation, the Competition Advocate would also be required to submit an annual report on Postal Service contracting to the Postmaster General, the Board of Governors, the Postal Regulatory Commission, and the Congress.

To improve transparency and accountability, the bill also would require the Postal Service to publish justifications of noncompetitive contracts greater than $250,000 on its website. This transparency would improve the Postal Service's contracting practices and promote competition.

To resolve the ethical issues documented by the IG, the bill would limit procurement officials from contracting with personal or business associates for private gain. In a June 2010 report, the IG identified several contracts that a former top executive awarded non-competitively to former business associates, totaling nearly $6 million. These contracts included at least two business associates he hired to manage his personal finances and outside business interests. These sorts of inappropriate, unethical contracts are unacceptable, and this legislation would help prevent similar conflicts of interest in the future. In addition, the bill would require the Postal Service's ethics official to review any ethics concerns that the contracting office identifies prior to awarding a contract.

Third, the legislation includes several provisions that would enhance efficiency and reduce costs. While the Postal Service has made efforts to reduce costs over the past several years, more must be done.

One such area is in the consolidation of area and district offices. The IG found that the Postal Service's regional structure—which at the time of the report consisted of eight area offices and 74 district offices and cost approximately $1.5 billion to maintain in fiscal year 2009—has significant room for consolidation. The Postal Service recently announced the closure of one area office, but it needs to conduct a more comprehensive review. My bill would require the Postal Service to create a strategic plan to guide consolidation efforts—a road map for future savings.

The bill also would require the Postal Service to develop a plan to increase its presence in retail facilities, or co-locate, to better serve customers. Before co-location decisions could be made, however, the bill would direct the Postal Service to weigh the impact of any decision on small communities and rural areas. Moreover, the Postal Service would be required to solicit community input before making decisions about co-location and to ensure that co-location does not diminish the quality of service.

Fourth, the bill would require the arbitrator to consider the Postal Service's financial condition when rendering decisions about collective bargaining agreements. This logical provision would allow critical financial information to be weighed as a factor in contract negotiations.

Fifth, the bill would require the Postal Service to provide notice of any significant proposed changes to mailing rules, solicit and respond to comments about the proposed changes, and analyze their potential financial impacts. Mandating that the Postal Service adhere to these notice-and-comment requirements would help ensure that the Postal Service has fully considered the effect that significant changes might have on customers and on the Postal Service's bottom-line.

Sixth, the bill would reduce workforce-related costs government-wide by converting retirement eligible postal and Federal employees on workers' compensation to retirement when they reach age 65, 5 years beyond the average retirement age for postal and Federal employees. This is a commonsense change that would significantly reduce expenses that both the Postal Service and the Federal Government cannot afford.

From July 1, 2009, to June 30, 2010, the Department of Labor paid approximately $2.78 billion to employees on workers' compensation. These workers' compensation benefits serve as a crucial safety net for Federal and postal employees who are injured on the job so they can recuperate and return to work.

But, the Department of Labor indicates that postal and Federal employees across the government are receiving workers' compensation benefits into their 80s, 90s, and even 100s. Because of its benefits structure, the workers' compensation program has morphed into a higher-paying alternative to Federal and postal retirement.

The Postal Service stands out as an unfortunate example of how Federal workers' comp is misused as a retirement system. From July 1, 2009, to June 30, 2010, postal employees accounted for nearly half of all workers' comp benefit payments—about $1.1 billion for 15,470 recipients. Of that number 2,051 were aged 70 or older; 927 were 80 or older; and 132 were 90 or older. Amazingly, three of these postal employees were 98 years old.

I must ask the obvious question: Is there any likelihood that these recipients will ever return to work? No.

Then why aren't they transitioning to the retirement system when they reach retirement age?

This bill reforms the law by converting postal and Federal employees on workers' compensation to the retirement system when they reach age

65. This is a commonsense change that would save millions of dollars that the Postal Service, the Federal Government, and American taxpayers cannot afford to spend.

The Postal Service is at a crossroads; it must choose the correct path. It must take steps toward a bright future. It must reject the path of severe service reductions and huge rate hikes, which will only alienate customers.

I have already received letters of support for my bill from various organizations, including the Alliance of Nonprofit Mailers, Greeting Card Association, Magazine Publishers Association, American Catalog Mailers Association, National Newspaper Association, PostCom, National Postal Policy Council, Coalition for a 21st Century Postal Service, and the National League of Postmasters. I expect to receive more as postal stakeholders learn more about how my bill would help the Postal Service transform its operations.

The Postal Service must re-invent itself. It must embrace changes to revitalize its business model, enabling it to attract and keep customers. The U.S. Postal Service Improvements Act of 2011 will help spark new life into this institution, helping it evolve and maintain its vital role in American society.

By Mr. CARDIN:

S. 354. A bill to amend the Classified Information Procedures Act to improve the protection of classified information and for other puroses; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, the Classified Information Procedures Act, CIPA, was enacted in 1980 with bipartisan support to address the ''disclose or dismiss'' dilemma that arose in espionage prosecutions when a defendant would threaten the government with the disclosure of classified information if the government did not drop the prosecution. Previously, there were no Congressionally-mandated procedures that required district courts to make discovery and admissibility rulings regarding classified information in advance.

CIPA has worked reasonably well during the last 30 years, but some issues have arisen in a number of notable terrorism, espionage, and narcotics cases that demonstrate that reforms and improvements could be made to ensure that classified sources, methods and information can be protected, and to ensure that a defendant's due process and fair trial rights are not violated. In 2009, when the Congress enacted the Military Commissions Act, MCA, the Congress drew heavily from the manner in which the federal courts interpreted CIPA when it updated the procedures governing the use of classified information in military commission prosecutions. At that time, however, the Congress did not update CIPA. Indeed, since its enactment in 1980, there have been no changes to the key provisions of CIPA.

As the former Chairman of the Senate Judiciary's Terrorism and Homeland Security Subcommittee, I chaired a number of hearings during which witnesses testified about the capacity of our civilian courts to try alleged terrorists and spies. The first Subcommittee hearing that I chaired was on July 28, 2009, and was entitled ''Prosecuting Terrorists: Civilian and Military Trials for GTMO and Beyond.'' The second Terrorism and Homeland Security Subcommittee hearing that I chaired was on May 12, 2010, and was entitled ''The Espionage Statutes: A Look Back and A Look Forward.'' The testimony I have heard in regard to terrorism, espionage and our civilian courts, has convinced me that while our courts have the capacity and the procedures in place to try alleged terrorists and spies, reforms and improvements could be made to CIPA to codify and clarify the decisions of the federal courts.

As a result, today I am reintroducing the Classified Information Procedures Reform and Improvement Act, CIPRIA. CIPRIA contains reforms and improvements to ensure that the statute maintains the proper balance between the protection of classified sources, methods and information, and a defendant's constitutional rights. Among other things, this legislation, which includes the applicable changes that the Congress made when it enacted the Military Commissions Act of 2009, will: codify, clarify and unify federal case law interpreting CIPA; ensure that all classified information, not just documents, will be governed by CIPA; ensure that prosecutors and defense attorneys will be able to fully inform trial courts about classified information issues; and will clarify that the civil state secrets privilege does not apply in criminal cases. CIPRIA will also ensure high-level DOJ approval before the government invokes its classified information privilege in criminal cases and will ensure that the federal courts will order the disclosure and use of classified information when the disclosure and use meets the applicable legal standards. This legislation will also ensure timely appellate review of lower court CIPA decisions before the commencement of a trial, explicitly permit trial courts to adopt alternative procedures for the admission of classified information in accordance with a defendant's fair trial and due process rights, and make technical fixes to ensure consistent use of terms throughout the statute.

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. 354

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

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Classified Information Procedures Reform and Improvement Act of 2011''.

(b) IN GENERAL.—Section 1 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) 'Disclosure', as used in this Act, includes the release, transmittal, or making available of, or providing access to, classified information to any person (including a defendant or counsel for a defendant) during discovery, or to a participant or member of the public at any proceeding.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 501(3) of the Immigration and Nationality Act (8 U.S.C. 1531(3)) is amended by striking ''section 1(b)'' and inserting ''section 1''.

SEC. 2. PRETRIAL CONFERENCE.

Section 2 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''At any time'';

(2) by adding at the end the following:

''(b) EX PARTE.—If the United States or the defendant certifies that the presence of both parties at a pretrial conference reasonably could be expected to cause damage to the national security of the United States or the defendant's ability to make a defense, then upon request by either party, the court shall hold such pretrial conference ex parte, and shall seal and preserve the record of that ex parte conference in the records of the court for use in the event of an appeal.''.

SEC. 3. PROTECTIVE ORDERS.

Section 3 of the Classified Information Procedures Act (18 U.S.C. App) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Upon motion'';

(2) by inserting ''use or'' before ''disclosure'';

(3) by inserting '', or access to,'' after ''disclosure of'';

(4) by inserting '', or any classified information derived therefrom, that will be'' after ''classified information'';

(5) by inserting ''or made available'' after ''disclosed''; and

(6) by adding at the end the following:

''(b) NOTICE.—In the event the defendant is convicted and files a notice of appeal, the United States shall provide the defendant and the appellate court with a written notice setting forth each date that the United States obtained a protective order under this Act.''.

SEC. 4. DISCOVERY OF AND ACCESS TO CLASSIFIED INFORMATION BY DEFENDANTS.

Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the section heading, by inserting ''AND ACCESS TO'' after ''DISCOVERY OF'';

(2) by inserting ''(a) IN GENERAL.—'' before ''The court, upon'';

(3) in the first sentence—

(A) by inserting ''to restrict the defendant's access to or'' before ''to delete'';

(B) by striking ''from documents'';

(C) by striking ''classified documents, or'' and inserting ''classified information,''; and

(D) by striking the period at the end and inserting '', or to provide other relief to the United States.'';

(4) in the second sentence, by striking ''alone.'' inserting ''alone, and may permit ex parte proceedings with the United States to discuss that request.'';

(5) in the third sentence—

(A) by striking ''If the court enters an order granting relief following such an ex parte showing, the'' and inserting ''The''; and

(B) by inserting '', and the transcript of any argument and any summary of the classified information the defendant seeks to obtain discovery of or access to,'' after ''text of the statement of the United States''; and

(6) by adding at the end the following:

''(b) ACCESS TO OTHER CLASSIFIED INFORMATION.—If the defendant seeks access to nondocumentary information from a potential witness or other person through deposition under the Federal Rules of Criminal Procedure, or otherwise, which the defendant knows or reasonably believes is classified, the defendant shall notify the attorney for the United States and the court in writing. Such notice shall specify with particularity the nondocumentary information sought by the defendant and the legal basis for such access.

''(c) SHOWING BY THE UNITED STATES.—In any prosecution in which the United States seeks to restrict, delete, withhold, or otherwise obtain relief with respect to the defendant's discovery of or access to any specific classified information, the attorney for the United States shall file with the court a declaration made by the Attorney General invoking the United States classified information privilege, which shall be supported by a declaration made by a knowledgeable United States official possessing the authority to classify information that sets forth the identifiable damage to the national security that the discovery of, or access to, such information reasonably could be expected to cause.

''(d) STANDARD FOR DISCOVERY OF OR ACCESS TO CLASSIFIED INFORMATION.—Upon the submission of a declaration of the Attorney General under subsection (c), the court may not authorize the defendant's discovery of, or access to, classified information, or to the substitution submitted by the United States, which the United States seeks to restrict, delete, or withhold, or otherwise obtain relief with respect to, unless the court first determines that such classified information or such substitution would be—

''(1) noncumulative, relevant, and helpful to—

''(A) a legally cognizable defense;

''(B) rebuttal of the prosecution's case; or

''(C) sentencing; or

''(2) noncumulative and essential to a fair determination of a pretrial proceeding.

''(e) SECURITY CLEARANCE.—Whenever a court determines that the standard for discovery of or access to classified information by the defendant has been met under subsection (d), such discovery or access may only take place after the person to whom discovery or access will be granted has received the necessary security clearances to receive the classified information, and if the classified information has been designated as sensitive compartmented information or special access program information, any additional required authorizations to receive the classified information.''.

SEC. 5. NOTICE OF DEFENDANT'S INTENTION TO DISCLOSE CLASSIFIED INFORMATION.

Section 5 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the section heading, by inserting ''USE OR'' before ''DISCLOSE'';

(2) in subsection (a)—

(A) in the first sentence—

(i) by inserting ''use or'' before ''disclose''; and

(ii) by striking ''thirty days prior to trial'' and inserting ''45 days prior to such proceeding'';

(B) in the second sentence by striking ''brief'' and inserting ''specific'';

(C) in the third sentence—

(i) by inserting ''use or'' before ''disclose''; and

(ii) by striking ''brief'' and inserting ''specific''; and

(D) in the fourth sentence—

(i) by inserting ''use or'' before ''disclose''; and

(ii) by inserting ''reasonably'' before ''believed''; and

(3) in subsection (b), by inserting ''the use or'' before ''disclosure''.

SEC. 6. PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION.

Section 6 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking ''such a hearing.'' and inserting ''a hearing and shall make all such determinations prior to proceeding under any alternative procedure set out in subsection (d).''; and

(B) in the third sentence, by striking ''petition'' and inserting ''request'';

(2) in subsection (b)(2) by striking ''trial'' and inserting ''the trial or pretrial proceeding'';

(3) by redesignating subsections (c), (d), (e), and (f), as subsections (d), (e), (f), and (g), respectively;

(4) by inserting after subsection (b) the following:

''(c) STANDARD FOR ADMISSIBILITY, USE, AND DISCLOSURE AT TRIAL.—(1) Classified information which is the subject of a notice by the United States pursuant to subsection (b) is not admissible at trial and subject to the alternative procedures set out in subsection (d), unless a court first determines that such information is noncumulative and relevant to an element of the offense or a legally cognizable defense, and is otherwise admissible in evidence.

''(2) Nothing in this subsection may be construed to prohibit the exclusion from evidence of relevant, classified information in accordance with the Federal Rules of Evidence.'';

(5) in subsection (d), as so redesignated—

(A) in the subsection heading, by inserting ''USE OR'' before ''DISCLOSURE'';

(B) in paragraph (1), by inserting ''use or'' before ''disclosure'' both places that term appears;

(C) in the flush paragraph following paragraph (1)(B), by inserting ''use or'' before ''disclosure''; and

(D) in paragraph (2)—

(i) by striking ''an affidavit of'' and inserting ''a declaration by'';

(ii) by the striking ''such affidavit'' and inserting ''such declaration''; and

(iii) by inserting ''the use or'' before ''disclosure'';

(6) in subsection (e), as so redesignated, in the first sentence, by striking ''disclosed or elicited'' and inserting ''used or disclosed''; and

(7) in subsection (f), as so redesignated—

(A) in the subsection heading, by inserting ''USE OR'' before ''DISCLOSURE'' both places that term appears;

(B) in paragraph (1)—

(i) by striking ''(c)'' and inserting ''(d)'';

(ii) by striking ''an affidavit of'' and inserting ''a declaration by'';

(iii) by inserting ''the use or'' before ''disclosure''; and

(iv) by striking ''disclose'' and inserting ''use, disclose,''; and

(C) in paragraph (2), by striking ''disclosing'' and inserting ''using, disclosing,''; and

(8) in the first sentence of subsection (g), as so redesignated—

(A) by inserting ''used or'' before ''disclosed''; and

(B) by inserting ''or disclose'' before ''to rebut the''.

SEC. 7. INTERLOCUTORY APPEAL.

Section 7(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by striking ''disclosure of'' both times that places that term appears and inserting ''use, disclosure, discovery of, or access to''; and

(2) by adding at the end the following: ''The right of the United States to appeal pursuant to this Act applies without regard to whether the order or ruling appealed from was entered under this Act, another provision of law, a rule, or otherwise. Any such appeal may embrace any preceding order, ruling, or reasoning constituting the basis of the order or ruling that would authorize such use, disclosure, or access. Whenever practicable, appeals pursuant to this section shall be consolidated to expedite the proceedings.''.

SEC. 8. INTRODUCTION OF CLASSIFIED INFORMATION.

Section 8 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in subsection (b), by adding at the end ''The court may fashion alternative procedures in order to prevent such unnecessary disclosure, provided that such alternative procedures do not deprive the defendant of a fair trial or violate the defendant's due process rights.''; and

(2) by adding at the end the following:

''(d) ADMISSION OF EVIDENCE.—(1) No classified information offered by the United States and admitted into evidence shall be presented to the jury unless such evidence is provided to the defendant.

''(2) Any classified information admitted into evidence shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.''.

SEC. 9. APPLICATION TO PROCEEDINGS.

The amendments made by this Act shall take effect on the date of the enactment of this Act but shall not apply to any prosecution in which an indictment or information was filed prior to such date.

By Mr. CARDIN:

S. 355. A bill to improve, modernize, and clarify the espionage statutes contained in chapter 37 of title 18, United States Code, to promote Federal whistleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, the current framework concerning the espionage statutes was designed to address classic spy cases involving persons who intended to aid foreign governments and harm the United States. The current framework traces its roots to the Espionage Act of 1917, which made it a crime to disclose defense information during wartime. The basic idea behind the legislation, which was upheld by the U.S. Supreme Court as constitutional in 1919, was to stop citizens from spying or interfering with military actions during World War I. The current framework was formed at a time when intelligence and national security information existed primarily in some tangible form, such as blueprints, photographs, maps, and other documents.

Our nation, however, has witnessed dramatic changes to nearly every facet of our lives over the last 100 years, including technological advances which have revolutionized our information gathering abilities as well as the mediums utilized to communicate such information. Yet, the basic terms and structure of the espionage statutes have remained relatively unchanged

since their inception. Moreover, issues have arisen in the prosecution and defense of criminal cases when the statutes have been applied to persons who may be disclosing classified information for purposes other than to aid a foreign government or to harm the United States. In addition, the statutes contain some terms which are outdated and do not reflect how information is classified by the Executive Branch today.

Legal scholars and commentators have criticized the current framework, and over the years, some federal courts have as well. In 2006, after reviewing the many developments in the law and changes in society that had taken place since the enactment of the espionage statutes, one district court judge stated that ''the time is ripe for Congress'' to reexamine them. *United States* v. *Rosen*, 445 F. Supp. 2d 602, 646, E.D. Va. 2006, Ellis, J. Nearly 20 years earlier in the Morison case, one federal appellate judge stated that ''[i]f one thing is clear, it is that the Espionage Act statutes as now broadly drawn are unwieldy and imprecise instruments for prosecuting government 'leakers' to the press as opposed to government 'moles' in the service of other countries.'' That judge also stated that ''carefully drawn legislation'' was a ''better long-term resolution'' than judicial intervention. See *United States* v. *Morison*, 844 F.2d 1057, 1086, 4th Cir. 1988.

As the former Chairman of the Senate Judiciary's Terrorism and Homeland Security Subcommittee, I chaired a Subcommittee hearing on May 12, 2010, entitled ''The Espionage Statutes: A Look Back and A Look Forward.'' At that Subcommittee hearing, I questioned a number of witnesses, which included witnesses from academia as well as former officials from the intelligence and law enforcement communities, about how well the espionage statutes have been working. And since that hearing, I have been closely and carefully reviewing these statutes, particularly in the context of recent events. I am convinced that changes in technology and society, combined with statutory and judicial changes to the law, have rendered some aspects of our espionage laws less effective than they need to be to protect the national security. I also believe that we need to enhance our ability to prosecute spies as well as those who make unauthorized disclosures of classified information. We don't need an Official State Secrets Act, and we must be careful not to chill protected First Amendment activities. We do, however, need to do a better job of preventing unauthorized disclosures of classified information that can harm the United States, and at the same time we need to ensure that public debates continue to take place on important national security and foreign policy issues.

As a result, today I am reintroducing the Espionage Statutes Modernization Act, ESMA. This legislation makes important improvements to the espionage statutes to make them more effective and relevant in the 21st century. This legislation is narrowly-tailored and balanced, and will enable the government to use a separate criminal statute to prosecute government employees who make unauthorized disclosures of classified information in violation of the nondisclosure agreements they have entered, irrespective of whether they intend to aid a foreign government or harm the United States.

This legislation is not designed to make it easier for the government to prosecute the press, to chill First Amendment freedoms, or to make it more difficult to expose government wrongdoing. In fact, the proposed legislation promotes the use of Federal whistleblower statutes and regulations to report unlawful and other improper conduct. Unauthorized leaks of classified information, however, are harmful to the national security and could endanger lives. Thus, in addition to proposing important refinements to the espionage statutes, this legislation will deter unauthorized leaks of classified information by government employees who knowingly and intentionally violate classified information nondisclosure agreements.

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. 355

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''The Espionage Statutes Modernization Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) As of 2011, the statutory framework with respect to the espionage statutes is a compilation of statutes that began with Act of June 15, 1917 (40 Stat. 217, chapter 30)(commonly known as the ''Espionage Act of 1917''), which targeted classic espionage cases involving persons working on behalf of foreign nations.

(2) The statutory framework was formed at a time when intelligence and national security information existed primarily in a tangible form, such as blueprints, photographs, maps, and other documents.

(3) Since 1917, the United States has witnessed dramatic changes in intelligence and national security information, including technological advances that have revolutionized information gathering abilities as well as the mediums used to communicate such information.

(4) Some of the terms used in the espionage statutes are obsolete and the statutes do not fully take into account the classification levels that apply to national security information in the 21st century.

(5) In addition, the statutory framework was originally designed to address classic espionage cases involving persons working on behalf of foreign nations. However, the national security of the United States could be harmed, and lives may be put at risk, when a Government officer, employee, contractor, or consultant with access to classified information makes an unauthorized disclosure of the classified information, irrespective of whether the Government officer, employee, contractor, or consultant intended to aid a foreign nation or harm the United States.

(6) Federal whistleblower protection statutes and regulations that enable Government officers, employees, contractors, and consultants to report unlawful and improper conduct are appropriate mechanisms for reporting such conduct.

(7) Congress can deter unauthorized disclosures of classified information and thereby protect the national security by—

(A) enacting laws that improve, modernize, and clarify the espionage statutes and make the espionage statutes more relevant and effective in the 21st century in the prosecution of persons working on behalf of foreign powers;

(B) promoting Federal whistleblower protection statutes and regulations to enable Government officers, employees, contractors, or consultants to report unlawful and improper conduct; and

(C) enacting laws that separately punish the unauthorized disclosure of classified information by Government officers, employees, contractors, or consultants who knowingly and intentionally violate a classified information nondisclosure agreement, irrespective of whether the officers, employees, contractors, or consultants intend to aid a foreign power or harm the United States.

SEC. 3. CRIMES.

(a) IN GENERAL.—Chapter 37 of title 18, United States Code, is amended—

(1) in section 793—

(A) in the section heading, by striking ''**or losing defense information**'' and inserting ''**or, losing national security information**'';

(B) by striking ''the national defense'' each place it appears and inserting ''national security'';

(C) by striking ''foreign nation'' each place it appears and inserting ''foreign power'';

(D) in subsection (b), by inserting ''classified information, or other'' before ''sketch'';

(E) in subsection (c), by inserting ''classified information, or other'' before ''document'';

(F) in subsection (d), by inserting ''classified information, or other'' before ''document'';

(G) in subsection (e), by inserting ''classified information, or other'' before ''document'';

(H) in subsection (f), by inserting ''classified information,'' before ''document''; and

(I) in subsection (h)(1), by striking ''foreign government'' and inserting ''foreign power'';

(2) in section 794—

(A) in the section heading, by striking ''**Gathering**'' and all that follows and inserting ''**Gathering or delivering national security information to aid foreign powers**''; and

(B) in subsection (a)—

(i) by striking ''foreign nation'' and inserting ''foreign power'';

(ii) by striking ''foreign government'' and inserting ''foreign power'';

(iii) by inserting ''classified information,'' before ''document'';

(iv) by striking ''the national defense'' and inserting ''national security''; and

(v) by striking ''(as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978)'';

(3) in section 795(a), by striking ''national defense'' and inserting ''national security'';

(4) in section 798—

(A) in subsection (a), by striking ''foreign government'' each place it appears and inserting ''foreign power''; and

(B) in subsection (b)—

(i) by striking the first undesignated paragraph (relating to the term ''classified information''); and

(ii) by striking the third undesignated paragraph (relating to the term ''foreign government''); and

(5) by adding at the end the following:

''§ 800. Definitions

''In this chapter—

''(1) the term 'classified information' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.);

''(2) the term 'foreign power' has the meaning given the term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

''(3) the term 'national security' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of section for chapter 37 of title 18, United States Code, is amended—

(1) by striking the item relating to section 793 and inserting the following:

''793. Gathering, transmitting, or losing national security information.'';

(2) by striking the item relating to section 794 and inserting the following:

''794. Gathering or delivering national security information to aid foreign powers.''; and

(3) by adding at the end the following:

''800. Definitions.''.

SEC. 4. VIOLATION OF CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following:

''§ 1925. Violation of classified information nondisclosure agreement

''(a) DEFINITIONS.—In this section—

''(1) the term 'classified information' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.); and

''(2) the term 'covered individual' means an officer, employee, contractor, or consultant of an agency of the Federal Government who, by virtue of the office, employment, position, or contract held by the individual, knowingly and intentionally agrees to be legally bound by the terms of a classified information nondisclosure agreement.

''(b) OFFENSE.—

''(1) IN GENERAL.—Except as otherwise provided in this section, it shall be unlawful for a covered individual to intentionally disclose, deliver, communicate, or transmit classified information, without the authorization of the head of the Federal agency, or an authorized designee, knowing or having reason to know that the disclosure, delivery, communication, or transmission of the classified information is a violation of the terms of the classified information nondisclosure agreement entered by the covered individual.

''(2) PENALTY.—A covered individual who violates paragraph (1) shall be fined under this title, imprisoned for not more than 5 years, or both.

''(c) WHISTLEBLOWER PROTECTION.—The disclosure, delivery, communication, or transmission of classified information by a covered individual in accordance with a Federal whistleblower protection statute or regulation applicable to the Federal agency of which the covered individual is an officer, employee, contractor, or consultant shall not be a violation of subsection (b)(1).

''(d) REBUTTABLE PRESUMPTION.—For purposes of this section, there shall be a rebuttable presumption that information has been properly classified if the information has been marked as classified information in accordance with Executive Order 12958 (60 Fed. Reg. 19825) or a successor or predecessor to the order.

''(e) DEFENSE OF IMPROPER CLASSIFICATION.—The disclosure, delivery, communication, or transmission of classified information by a covered individual shall not violate subsection (b)(1) if the covered individual proves by clear and convincing evidence that at the time the information was originally classified, no reasonable person with original classification authority under Executive Order 13292 (68 Fed. Reg. 15315), or any successor order, could have identified or described any damage to national security that reasonably could be expected to be caused by the unauthorized disclosure of the information.

''(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial jurisdiction over an offense under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 93 of title 18, United States Code, is amended by adding at the end the following:

''1925. Violation of classified information nondisclosure agreement.''.

SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission, shall review and, if appropriate, amend the Federal Sentencing Guidelines and policy statements applicable to a person convicted of an offense under section 1925 of title 18, United States Code, as added by this Act.

(b) CONSIDERATIONS.—In carrying out this section, the Sentencing Commission shall ensure that the sentencing guidelines account for all relevant conduct, including—

(1) multiple instances of unauthorized disclosure, delivery, communication, or transmission of the classified information;

(2) the volume of the classified information that was disclosed, delivered, communicated, or transmitted;

(3) the classification level of the classified information;

(4) the harm to the national security of the United States that reasonably could be expected to be caused by the disclosure, delivery, communication, or transmission of the classified information; and

(5) the nature and manner in which the classified information was disclosed, delivered, communicated, or transmitted.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 50—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. BOXER submitted the following resolution; from the Committee on Environment and Public Works; which was referred to the Committee on Rules and Administration:

S. RES. 50

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 2011, through September 30, 2011; October 1, 2011, through September 30, 2012; and October 1, 2012, through February 28, 2013, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this resolution shall not exceed $3,612,391, of which amount (1) not to exceed $4,666.67 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))), and (2) not to exceed $1,166.67 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(b) For the period October 1, 2011, through September 30, 2012, expenses of the committee under this resolution shall not exceed $6,192,669, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) For the period October 1, 2012, through February 28, 2013, expenses of the committee under this resolution shall not exceed $2,580,278, of which amount (1) not to exceed $3,333.33 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))), and (2) not to exceed $833.33 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2013.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2011, through September 30, 2011; October 1, 2011 through September 30, 2012; and October 1, 2012, through February 28, 2013, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 51—RECOGNIZING THE 190TH ANNIVERSARY OF THE INDEPENDENCE OF GREECE AND CELEBRATING GREEK AND AMERICAN DEMOCRACY

Mr. MENENDEZ (for himself and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 51

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States, many of whom read Greek political philosophy in the original Greek, drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821 that ''it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you'';

Whereas the Greek national anthem, the ''Hymn to Liberty'', includes the words, ''Most heartily was gladdened George Washington's brave land'';

Whereas the people of the United States generously offered humanitarian assistance to the Greek people during their struggle for independence;

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete, which provided the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas hundreds of thousands of Greek civilians were killed in Greece during World War II in defense of the values of the Allies;

Whereas, throughout the 20th century, Greece was one of a few countries that allied with the United States in every major international conflict;

Whereas Greece is a strategic partner and ally of the United States in bringing political stability and economic development to the volatile Balkan region, having invested more than $20,000,000,000 in the countries of the region, thereby helping to create more than 200,000 new jobs, and having contributed more than $750,000,000 in development aid for the region;

Whereas Greece actively participates in peacekeeping and peace-building operations conducted by international organizations including the United Nations, the North Atlantic Treaty Organization, the European Union, and the Organization for Security and Co-operation in Europe;

Whereas Greece received worldwide praise for its extraordinary handling during the 2004 Olympic Games of more than 14,000 athletes and more than 2,000,000 spectators and journalists, a feat Greece handled efficiently, securely, and with hospitality;

Whereas Greece, located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas the Government of Greece has taken important steps in recent years to further cross-cultural understanding and rapprochement with Turkey, as seen by Prime Minister of Greece George Papandreou's trip to Turkey, just days after being elected and the Prime Minister of Turkey Recep Tayyip Erdogan's visit to Greece in May 2010, during which Greece and Turkey established a Joint Ministerial Council, made up of 10 ministers from each country, to discuss tangible ways to enhance cooperation in various fields of interest;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and similar ideals have forged a close bond between Greece and the United States; and

Whereas it is proper and desirable for the United States to celebrate March 25, 2011, Greek Independence Day, with the Greek people and to reaffirm the democratic principles from which these two great nations were born: Now, therefore, be it

Resolved, That the Senate—

(1) extends warm congratulations and best wishes to the people of Greece as they celebrate the 190th anniversary of the independence of Greece;

(2) expresses support for the principles of democratic governance to which the people of Greece are committed; and

(3) notes the important role that Greece has played in the wider European region and in the community of nations since gaining its independence 190 years ago.

SENATE RESOLUTION 52—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. KOHL submitted the following resolution; from the Special Committee on Aging; which was referred to the Committee on Rules and Administration:

S. RES. 52

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 2011, through September 30, 2011; October 1, 2011, through September 30, 2012; and October 1, 2012, through February 28, 2013, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this resolution shall not exceed $1,937,114, of which amount (1) not to exceed $117,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2011, through September 30, 2012, expenses of the committee under this resolution shall not exceed $3,320,767, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $15,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2012, through February 28, 2013, expenses of the committee under this resolution shall not exceed $1,383,653, of which amount (1) not to exceed $85,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2013, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SENATE RESOLUTION 53—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LIEBERMAN submitted the following resolution; from the Committee on Homeland Security and Governmental Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 53

Resolved,

SECTION 1. COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules and S. Res. 445 (108th Congress), including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Homeland Security and Governmental Affairs (referred to in this resolution as the ''committee'') is authorized from March 1, 2011, through February 28, 2013, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2011.—The expenses of the committee for the period March 1, 2011, through

September 30, 2011, under this section shall not exceed $6,902,759, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2012 PERIOD.—The expenses of the committee for the period October 1, 2011, through September 30, 2012, under this section shall not exceed $11,833,302, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2013.—For the period October 1, 2012, through February 28, 2013, expenses of the committee under this section shall not exceed $4,930,543, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 2. REPORTING LEGISLATION.

The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2013.

SEC. 3. EXPENSES; AGENCY CONTRIBUTIONS; AND INVESTIGATIONS.

(a) EXPENSES OF THE COMMITTEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—

(A) the disbursement of salaries of employees of the committee who are paid at an annual rate;

(B) the payment of telecommunications expenses provided by the Office of the Sergeant at Arms and Doorkeeper;

(C) the payment of stationery supplies purchased through the Keeper of Stationery;

(D) payments to the Postmaster of the Senate;

(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;

(F) the payment of Senate Recording and Photographic Services; or

(G) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

(b) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee for the period March 1, 2011, through September 30, 2011, for the period October 1, 2011, through September 30, 2012, and for the period October 1, 2012, through February 28, 2013, to be paid from the appropriations account for `Expenses of Inquiries and Investigations' of the Senate.

(c) INVESTIGATIONS.—

(1) IN GENERAL.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES.—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 2011, through February 28, 2013, is authorized, in its, his, her, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES.—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY.—All subpoenas and related legal processes of the committee and its subcommittees authorized under S. Res. 73, agreed to March 10, 2009 (111th Congress), are authorized to continue.

SENATE RESOLUTION 54—AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mrs. FEINSTEIN submitted the following resolution; from the Select

Committee on Intelligence was referred to the Committee on Rules and Administration:

S. RES. 54

Resolved, That, in carrying out its powers, duties, and functions under Senate Resolution 400, agreed to May 19, 1976 (94th Congress), as amended by Senate Resolution 445, agreed to October 9, 2004 (108th Congress), in accordance with its jurisdiction under section 3 and section 17 of such Senate Resolution 400, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such Senate Resolution 400, the Select Committee on Intelligence is authorized from March 1, 2011, through September 30, 2011; October 1, 2011, through September 30, 2012; and October 1, 2012, through February 28, 2013, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2a. The expenses of the committee for the period March 1, 2011, through September 30, 2011, under this resolution shall not exceed $4,249,113 of which amount (1) not to exceed $37,917 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,167 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2011, through September 30, 2012, expenses for the committee under this resolution shall not exceed $7,284,194, of which amount (1) not to exceed $65,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2012, through February 28, 2013, expenses of the committee under this resolution shall not exceed $3,035,081, of which amount (1) not to exceed $27,083 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2013.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2011 through September 30, 2011; October 1, 2011, through September 30, 2012; and October 1, 2012, through February 28, 2013, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

AMENDMENTS SUBMITTED AND PROPOSED

SA 86. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table.

SA 87. Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 88. Mr. MCCAIN (for himself, Mr. KYL, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 89. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 223, supra; which was ordered to lie on the table.

SA 90. Mr. REID of Nevada (for himself and Mr. MCCONNELL) proposed an amendment to the bill H.R. 514, to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 relating to access to business records, individual terrorists as agents of foreign powers, and roving wiretaps until December 8, 2011.

SA 91. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table.

SA 92. Mr. REED of Rhode Island submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 93. Mrs. HUTCHISON proposed an amendment to amendment SA 7 proposed by Mr. INHOFE to the bill S. 223, supra.

SA 94. Mrs. BOXER (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 223, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 86. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 245, between lines 7 and 8, insert the following:

(g) SPECIAL RULE FOR MODEL AIRCRAFT.—

(1) IN GENERAL.—Notwithstanding any other provision of law relating to the incorporation of unmanned aircraft systems into FAA plans and policies,, including this section, the Administrator shall not promulgate any rules or regulations regarding model aircraft or aircraft being developed as model aircraft if such aircraft is—

(A) flown strictly for recreational, sport, competition, or academic purposes;

(B) operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization; and

(C) limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program currently administered by a community-based organization.

(2) MODEL AIRCRAFT DEFINED.—For purposes of this subsection, the term ''model aircraft'' means a nonhuman-carrying (unmanned) radio-controlled aircraft capable of sustained flight in the atmosphere, navigating the airspace and flown within visual line-of-sight of the operator for the exclusive and intended use for sport, recreation, competition, or academic purposes.

SA 87. Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 307, strike line 1 and all that follows through page 310, line 10, and insert the following:

SEC. 730. TRANSPORTATION OF COMPRESSED OXYGEN AND OXIDIZING GASES WITHIN ALASKA.

(a) AUTHORIZATION.—Subject to subsection (b), in circumstances in which it is impracticable to transport compressed oxygen and other oxidizing gases within the State of Alaska through transportation modes other than by aircraft, the transport of such gases within Alaska shall not be subject to the requirements under—

(1) paragraphs (3), (4), and (5) of section 173.302(f) of title 49, Code of Federal Regulations;

(2) paragraphs (3), (4), and (5) of section 173.304(f) of such title; and

(3) appendices D and E of part 178 of such title.

(b) LIMITATION ON CYLINDER SIZE.—The regulatory exemptions set forth in subsection (a) shall not apply to the transport of individual cylinders of compressed oxygen or other oxidizing gases with a capacity greater than 281 cubic feet unless such transport takes place on cargo only aircraft.

SA 88. Mr. MCCAIN (for himself, Mr. KYL, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United

States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 733. DETERMINATIONS WITH RESPECT TO SUBSTANTIAL RESTORATION OF NATURAL QUIET AND EXPERIENCE IN GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of section 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1 note), the substantial restoration of the natural quiet and experience of the Grand Canyon National Park (in this subsection referred to as the ''Park'') shall be considered to be achieved in the Park if, for at least 75 percent of each day, 50 percent of the Park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the Park as of the date of the enactment of this Act.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—For purposes of determining whether substantial restoration of the natural quiet and experience of the Park has been achieved in accordance with subsection (a), the Secretary of the Interior (in this section referred to as the ''Secretary'') shall use—

(A) the 2–zone system for the Park in effect on the date of the enactment of this Act to assess impacts relating to subsectional restoration of natural quiet at the Park, including—

(i) the thresholds for noticeability and audibility; and

(ii) the distribution of land between the 2 zones; and

(B) noise modeling science that is—

(i) developed for use at the Park, specifically Integrated Noise Model Version 6.2;

(ii) validated by reasonable standards for conducting field observations of model results; and

(iii) accepted and validated by the Federal Interagency Committee on Aviation Noise.

(2) SOUND FROM OTHER SOURCES.—The Secretary shall not consider sound produced by sources other than commercial air tour operations, including sound emitted by other types of aircraft operations or other noise sources, for purposes of—

(A) making recommendations, developing a final plan, or issuing regulations relating to commercial air tour operations in the Park; or

(B) determining under subsection (a) whether substantial restoration of the natural quiet and experience of the Park has been achieved.

(c) CONTINUED MONITORING.—The Secretary shall continue monitoring noise from aircraft operating over the Park below 17,999 feet MSL to ensure continued compliance with the substantial restoration of natural quiet and experience in the Park.

(d) DAY DEFINED.—For purposes of this section, the term ''day'' means the hours between 7:00 a.m. and 7:00 p.m.

SA 89. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety; reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. ADS-B OVERSIGHT.

(a) COST BENEFIT ANALYSIS.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall contract with an independent third party to conduct an updated cost benefit analysis of acquisition approaches for the Automatic Dependent Surveillance-Broadcast program (referred to in this section as the ADS-B program).

(2) PARAMETERS.—The analysis must include a comparison of the service-based contract approach with more traditional acquisition approaches, both for the entire contract and for each individual phase of the program.

(3) INDEPENDENCE.—The independent third party selected to conduct the analysis may not have a financial interest in the ADS-B program, and may not have any significant financial ties with either the contractor or subcontractors involved with the program.

(4) REVIEW BY DOTIG.—The Department of Transportation Inspector General shall conduct a review of the final Cost Benefit Analysis.

(5) REPORT.—The final analysis and accompanying Inspector General review shall be provided to the appropriate Congressional Committees.

(6) RESTRICTIONS.—Until the requirements of this subsection have been fulfilled, the Administrator may not exercise any additional contract options for the ADS-B Program. This restriction shall not apply to execution of a specific contract option if the Administrator certifies to Congress in writing and with explanation that a delay in exercising the option would be harmful and not in the best interest of the Federal government.

(b) PERFORMANCE AND FINANCIAL AUDIT.—Within 270 days after the date of enactment of this Act, the Department of Transportation Inspector General shall conduct a performance and financial audit of the ADS-B program and issue a report on the audit's findings. At a minimum, the audit and report shall—

(1) identify all cost overruns that have occurred or are highly likely to occur;

(2) review the factors used by the Administration to measure contractor performance;

(3) identify all incentive fees, award fees, and other financial performance rewards that have been awarded to the contractor, including the specific performance merits upon which those financial rewards were granted;

(4) identify all requirements changes, contract modifications, and change orders, including the costs of such changes and the extent to which each change was subject to review to identify, analyze, and document the associated needs, risks, costs, and benefits; and

(5) make specific recommendations that would allow the Administration to more accurately track both capital and operating costs and ensure timely and accurate disclosure of cost overruns.

(c) ACQUISITION MANAGEMENT AND OVERSIGHT.—

(1) PLAN.—The Administrator shall develop and submit to Congress an acquisition management and oversight plan for the ADS-B program. The plan shall—

(A) contain an assessment of current Administration acquisition, management, oversight, and contracting resources and capabilities devoted to the ADS-B program;

(B) identify actions that the Administration will take to improve its acquisition management and oversight of the ADS-B program;

(C) include staffing predictions, human capital needs, and training needs;

(D) identify specific processes and procedures for developing clear contract performance requirements and analyzing, approving, and managing requirements changes, contract modifications, and change orders; and

(E) address specifically the question of whether the Administration can better leverage acquisitions oversight and management expertise from other agencies within the Federal government.

(2) DOTIG REVIEW.—The Department of Transportation's Inspector General shall conduct a review of the plan submitted under paragraph (1).

(3) RESTRICTIONS.—Until the requirements of paragraph (1) have been fulfilled, the Administrator shall not execute any additional contracts, contract changes, requirements changes, task orders, or work orders for the ADS-B Program whose value exceeds $1,000,000. This restriction shall not apply to a specific contract, contract change, requirements change, task order, or work order if the Administrator certifies to Congress in writing and with explanation that a delay in execution of that specific action would be harmful and not in the best interest of the Federal government.

(4) TECHNICAL REQUIREMENTS.—The Administration shall maintain the technical authority to establish, approve, and maintain technical requirements for the ADS-B program.

(5) SELF-CERTIFICATION PROHIBITED.—All certifications for capability and performance of ADS-B systems shall be conducted by the Administration. Self-certification by a contractor or subcontractor is not allowed.

(d) CONTRACT REVIEW.—Within 270 days after the date of enactment of this Act, the Comptroller General shall conduct an audit and review of the ADS-B contracts, and issue a report to Congress which, at a minimum, identifies and analyzes—

(1) any terms and structural features of the contract that may put the Federal government at a financial, legal, technical, or negotiating disadvantage, both during contract execution and throughout the life-cycle of the ADS-B system;

(2) specific risks and management challenges that can be expected to arise from specific contract terms or from the overall contract and acquisition structure;

(3) unclear performance and contract requirements that may increase costs, risks, and the probability of inadequate system performance;

(4) the procedures that Administration and the contractor used to write the contract, including who was tasked with both writing and reviewing contract language;

(5) contract terms or structures that may prevent or discourage financial transparency;

(6) benefits, risks, management challenges, and potential conflicts of interest associated with allowing the contractor to sell value added services, including recommendations for how to protect the public interest under such an arrangement;

(7) risks associated with utilizing a performance-based contract for the ADS-B program; and

(8) the short and long term advantages, disadvantages, and risks of—

(A) utilizing a cost plus incentive fee structure for development of the ADS-B ground system; and

(B) Ownership of the ground systems by the contractor instead of the Administration.

SA 90. Mr. REID of Nevada (for himself and Mr. MCCONNELL) proposed an amendment to the bill H.R. 514, to extend expiring provisions of the USA

PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 relating to access to business records, individual terrorists as agents of foreign powers, and roving wiretaps until December 8, 2011; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''FISA Sunsets Extension Act of 2011''.

SEC. 2. EXTENSION OF SUNSETS OF PROVISIONS RELATING TO ACCESS TO BUSINESS RECORDS, INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS, AND ROVING WIRETAPS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''February 28, 2011'' and inserting ''May 27, 2011''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3742; 50 U.S.C. 1801 note) is amended by striking ''February 28, 2011'' and inserting ''May 27, 2011''.

SA 91. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 207 and insert the following:

SEC. 207. FEDERAL SHARE OF AIRPORT IMPROVEMENT PROJECT COSTS FOR NON-PRIMARY AIRPORTS.

Notwithstanding section 47109(a) of title 49, United States Code, section 47109(e) of such title (as added by section 204(a)(2) of this Act), or any other provision of law, the United States Government's share of allowable project costs for a grant made under chapter 471 of title 49, United States Code, for an airport improvement project for an airport that is not a primary airport is—

(1) for fiscal year 2012, 85 percent;

(2) for fiscal year 2013, 80 percent; and

(3) for fiscal year 2014, 75 percent.

SA 92. Mr. REED of Rhode Island submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, between lines 3 and 4, insert the following:

SEC. 224. ISSUANCE OF LETTERS OF INTENT FOR AIRPORT IMPROVEMENT PROJECTS IN STATES WITH HIGH RATES OF UNEMPLOYMENT.

Upon request of a sponsor for a letter of intent under section 47110(e) of title 49, United States Code, relating to an airport development project at a primary or reliever airport, the Secretary of Transportation shall issue a letter of intent under such section that covers 80 percent of the Government's share of allowable project costs for the project if—

(1) the project is conducted in a State that had an average monthly unemployment rate on the day before the date of the enactment of this Act that was in the highest quartile of average monthly unemployment rates for States;

(2) the record of decision for the project is issued in calendar year 2011; and

(3) all other requirements under section 47110 of such title are satisfied.

S 93. Mrs. HUTCHISON proposed an amendment to amendment SA 7 proposed by Mr. INHOFE to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

Strike all after the word ''sec'' and add the following:

. ___. RONALD REAGAN WASHINGTON NATIONAL AIRPORT SLOTS.

(a) INCREASE IN NUMBER OF SLOT EXEMPTIONS.—Section 41718 is amended by adding at the end thereof the following:

''(g) ADDITIONAL SLOTS.—

''(1) INITIAL INCREASE IN EXEMPTIONS.—Within 95 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall grant, by order, 24 slot exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and airports located beyond the perimeter described in section 49109 or, as provided in paragraph (2)(C), airports located within that perimeter, and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

''(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

''(B) increase competition in multiple markets;

''(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

''(D) not result in meaningfully increased travel delays;

''(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

''(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; and

''(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

''(2) NEW ENTRANTS AND LIMITED INCUMBENTS.—

''(A) DISTRIBUTION.—Of the exemptions made available under paragraph (1), the Secretary shall make 10 available to limited incumbent air carriers or new entrant air carriers and 14 available to other incumbent air carriers.

''(B) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under this paragraph, the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(C) USE.—Only a limited incumbent air carrier or new entrant air carrier may use an additional exemption granted under this subsection to provide service between Ronald Reagan Washington National Airport and an airport located within the perimeter described in section 49109.

''(3) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under this subsection, it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

''(4) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

''(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

''(B) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

''(5) OPERATIONS DEADLINE.—An air carrier granted a slot exemption under this subsection shall commence operations using that slot within 60 days after the date on which the exemption was granted.

''(6) IMPACT STUDY.—Within 17 months after granting the additional exemptions authorized by paragraph (1) the Secretary shall complete a study of the direct effects of the additional exemptions, including the extent to which the additional exemptions have—

''(A) caused congestion problems at the airport;

''(B) had a negative effect on the financial condition of the Metropolitan Washington Airports Authority;

''(C) affected the environment in the area surrounding the airport; and

''(D) resulted in meaningful loss of service to small and medium markets within the perimeter described in section 49109.

''(7) ADDITIONAL EXEMPTIONS.—

''(A) DETERMINATION.—The Secretary shall determine, on the basis of the study required by paragraph (6), whether—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on Ronald Reagan Washington National Airport, Washington Dulles International Airport, or Baltimore/Washington Thurgood Marshall International Airport; and

''(ii) the granting of additional exemptions under this paragraph may, or may not, reasonably be expected to have a substantial negative effect on any of those airports.

''(B) AUTHORITY TO GRANT ADDITIONAL EXEMPTIONS.—Beginning 6 months after the date on which the impact study is concluded, the Secretary may grant up to 8 slot exemptions to incumbent air carriers, in addition to those granted under paragraph (1) of this subsection, if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have not had a substantial negative effect on any of those airports; and

''(ii) the granting of additional exemptions under this subparagraph may not reasonably

be expected to have a negative effect on any of those airports.

''(C) NETWORK CONNECTIVITY.—In allocating exemptions to incumbent air carriers under subparagraph (B), the Secretary shall afford a preference to carriers offering significant domestic network benefits within the perimeter described in section 49109.

''(D) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under subparagraph (B), it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

''(E) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under subparagraph (B) shall be subject to the following conditions:

''(i) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

''(ii) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

''(F) ADDITIONAL EXEMPTIONS NOT PERMITTED.—The Secretary may not grant exemptions in addition to those authorized by paragraph (1) if the Secretary determines that—

''(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on any of those airports; or

''(ii) the granting of additional exemptions under subparagraph (B) of this paragraph may reasonably be expected to have a substantial negative effect on 1 or more of those airports.

''(h) SCHEDULING PRIORITY.—In administering this section, the Secretary shall afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109.''.

(b) HOURLY LIMITATION.—Section 41718(c)(2) is amended—

(1) by striking ''3 operations'' and inserting ''4 operations''; and

(2) by striking ''subsections (a) and (b)'' and inserting ''under this section''.

(c) LIMITED INCUMBENT DEFINITION.—Section 41714(h)(5) is amended—

(1) by inserting ''not'' after ''shall'' in subparagraph (B);

(2) by striking ''and'' after the semicolon in subparagraph (B);

(3) by striking ''Administration.'' in subparagraph (C) and inserting ''Administration; and''; and

(4) by adding at the end the following:

''(D) for purposes of section 41718, an air carrier that holds only slot exemptions''.

(d) REVENUES AND FEES AT THE METROPOLITAN WASHINGTON AIRPORTS.—Section 49104(a) is amended by striking paragraph (9) and inserting the following:

''(9) Notwithstanding any other provision of law, revenues derived at either of the Metropolitan Washington Airports, regardless of source, may be used for operating and capital expenses (including debt service, depreciation and amortization) at the other airport.''.

This section shall become effective 1 day after enactment.

SA 94. Mrs. BOXER (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 128, between lines 2 and 3, insert the following:

SEC. 408. DISCLOSURE OF SEAT DIMENSIONS TO FACILITATE THE USE OF CHILD SAFETY SEATS ON AIRCRAFT.

Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall prescribe regulations requiring each air carrier operating under part 121 of title 14, Code of Federal Regulations, to post on the website of the air carrier the maximum dimensions of a child safety seat that can be used on each aircraft operated by the air carrier to enable passengers to determine which child safety seats can be used on those aircraft.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 15, 2011, at 9:30 a.m.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on February 15, 2011, in Dirksen 406 to hold a hearing entitled, ''Nomination of Daniel M. Ashe to be Director of the U.S. Fish and Wildlife Service.''

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

COMMITTEE ON FINANCE

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 15, 2011, at 2:30 p.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''The President's Fiscal Year 2012 Budget Proposal.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on February 15, 2011, at 10 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on February 15, 2011, at 10:30 a.m. to conduct a hearing entitled ''A Ticking Time Bomb: Counterterrorism Lessons from the U.S. Government's Failure to Prevent the Fort Hood Attack.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 15, 2011 at 2:30 p.m.

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

SUBCOMMITTEE ON GREEN JOBS AND THE NEW ECONOMY

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Green Jobs and the New Economy be authorized to meet during the session of the Senate on February 15, 2011, at 2:30 p.m. in SD–406.

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

PRIVILEGES OF THE FLOOR

Mr. FRANKEN. Mr. President, I ask unanimous consent that floor privileges be extended to my legislative fellow, Hannah Katch, for the duration of consideration of the FAA bill, S. 223.

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

ORDERS FOR WEDNESDAY, FEBRUARY 16, 2011

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Wednesday, February 16; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; finally, at 11 a.m., that the Senate resume consideration of S. 223, the Federal Aviation Administration authorization bill.

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

PROGRAM

Mr. ROCKEFELLER. Mr. President, rollcall votes in relation to FAA amendments are expected to occur throughout the day tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROCKEFELLER. 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 8:36 p.m., adjourned until Wednesday, February 16, 2011, at 10 a.m.